

1
2 **UNITED STATES DISTRICT COURT**
3 **DISTRICT OF MINNESOTA**

4 **CESAR EDISON MONTERROSO-**
5 **MARROQUIN,**

6 **Petitioner,**

7 **v.**

8 **DAVID EASTERWOOD, Field Office Director**
9 **of Enforcement and Removal Operations, St.**
10 **Paul Field Office, Immigration and Customs**
11 **Enforcement; KRISTI NOEM, in her official**
12 **capacity as Secretary of U.S. Department of**
13 **Homeland Security; PAMELA BONDI, in her**
14 **official capacity as U.S. Attorney General;**
15 **TODD LYONS, in his official capacity as**
16 **Acting Director and Senior Official Performing**
17 **the Duties of the Director of U.S. Immigration**
18 **and Customs Enforcement; JOEL BROTT,**
19 **Sherburne County Jail Sheriff**

20 **Respondents.**

Case No.: 26-280

PETITION FOR WRIT OF
HABEAS CORPUS

INTRODUCTION

1
2 1. This petition seeks declaratory relief providing that Cesar Edison MONTERROSO-
3 MARROQUIN ("Petitioner") is subject to detention by the Department of Homeland Security's
4 ("DHS") U.S. Immigration and Customs Enforcement ("ICE") under 8 U.S.C. § 1226(a) and that
5 an Immigration Judge must therefore hold a custody redetermination hearing under 8 C.F.R. §
6 1236 to allow Petitioner the opportunity to seek a bond for his release from custody. ICE has been
7 detaining Petitioner since at least January 1, 2026 at the Sherburne County Jail.

8 2. In light of the information and belief that ICE has moved other petitioners for writs of
9 habeas corpus out of the District of Minnesota after they filed petitions for writs of habeas corpus
10 in the District of Minnesota, this petition also requests that the Court specifically enjoin
11 Respondents from moving Petitioner outside of the District of Minnesota in the Order to Show
12 Cause. For this injunction to be included in the Order to Show Cause would avoid the repetitive
13 briefing and strain on the Court's resources presented by a motion for a temporary restraining order.

14 3. This case is about a 19-year-old with Special Immigrant Juvenile Status ("SIJS") pending
15 who cannot be removed from the United States because he currently has a UAC I-589 application
16 for asylum pending with the Asylum office and Pending I-360, application for Special Immigrant
17 Juvenile Status. Nevertheless, Respondents seek to detain him in contravention of federal law and
18 the Constitution.

19 4. Cesar Edison Monterroso-Marroquin is currently 19 years old. His most recent residence
20 prior to being detained was in Oakdale, Minnesota. He resided there with his father. On January 1,
21 2026, Immigration and Customs Enforcement ("ICE") arrested Cesar without a warrant while he
22 was on his way to work in St. Paul, Minnesota. Notably, Cesar has legal authorization from the
23 Department of Homeland Security to work in the United States because of his pending applications.
24

1 Despite explaining to officers that he was already in removal proceedings and has his case
2 administratively closed by an immigration judge, ICE officers detained him.

3 5. Cesar came to the United States from Guatemala when he was 14 years old, after suffering
4 death threats and other violence by gang members. He was initially detained by the Department of
5 Homeland Security ("DHS"). Designated as an Unaccompanied Alien Child ("UAC"), and
6 transferred to the custody of the Office of Refugee Resettlement ("ORR"). ORR released him into
7 the custody of his father.

8 6. On September 5, 2025, the Board of Immigration Appeals ("BIA") issued a precedential
9 decision that unlawfully reinterprets sections of the Immigration and Nationality Act ("INA")
10 pertaining to the issue of whether the Department of Homeland Security (DHS) has mandatory or
11 permissive authority to detain certain noncitizens placed in removal proceedings. *See Matter of*
12 *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Prior to that decision, noncitizens such as Petitioner,
13 who had lived in the United States for many years and who were apprehended by ICE in the interior
14 of the country, were determined to be subject to detention pursuant to 8 U.S.C. § 1226(a) and
15 therefore eligible to seek bond hearings before Immigration Judges ("IJs"). Under the erroneous
16 legal framework set forth by the BIA in *Yajure Hurtado*, and in contradiction of nearly 30 years
17 of legal precedent and the plain language of the INA, DHS and its subcomponent ICE now consider
18 Petitioner and others similarly situated to him to be subject to mandatory detention under 8 U.S.C.
19 § 1225(b)(2)(A). Applying the interpretation of these provisions as set forth in *Yajure Hurtado*,
20 Respondents deny Petitioner any opportunity to seek release on bond during the pendency of his
21 removal proceedings.

22 7. Petitioner's detention pursuant to § 1225(b)(2)(A) violates the plain language of the INA
23 and its implementing regulations. Petitioner, who has resided in the U.S. for more than 4 years,
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1 should not be deemed an “applicant for admission” who is “seeking admission.” Rather, he should
2 be deemed detained pursuant to 8 U.S.C. § 1226(a), permitting him to seek release on conditional
3 parole or bond.

4 8. Petitioner seeks declaratory relief that he is subject to detention under § 1226(a) and its
5 implementing regulations and asks that this Court either order Respondents to release Petitioner
6 from their custody or provide him with a bond hearing before an IJ.

7 CUSTODY

8 9. Petitioner is currently in the custody of ICE at Sherburne County Jail in Elk River,
9 Minnesota. He is therefore in the custody of the DHS within the meaning of the habeas corpus
10 statute. *See* 28 U.S.C. § 2241.

11 PARTIES

12 10. Petitioner **Cesar Edison Monterroso-Marroquin** is a 19-year-old who has lived
13 in the United States since 2021. He currently has a I-589 application for asylum and a I-360,
14 petition for Special Immigrant Juvenile Status pending with USCIS as an Unaccompanied Minor.
15 Nonetheless, on January 1, 2026, ICE arrested Cesar while he was going to work. Cesar is now
16 detained at Sherburne County Jail in Elk River, Minnesota. He is currently in custody of
17 Respondents.

18 11. Respondent **David Easterwood** is the Director of the St. Paul Field Office of ICE’s
19 Enforcement and Removal Operations division. As such, he is Cesar’s immediate custodian and is
20 responsible for Cesar’s detention and removal. He is named in his official capacity.

21 12. Respondent **Kristi Noem** is the Secretary of the Department of Homeland Security.
22 She is responsible for the implementation and enforcement of the Immigration and Nationality Act
23
24

1 (INA), and oversees ICE, which is responsible for Cesar's detention. Ms. Noem has ultimate
2 custodial authority over Cesar and is sued in her official capacity.

3 13. Respondent **Pamela Bondi** is Attorney General of the United States. As Attorney
4 General, Respondent Bondi oversees the immigration court system, including the immigration
5 judges who conduct bond hearings as her designees, and is responsible for the administration of
6 immigration laws pursuant to 8 U.S.C. § 1103(g). She is legally responsible for administering
7 Cesar's removal and bond proceedings, including the standards used in those proceedings, and as
8 such, she is Cesar's legal custodian. She is sued in her official capacity.

9 14. Respondent **Todd Lyons** is sued in his official capacity as Acting Director of ICE,
10 and as such is the legal custodian of Cesar.

11 15. Respondent **Joel Brott** is sued in his official capacity as Sherburne County Sheriff.
12 The Sherburne County Jail, where Cesar is detained, is operated by the Sherburne County Sheriff's
13 Office, which has ultimate authority over the Jail. He is responsible for the operations of the
14 Sherburne County Jail and is the immediate physical custodian of Cesar.

15 JURISDICTION AND VENUE

16 16. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
17 corpus), 28 U.S.C. § 1331 (federal question), Art. I, § 9, cl. 2 of the United States Constitution (the
18 Suspension Clause).

19 17. This Court may grant relief to Petitioner pursuant to 28 U.S.C. § 2241 *et seq.*
20 (habeas corpus); 28 U.S.C. § 2201 *et seq.* (Declaratory Judgment Act); 28 U.S.C. § 1651 (All
21 Writs Act); 5 U.S.C. § 702 (Administrative Procedure Act); and the Court's inherent equitable
22 powers.
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18. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvyda*, 533 U.S. at 687 (same); *Tran v. Mukasey*, 515 F.3d 478, 482 (5th Cir. 2008) (same).

19. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (e)(1) because Cesar is detained within the District of Minnesota, his immediate physical custodian is located within this District, and a substantial part of the events giving rise to this petition occurred and continue to occur within this District.

REQUIREMENTS OF 28 U.S.C. § 2243

20. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

21. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

EXHAUSTION OF LEGAL REMEDIES

22. Further administrative exhaustion is unnecessary in this case as it would be futile. *See, e.g., Eliseo A.A. v. Olson*, No. 25-3381, 2025 WL 2886729, at *7 (D. Minn. Oct. 8, 2025).

23. It would be futile for Petitioner to seek a custody redetermination hearing before an IJ because of the BIA's recent decision holding that anyone who has entered the United States without inspection is now considered an "application for admission" who is "seeking admission" and therefore subject to the INA's mandatory detention provision under 8 U.S.C. § 1225(b)(2)(A). See *Yajure Hurtado*, 29 I&N Dec. 216; see also *Eliseo A.A.*, 2025 WL 2886729, at *7 ("[F]urther administrative review would be futile in light of the BIA's recent decision in *Matter of Yajure Hurtado*, . . . which upheld DHS's new § 1225 policy and held that immigration judges 'lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission.' Where the agency has already adopted a definitive position, exhaustion serves no purpose." (citation omitted)).

24. Additionally, the IJ does not have jurisdiction to review Petitioner's claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies related to that claim. Cf. *Am.-Arab Anti-Discrimination Comm. V. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) ("[E]xhaustion would be a futile exercise because the agency does not have jurisdiction to review a selective enforcement claim.").

LEGAL FRAMEWORK

A. SIJS Provides a Pathway to Permanent Status for Certain Vulnerable Young People

25. In 1990, Congress created SIJS to protect vulnerable immigrant children and provide them a pathway to citizenship. Immigration Act of 1990, Pub. L. No. 101-649, § 153, 104 Stat. 4978 (1990) (amending various sections of the Immigration and Nationality Act ("INA")); Special Immigrant Status, 58 Fed. Reg. 42843, 43844 (Aug. 12, 1993) ("This rule alleviates hardships experienced by some dependents of United States juvenile courts by providing qualified [noncitizens] with the opportunity to apply for special immigrant classification and lawful

1 permanent resident status, with [the] possibility of becoming citizens of the United States in the
2 future.”). Since 1990, Congress has amended the INA multiple times to expand the protections of
3 SIJS, most recently in 2008, through the Trafficking Victims Protection Reauthorization Act, Pub.
4 L. 110-457, § 235(d), 122 Stat. 5044 (2008).

5 26. To be granted SIJS, youths like Cesar must first “satisfy[] a set of rigorous,
6 congressionally defined eligibility criteria.” *Osorio-Martinez v. U.S. Att’y Gen.*, 893 F.3d 153, 163
7 (3d Cir. 2018). Specifically, the INA provides that those eligible for SIJS designation, as relevant
8 here, are noncitizen youth who are present in the United States; who have been declared dependent
9 on a state juvenile court; who cannot be reunified with one or more parents because of abuse,
10 neglect, or abandonment; and for whom it has been determined that it is not in their best interest
11 to return to their country of origin. 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(c).

12 27. Crucially, a noncitizen youth is eligible for SIJS only if he or she is “*present* in the
13 United States.” 8 U.S.C. § 1101(a)(27)(J) (emphasis added). This requirement makes perfect sense
14 in light of the purpose of the SIJS statute. SIJS is predicated on a state court finding that the youth
15 cannot be safely reunited with parent(s), nor safely sent back to their country of origin. The design
16 of this program, then, “show[s] a congressional intent to assist a limited group of abused children
17 to remain safely in the country with a means to apply for LPR status.” *Garcia v. Holder*, 659 F.3d
18 1261, 1271 (9th Cir. 2011) (abrogated on other grounds).

19 28. Youth can apply for SIJS upon receipt of a state court order finding they cannot be
20 safely reunited with parent(s) nor safely sent back to their country of origin. The application
21 process includes submitting a Form I-360 SIJS Petition to USCIS, along with the predicate state
22 court order and other supporting evidence. *See* 8 C.F.R. § 204.11(b). USCIS then considers the
23 application and supporting documentation to determine whether to exercise its statutory “consent
24

1 function” to approve the petition. *See* 8 U.S.C. § 1101(a)(27)(J)(iii). By exercising its statutory
2 consent function to grant SIJS, the agency recognizes the state court’s determinations, including
3 that the child’s return to their country of origin would be contrary to their best interests. 8 U.S.C.
4 § 1101(a)(27)(J)(iii).

5 29. SIJS may be revoked only for what the Secretary of Homeland Security deems
6 “good and sufficient cause.” 8 U.S.C. § 1155; 8 C.F.R. § 205.2. According to USCIS regulations,
7 such revocation must be made upon notice to the youth in question, who must be permitted the
8 opportunity to submit evidence in opposition to the revocation and to appeal an adverse decision.
9 *See* 8 C.F.R. § 205.2. If status is ultimately revoked, the youth is entitled to notice and the
10 opportunity to appeal the decision. *See* 8 C.F.R. § 205.2(c) & (d). Revocation of a SIJS petition
11 may only be performed by a USCIS officer authorized to approve such petition in the first instance.
12 *See* 8 C.F.R. § 205.2(a).

13 30. The main benefit of SIJS—and indeed, its core purpose—is that it confers on
14 vulnerable young people like Cesar the right to seek LPR status while remaining in the United
15 States, through a process called adjustment of status. *See* 8 U.S.C. 1255(h).

16 31. To facilitate this process, Congress removed numerous barriers to adjustment of
17 status for SIJS beneficiaries through amendments to the SIJS provisions in 1991 and again in 2008.
18 For example, SIJS youth are “deemed . . . to have been paroled into the United States” for the
19 purposes of adjustment of status. 8 U.S.C. § 1255(h)(1). Further, Congress exempted SIJS youth
20 from many common inadmissibility grounds and created a generous waiver of many of the
21 nonexempted inadmissibility grounds. 8 U.S.C. § 1255(h)(2). And, Congress explicitly provided
22 that certain grounds for removal “shall not apply to a special immigrant described in section
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1 1101(a)(27)(J) of this title [the SIJS statute] based upon circumstances that existed before the date
2 the [noncitizen] was provided such special immigrant status.” 8 U.S.C. § 1227(c).

3 32. Although SIJS renders youth eligible to apply for adjustment, they can only do so
4 when a visa is immediately available to them. 8 U.S.C. § 1255(h). However, there is an annual
5 limit on visas available to SIJS beneficiaries. 8 U.S.C. § 1153(b)(4). And since 2016, the number
6 of SIJS beneficiaries has surpassed the supply of available visas for most countries, leaving what
7 has been estimated to be more than 100,000 young people in a backlog, waiting to apply for a
8 green card.

9 33. Despite the immediate unavailability of visas, waitlisted SIJS beneficiaries are the
10 same vulnerable young people that the SIJS statute was designed to protect. The fact that no visa
11 is currently available because a numerical limit has been reached changes nothing about their
12 eligibility determination by USCIS, or Congress’s intent that they be afforded a pathway to LPR
13 status and, eventually, citizenship. These are the same individuals whom state courts have
14 determined cannot safely be reunited with their parent(s) or returned to their home country.

15 34. The Department of State and Related Agencies Appropriations Act, 1998 changed
16 the definition of a Special Immigrant Juvenile and divested consular officers of the authority to
17 issue SIJ visas. Due to this change, since November 26, 1997, SIJ has been an adjustment-only
18 category as reflected in 22 CFR 42.11. This means that a removed noncitizen with SIJ status loses
19 their status as of their deportation. Taken together, the structure of the SIJS program—including
20 the requirement that recipients remain in the United States to move forward in the process; the
21 grant of parole for the purpose of adjustment, and the waiver of grounds of inadmissibility and
22 removability—evinces Congress’ intent that SIJS recipients remain safely in the United States
23 until they can adjust to become LPRs.

1 **B. Detention under the INA**

2 35. The INA prescribes essentially three forms of detention for noncitizens in removal
3 proceedings.

4 36. First, noncitizens detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to
5 a custody-redetermination hearing—also known as a bond hearing—unless they have been
6 arrested, charged with, or convicted of certain crimes that subject them to mandatory detention.
7 See 8 U.S.C. §§ 1226(a), 1226(c) (listing grounds for mandatory detention); see also 8 C.F.R.
8 §§ 1003.19(a) (providing that Immigration Judges may review custody determinations made by
9 DHS), 1236.1(d) (providing the same).

10 37. Second, the INA provides for mandatory detention of noncitizens who are subject
11 to expedited removal under 8 U.S.C. § 1225(b)(1), in addition to other recent arrivals who are
12 deemed to be “seeking admission” to the United States under 8 U.S.C. § 1225(b)(2).

13 38. Third, the INA authorizes detention of noncitizens who have received a final order
14 of removal, including those in withholding-only proceedings. 8 U.S.C. § 1231(a)–(b).

15 39. The detention provisions of the INA at 8 U.S.C. §§ 1226(a) and 1225(b)(2) were
16 enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”)
17 of 1996, Division C of Pub. L. No. 104-208, 110 Stat. 3009-546, 300-582 to 3009-583, 3009-585.
18 Section 1226 of the INA was most recently amended earlier this year by the Laken Riley Act,
19 Pub. L. No. 119-1, 139 Stat. 3 (2025).

20 40. Following enactment of the IIRIRA, the U.S. Department of Justice’s Executive
21 Office for Immigration Review (“EOIR”) drafted new regulations explaining that, in general,
22 individuals who entered the United States without inspection were not considered detained
23 pursuant to § 1225 and that they were instead detained under § 1226(a). See Inspection and
24

1 Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
2 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being
3 applicants for admission, aliens who are present without having been admitted or paroled
4 (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond
5 redetermination.”)

6 41. In the decades that followed the enactment of the IIRIRA, most noncitizens who
7 entered the United States without inspection and were thereafter detained and placed in standard
8 removal proceedings were considered eligible to seek release on bond and also received bond
9 hearings before an IJ unless their criminal history rendered them statutorily ineligible. This
10 practice was consistent with many decades of prior practice, in which noncitizens who entered
11 the United States, even without inspection, were entitled to a custody determination hearing
12 before an IJ. In contrast, those who were stopped at the border were only entitled to release on
13 parole. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 220 (1996)
14 (noting that 8 U.S.C. § 1226(a) simply “restates” the detention authority previously found at 8
15 U.S.C. § 1252(a)).

16 42. For decades, noncitizens who have entered the United States without inspection
17 and then resided long-term within the country have been deemed to be detained pursuant to § 1226
18 and have therefore been deemed entitled to bond hearings before IJs, absent a criminal history
19 that would bar them from such a hearing.

20 43. In July 2025, however, ICE contravened this longstanding legal framework by
21 beginning to assert that all individuals who entered the country without inspection should be
22 considered to be “seeking admission” and therefore subject to the mandatory-detention provision
23 of 8 U.S.C. § 1225(b)(2)(A).
24

1 44. On September 5, 2025, the BIA issued a precedential decision adopting ICE's new
2 interpretation of the detention provisions of the INA, departing from the plain language of the
3 text of the INA, federal precedent, and long-standing regulations. *See Yajure Hurtado*, 29 I&N
4 Dec. 216.

5 45. Respondents' new legal interpretation of the custody provisions of the INA is
6 plainly contrary to the statutory framework of the INA and its implementing regulations. For
7 decades, Respondents applied § 1226(a) to individuals similarly situated to Petitioner.
8 Respondents' new policies regarding custody determinations are therefore not only contrary to
9 law, but also arbitrary and capricious in violation of the Administrative Procedure Act ("APA").
10 This new interpretation of the statutes was also adopted without following the procedural
11 requirements of the APA. *See* 5 U.S.C. § 553.

12 46. In recent months, numerous federal courts have rejected Respondents' new
13 interpretation of the custody statutes and have instead consistently found that § 1226—not
14 § 1225(b)(2)—authorizes detention of noncitizens who entered without inspection and who were
15 later apprehended in the interior of the country. *See e.g., Sampiao v. Hyde*, 2025 WL 2607924 (D.
16 Mass. Sept. 9, 2025) (noting court's disagreement with BIA's analysis in *Yajure Hurtado*); *Leal-*
17 *Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez Benitez v. Francis*, 2025
18 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ
19 (D.N.H. Sept. 8, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Cuevas*
20 *Guzman v. Andrews*, 2025 WL 2617256, at *3 n.4 (E.D. Cal. Sept. 9, 2025).

21 47. Under *Loper Bright v. Raimondo*, "the role of the reviewing court under the APA
22 is . . . to independently interpret the statute and effectuate the will of Congress subject to
23 constitutional limits." 603 U.S. 369, 395 (2024). Applying *Loper Bright*, this Court should
24

1 independently interpret the pertinent statutes and give no weight to the BIA's expansive and
2 unprecedented interpretation of § 1225(b)(2), as that interpretation conflicts with the plain text of
3 the statute, is contrary to the regulations, and contravenes precedent on the question of jurisdiction
4 for bond proceedings.

5 48. As discussed in ¶ 39, the detention provisions at issue in this case were enacted as
6 part of the IIRIRA in 1996. Division C of Pub. L. No. 104-208, 110 Stat. 3009-546, 300-582 to
7 3009-583, 3009-585. After the enactment of the IIRIRA, EOIR issued regulations clarifying that
8 individuals who entered the country without inspection were not considered to be detained under
9 § 1225, but rather under § 1226(a). *See* 62 Fed. Reg. 10312, 10323 (Mar. 6 1997).

10 49. In 1997, after Congress amended the INA through the IIRIRA, EOIR and USCIS's
11 predecessor agency, Immigration and Naturalization Services, issued an interim rule guiding
12 interpretation and application of the IIRIRA. Specifically, under the heading "Apprehension,
13 Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants
14 for admission, [noncitizens] who are present without having been admitted or paroled (formerly
15 referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond
16 redetermination." 62 Fed. Reg. at 10323. The agencies thus made clear that individuals who had
17 entered without inspection were eligible for consideration for bond and bond hearings before IJs
18 under 8 U.S.C. § 1226 and its implementing regulations.

19 50. The overall statutory framework of the INA also clearly supports that § 1226
20 applies to individuals who have not been admitted and who entered without inspection. In 2025,
21 Congress added new mandatory-detention grounds to § 1226(c) that apply only to noncitizens
22 who have not been admitted. *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025) (codified
23 in relevant part at 8 U.S.C. § 1226(c)(1)(E)).
24

1 51. By specifically referencing inadmissibility for entry without inspection as falling
2 within 8 U.S.C. § 1182(6)(A), Congress clearly expressed its will that such individuals are
3 covered by § 1226(a) if they do not have the sort of criminal history identified in the Laken Riley
4 Act. Accordingly, § 1226 plainly applies to noncitizens who entered without inspection and are
5 later charged as inadmissible within the interior of the country, including those who never
6 received an admission or parole.

7 52. The Supreme Court has explained that 8 U.S.C. § 1225(b) “applies primarily to
8 aliens seeking entry into the United States,” and is generally imposed “at the Nation’s borders
9 and ports of entry, where the Government must determine whether an alien seeking to enter the
10 country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287, 297 (2018). In contrast, § 1226
11 “authorizes the Government to detain certain aliens *already in the country* pending the outcome
12 of removal proceedings.” *Id.* at 289 (emphasis added).

13 53. Further, § 1225(b)(2) specifically applies only to those “seeking admission,” and
14 the definitions provided at the implementing regulations state that an “[a]rriving alien” is one who
15 is “coming or attempting to come into the United States at a port-of-entry.” 8 C.F.R. § 1.2. The
16 use of the present progressive tense would exclude noncitizens like Petitioner who are initially
17 apprehended in the interior of the country almost five after they had entered the country, as they
18 cannot reasonably be considered to be actively “seeking admission” or “coming . . . into the
19 United States” after years spent building a life and raising a family within the interior of the
20 country. *Id.*; see *Martinez v. Hyde*, 792 F. Supp. 3d (D. Mass. July 24, 2025) (citing the use of the
21 present and present-progressive tenses to conclude that 8 U.S.C. § 1225(b)(2) does not apply to
22 individuals apprehended in the interior); see also *Al Otro Lado v. McAleenan*, 394 F. Supp. 3d
23 1168, 1200 (S.D. Cal. 2019) (interpreting the language “is arriving” in 8 U.S.C. § 235(b)(1)(A)(i)
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1 and concluding that “[t]he use of the present progressive, like use of the present participle, denotes
2 an ongoing process”).

3 54. Accordingly, the mandatory detention provision of 8 U.S.C. § 1225(b)(2) does not
4 apply to Petitioner, who entered the U.S. almost five years ago, was not initially detained near the
5 border, and was only ever detained recently well within the interior of the country.

6 **FACTUAL ALLEGATIONS**

7 55. Cesar was born in Guatemala on [REDACTED] He is a citizen of Guatemala.

8 56. Petitioner has resided in Minnesota since 2021.

9 57. Petitioner is currently in removal proceedings in front of the Executive Office for
10 Immigration Review. However, those proceedings were administratively closed on August 21,
11 2023.

12 58. On July 10, 2023 Cesar applied for Asylum, Form I-589, Ex. A. On June 30, 2025
13 Petitioner applied for Special Immigrant Juvenile Status, Form I-360 with U.S. Citizenship and
14 Immigration Services, Ex. B

15 59. Petitioner is now detained in Sherburne County Jail.

16 60. Without relief from this Court, Petitioner faces continued detention without access
17 to a bond hearing.

18 **CLAIMS FOR RELIEF**

19 **CLAIM I**

20 **Violation of 8 U.S.C. § 1226(a)**

21 **Unlawful Denial of Bond Hearing**

22 61. Petitioner restates and realleges all paragraphs as if fully set forth herein.

23 62. In light of his manner of entry and the timing and location of his arrest and detention,
24 Petitioner may only be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

63. Petitioner is entitled to a bond hearing under 8 U.S.C. § 1226(a) and associated regulations. *See* 8 C.F.R. §§ 236.1(d) & 1003.19(a)-(f).

64. Petitioner has not been, and absent relief from this Court, will not be provided with a bond hearing as required by law.

65. Petitioner's ongoing detention is therefore unlawful.

CLAIM II

Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1003.19, 1236.1 and Unlawful Denial of Access to Release on Bond

66. Petitioner restates and realleges all paragraphs as if fully set forth herein.

67. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention in violation of 8 C.F.R. §§ 236.1, 1003.19, and 1236.1.

CLAIM III

Violation of 8 U.S.C. § 1225(b)(2)

Unlawful Detention Under This Provision

68. Petitioner restates and realleges all paragraphs as if fully set forth herein.

69. 8 U.S.C. § 1225(b) applies to those actively seeking entry to the United States and is generally imposed at the Nation's borders and ports of entry, where the Government must make its initial determination as to whether a noncitizen seeking to enter the country is admissible.

70. Because Petitioner has resided in the United States since 2021, he is neither an arriving alien nor now seeking admission to the United States.

71. Because 8 U.S.C. § 1225(b) does not apply to Petitioner, Respondents' ongoing detention of him under this provision is unlawful.

CLAIM IV

72. Petitioner restates and realleges all paragraphs as if fully set forth herein.

1 73. The Due Process Clause of the Fifth Amendment to the United States Constitution
2 prohibits the federal government from depriving any person of “life, liberty, or property, without
3 due process of law.” U.S. Const. amend. V.

4 74. The Constitution generally requires a hearing before the government deprives a
5 person of his liberty. *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). Under the factors set forth in
6 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), the balance of Petitioner’s and Respondents’
7 interests, as well as the balance between the risk of erroneously depriving him of process
8 contrasted with any burden on the government, strongly favor Petitioner’s release or, at a
9 minimum, his access to a bond hearing.

10 75. Petitioner’s private interest in freedom from unlawful detention is profound. A
11 person’s interest in freedom from detention is “the most elemental of liberty interests” implicated
12 by the Due Process Clause of the Fifth Amendment. *Hamdi v. Rumsfeld*, 542 U.S. 50, 529 (2004);
13 see also *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“Freedom from imprisonment—from
14 government custody, detention, or other forms of physical restraint—lies at the heart of the liberty
15 that [the Due Process] Clause protects.”).

16 76. The risk of erroneously depriving Petitioner of his liberty is exceptionally high. At
17 the time of his arrest, Petitioner was awaiting the approval of his Form I-360, Special Immigrant
18 Juvenile Status. Currently, in addition to being deprived of his freedom, Petitioner is also being
19 deprived of the opportunity to be with his family.

20 77. The government’s interest in detaining Petitioner without due process is minimal
21 at most. Immigration detention is civil, and in theory is not intended to be punitive, and it may
22 only be prolonged for a bond-eligible individual if that person is either a danger to the community
23 or unlikely to appear at future immigration proceedings. See *Zadvydas*, 533 U.S. at 690.

1 78. Further, the “fiscal and administrative burdens” of providing Petitioner a bond
 2 hearing are minimal for the government, particularly when weighed against the significant liberty
 3 interests implicated by his ongoing detention. *See Mathews*, 424 U.S. at 334-35.

4 79. In light of this balance of the factors, Petitioner requests that this Court order his
 5 immediate release from custody or provide declaratory relief ordering an IJ to provide him with
 6 a bond hearing

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Petitioner prays that this Court:

- 9 A. Assume jurisdiction over this matter;
- 10 B. Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing Respondents to file
 11 a return within three (3) days absent good cause for a short extension;
- 12 C. Temporarily prohibit Petitioner’s transfer outside the District of Minnesota during the
 13 pendency of this action;
- 14 D. Declare that Petitioner’s arrest and continued detention violate is unlawful;
- 15 E. Issue a Writ of Habeas Corpus and order Petitioner’s immediate release from ICE
 16 custody or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) or the Due
 17 Process Clause within seven days;
- 18 F. In the alternative, order an immediate, constitutionally adequate individualized custody
 19 determination at which the government bears the burden to justify continued detention
 20 and the Court considers less restrictive alternatives to detention; and
- 21 G. Grant such other and further relief as law and justice require.
- 22
 23
 24

1 DATED: January 14, 2026

Respectfully submitted,

2
3 /s/ Kevin Vincent Heinz

Kevin Vincent Heinz

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7 *Attorney for Petitioner*

VERIFICATION PURSUANT TO 27 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. On the basis of those discussions, and on information and belief, I hereby verify that the factual statements made in the attached Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief are true and correct to the best of my knowledge.

Dated: January 14, 2026

/s/ Kevin Vincent Heinz
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