UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHRISTIAN ANDRES CHICA *Petitioner,* v. **KRISTI NOEM,** Secretary of the U.S. Department of Homeland Security, in her official capacity; **U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI** Attorney General of the United States, in her official capacity; **TODD M. LYONS**, Acting Director, U.S. Immigration and Customs Enforcement, in his official capacity; **DAVID O'NEILL,** Director of the Philadelphia Field Office of the U.S. Immigration and Customs Enforcement, in His official capacity; and **JAMAL L. JAMISON**, Warden of the Federal Detention Center in Philadelphia, in His Official Capacity) *Respondents.*	Case No. 2:26-cv-00247 **ORAL ARGUMENT REQUESTED**

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

EMERGENCY FILING TO PRESERVE JURISDICTION

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

Petitioner Christian Andres Chica, A# [redacted] respectfully petitions this Honorable Court for a writ of *habeas corpus* to remedy Petitioner's unlawful detention by Respondents, as follows:

I. INTRODUCTION

1. This Petition challenges Petitioner's unlawful civil detention by Immigration and Customs Enforcement ("ICE") following years of full compliance with his conditional parole into the United States pursuant to INA § 236(a).
2. Petitioner Christian Andres Chica, A# [redacted] is a citizen of Colombia who entered the United States at or near Eagle Pass, Texas, on or about October 23, 2022, and was charged for entering without inspection ("EWI") under INA § 212 (a)(6)(A)(i). **See Exhibit A.** Petitioner remained in DHS custody for approximately two (2) days, and was thereafter paroled into the United States under DHS's discretionary parole authority under 8 U.S.C. § 1226(a), INA § 236(a), release on recognizance. ***Id.*** Regardless of the manner of entry, DHS's discretionary decision to grant conditional parole under 8 U.S.C. § 1226(a) terminated any mandatory detention authority under 8 U.S.C. § 1225(b). See *Rios Porras v. O'Neill*, No. 25-6801, slip op. at 3–4 (E.D. Pa. Dec. 22, 2025); *Kashranov v. Jamison*, No. 25-5555, 2025 WL 3188399, at *6–7 (E.D. Pa. Nov. 14, 2025).
3. Following his conditional parole into the United States , Petitioner sought additional immigration relief by filing an Application for Asylum, Withholding of Removal, and protections under the Convention Against Torture ("CAT") with U.S. Citizenship and

Immigration Services ("USCIS") in 2023, underscoring DHS's recognition that Petitioner was properly present in the United States following his release and eligible to pursue relief through established statutory processes. **See Exhibit B.** His I-589 Application is now pending before the Immigration Court.

4. Following his release, Petitioner relocated to Philadelphia, Pennsylvania, where he fully complied with all ICE reporting requirements, maintained steady employment for over two years, paid annual taxes, and provided financial support to his cousin and her U.S.-citizen daughter, helping pay rent and househouse expenses.

5. Despite this long record of compliance, ICE abruptly detained Petitioner after he appeared voluntarily for a scheduled ICE check-in on January 13, 2026, without prior notice, without identifying any lawful statutory basis for detention, and without providing a bond hearing. ICE's actions violate the Immigration and Nationality Act and the Fifth Amendment's Due Process Clause. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

6. Once DHS paroles a noncitizen into the United States, whether through conditional parole or humanitarian parole, any subsequent detention authority, if it exists, arises under 8 U.S.C. § 1226(a) and requires an individualized bond hearing. *Rios Porras*, slip op. at 4–5; *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at *2–3 (E.D. Pa. Nov. 18, 2025).

7. Because DHS previously exercised its parole authority over Petitioner by releasing him on self-recognizance in 2022, its present detention of Petitioner is governed by 8 U.S.C. § 1226(a). As such, any subsequent detention must proceed under that statute and requires access to an individualized, non-illusory review of his ongoing detention. ICE's attempt to detain Petitioner without such process is unlawful.

II. PARTIES

8. Petitioner Christian Andres Chica is a noncitizen currently detained by Respondents in the Eastern District of Pennsylvania.

9. Respondent Jamal L. Jamison is named in his official capacity as the Warden of the Federal Detention Center–Philadelphia ("FDC Philadelphia"), located in Philadelphia, Pennsylvania. Respondent Jamison has immediate physical custody of Petitioner pursuant to a contract with ICE to detain noncitizens and is a proper respondent to this habeas petition. See *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004).

10. Respondent David O'Neill is named in his official capacity as the Philadelphia Field Office Director for ICE Enforcement and Removal Operations ("ERO"). In this capacity, Respondent O'Neill is responsible for the administration and management of ICE detention and enforcement operations within the Eastern District of Pennsylvania and exercises legal control over Petitioner's custody.

11. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. In this capacity, Respondent Lyons is responsible for the administration and enforcement of federal immigration laws, including detention determinations, and is a legal custodian of Petitioner. Respondent Lyons's office is located at 500 12th Street, S.W., Washington, D.C. 20536.

12. Respondent Department of Homeland Security ("DHS") is the federal agency responsible for implementing and enforcing the Immigration and Nationality Act ("INA"), including the detention, parole, and removal of noncitizens. DHS exercises ultimate authority over ICE and Petitioner's detention.

13. Respondent Kristi Noem is named in her official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws and for Petitioner's detention. Secretary Noem is the ultimate legal custodian of Petitioner. Her office is located at the U.S. Department of Homeland Security, Washington, D.C. 20528.

14. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States and senior official of the U.S. Department of Justice. In that capacity, she has the authority to adjudicate removal cases and oversees the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration of Appeals (BIA).

III. JURISDICTION AND VENUE

15. This action arises under the Fifth and Fourteenth Amendments to the U.S. Constitution.

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17. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 1361. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

18. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against one of its agencies and that agency's officers are sued in their official capacities. *See* 5 U.S.C. § 702.

19. Venue is proper in this District because the Petitioner is detained in this district. 28 U.S.C. § 1391; *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004).

IV. STATEMENT OF FACTS

20. Petitioner Christian Andres Chica, A# [redacted] is a noncitizen from Colombia, who is in ICE custody and is currently detained at FDC in Philadelphia, Pennsylvania.

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22. Petitioner entered the United States at or near Eagle Pass, Texas, on or about October 23, 2022, and was served with an NTA charging him as removable under INA § 212(a)(6)(A)(i).

23. Petitioner was detained for approximately two days following his apprehension near the border and was subsequently released on recognizance pursuant to INA § 236(a), 8 U.S.C. § 1226(a). ***Id.*** *at* **Exhibit A.**

24. DHS served Petitioner with a Notice to Appear dated October 24, 2022, instructing him to appear before the Immigration Court on October 31, 2023, for a Master Calendar Hearing.

25. After his release, Petitioner relocated to Philadelphia, where he fully complied with all ICE supervision requirements, including attending all regular ICE check-ins.

26. For the past two years, Petitioner has maintained steady employment and has provided support to his cousin and her U.S.-citizen daughter, including assisting with rent and housing expenses.

27. In 2023, Petitioner timely filed an affirmative application for asylum with U.S. Citizenship and Immigration Services ("USCIS"). ***Id.*** at **Exhibit B.** His application is now pending before the Immigration Court.

28. After years of adherence to immigration conditions and establishing a presence in the community, Petitioner was abruptly detained after appearing voluntarily for a regularly-scheduled ICE check-in on January 13, 2026, without prior notice, without a bond hearing, and without any contemporaneous explanation of the statutory basis for this action.

29. ICE did not identify any statutory authority for detaining Petitioner and did not provide him with an individualized custody determination.

30. To the extent ICE is asserting detention authority under 8 U.S.C. § 1225(b), as it has repeatedly done in materially identical cases throughout this District, such detention is unlawful because DHS already exercised parole authority under INA § 236(a).

31. Because Petitioner is being detained without clear statutory authorization and in violation of the Fifth Amendment's Due Process Clause, Petitioner requests that this Court issue the writ of *habeas corpus* and order Petitioner's immediate release, or at minimum, an individualized bond hearing under 8 U.S.C. § 1226(a).

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

32. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Arango Marquez v. I.N.S.*, 346 F.3d 892, 897 (9th Cir. 2003). Any requirement of administrative exhaustion is therefore purely discretionary. *See Santos v. Lowe*, No. 1:18-cv-1553, 2020 WL 4530728, at *2 (M.D. Pa. Aug. 2020) ("[T]he exhaustion requirement imposed by courts relating to habeas corpus petitions filed by immigration detainees is a prudential benchmark which is not compelled by statute.").

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34. In making that decision, the Court should consider the urgency of the need for immediate review. "Where a person is detained by executive order . . . the need for collateral review is most pressing. . . . In this context the need for habeas corpus is more urgent." *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

35. Moreover, the exhaustion "doctrine is not without exception." *Ashley v. Ridge*, 288 F. Supp. 2d 662, 666. (D.N.J. 2003). "Courts have found that the exhaustion of administrative remedies may not be required when available remedies provide no opportunity for adequate relief, an administrative appeal would be futile, or if the plaintiff has raised a substantial constitutional question." *Id.* at 666-67.

36. Administrative relief would be futile in this matter, as recent decisions by the Board of Immigration Appeals ("BIA") have rendered bond hearings through the Immigration Courts illusory. The BIA has maintained its position that an Immigration Judge lacks jurisdiction to conduct a bond hearing or provide any relief, rendering administrative exhaustion futile.

37. Finally, the Immigration Court and/or BIA do not have jurisdiction to fully adjudicate Petitioner's present claim. The Third Circuit has held that the BIA does not have jurisdiction to adjudicate Constitutional issues. *Qatanani v. Att'y Gen. of the U.S.*, 144 F.4th 485, 500 (3d Cir. 2025); *see also Ashley*, 288 F. Supp. 2d at 667 (citation omitted). Here, Petitioner raises a Constitutional due process issue, making his claim ripe for adjudication by this Court, rather than the Immigration Court. Therefore, any administrative proceedings would be futile. *Qatanani*, 144 F.4th at 500.

VI. LEGAL FRAMEWORK

A. Release on Recognizance or Conditional Supervision Under INA § 236(a)

38. Separate from humanitarian parole under § 212(d)(5), the INA authorizes DHS to release a noncitizen from custody under the discretionary detention framework of INA § 236(a), 8 U.S.C. § 1226(a), pending a decision on removal. Section 1226(a) expressly permits DHS to release a noncitizen on bond, conditional parole, or recognizance after an individualized custody determination. 8 U.S.C. § 1226(a)(2); *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

39. When DHS releases a noncitizen under § 1226(a), it necessarily determines that mandatory detention is not required and that the individual may safely reside in the community subject to supervision. That discretionary release places the individual squarely within the § 1226(a) detention framework and forecloses later reliance on § 1225(b). *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at *5–8 (E.D. Pa. Nov. 18, 2025).

40. Courts have repeatedly held that DHS may not "toggle" between detention statutes based on enforcement preference after it has elected to release a noncitizen into the interior

under § 1226(a). *Kashranov*, 2025 WL 3188399, at *6. Once DHS releases a noncitizen on recognizance or conditional supervision, any subsequent detention must proceed under § 1226(a) and must include access to an individualized bond hearing before an immigration judge. *Id.*; *Anirudh v. McShane*, No. 25-6458, 2025 WL 3527528, at *4 (E.D. Pa. Dec. 9, 2025).

B. Noncitizens Who Entered Without Inspection (EWI) and Were Released Into the Interior

41. The Government frequently asserts that noncitizens who entered without inspection ("EWI") are categorically subject to mandatory detention under 8 U.S.C. § 1225(b) based solely on the manner of their entry. Courts have repeatedly rejected that position. Entry without inspection, standing alone, does not permanently subject a noncitizen to mandatory detention under § 1225(b).

42. As courts in the Eastern District have emphasized, the legally operative event for determining detention authority is not the manner of initial entry, but DHS's affirmative decision to release the individual into the United States. See *Rios Porras v. O'Neill*, No. 25-6801, slip op. at 3–4 (E.D. Pa. Dec. 22, 2025); *Kashranov v. Jamison*, No. 25-5555, 2025 WL 3188399, at *6 (E.D. Pa. Nov. 14, 2025). Once DHS releases an EWI noncitizen into the interior—whether under supervision, on recognizance, or after service of a Notice to Appear—the individual is no longer "seeking admission" within the meaning of § 1225(b), and detention authority, if any, must arise under 8 U.S.C. § 1226(a).

43. In *Maldonado Bautista v. Santacruz*, the United States District Court for the Central District of California squarely rejected DHS's position that noncitizens who entered without inspection remain categorically subject to mandatory detention under § 1225(b)

after release into the United States. The court held that noncitizens already present in the United States who entered without inspection and were not apprehended upon arrival are detained—if at all—under 8 U.S.C. § 1226(a) and are therefore entitled to individualized bond hearings. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, slip op. at 12–16 (C.D. Cal. Nov. 20, 2025), final judgment entered, slip op. at 10–11 (C.D. Cal. Dec. 18, 2025).

44. The court further certified a nationwide Bond-Eligible Class consisting of:

> All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination. *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, slip op. at 2, 15 (C.D. Cal. Nov. 25, 2025), clarified and incorporated into final judgment, slip op. at 2 (C.D. Cal. Dec. 18, 2025).

Importantly, in entering final judgment, the court expressly clarified that the Board of Immigration Appeals' decision in *Matter of Yahure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), "cannot be squared" with its statutory analysis and that *Yahure Hurtado* is "no longer controlling," as "the legal conclusion underlying the decision is no longer tenable." *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, slip op. at 6 (C.D. Cal. Dec. 18, 2025). The court emphasized that detention authority must be determined by DHS's custodial decisions—specifically, whether DHS elected to release the noncitizen into the interior—and not by the manner of entry alone. *Id.* at 6–8.

45. Accordingly, even where DHS argues that a noncitizen's EWI status places them outside the scope of § 1226(a), *Maldonado Bautista* confirms that such individuals are

bond-eligible once released and that *Yahure Hurtado* cannot be relied upon to deny access to a bond hearing.

46. Accepting the Government's contrary theory—that all EWI noncitizens remain permanently subject to § 1225(b)—would effectively eliminate § 1226(a) for a broad class of individuals Congress plainly intended to place within the discretionary detention regime. Courts have rejected that interpretation as inconsistent with the INA's text, structure, and statutory design. See *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at *9 (E.D. Pa. Nov. 18, 2025); *Kashranov*, 2025 WL 3188399, at *10.

47. Accordingly, once an EWI noncitizen has been released into the United States, any subsequent detention authority arises—if at all—under 8 U.S.C. § 1226(a), which requires individualized consideration and access to a bond hearing.

C. The INA Establishes Two Distinct and Mutually Exclusive Detention Regimes

48. The statutory structure of the Immigration and Nationality Act ("INA") establishes two distinct and mutually exclusive detention regimes governing noncitizens during removal proceedings. Mandatory detention under 8 U.S.C. § 1225(b) applies to noncitizens who are "*seeking admission*" at or near the border and remain in the inspection process. By contrast, 8 U.S.C. § 1226 governs discretionary detention of noncitizens who are *already present in the United States* pending a decision on removal. *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (distinguishing § 1225(b), which applies to noncitizens "seeking admission," from § 1226, which governs noncitizens "already in the country").

49. Courts have consistently recognized that these provisions "can be reconciled only if they apply to different classes of aliens." *Romero v. Hyde*, No. 25-11631, 2025 WL 2403827, at *11 (D. Mass. Aug. 19, 2025) (quoting *Matter of M-S-*, 27 I. & N. Dec. 509, 516 (A.G. 2019)); see also *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at *5

(E.D. Pa. Nov. 18, 2025); *Kashranov v. Jamison*, No. 25-5555, 2025 WL 3188399, at *6 (E.D. Pa. Nov. 14, 2025).

50. A noncitizen may not be simultaneously subject to both detention schemes. Once the Department of Homeland Security ("DHS") affirmatively releases a noncitizen into the United States—whether through humanitarian parole under INA §212(d) or, release on recognizance under INA §236(a), 8 U.S.C. § 1226(a)—the individual is no longer subject to the mandatory detention framework of INA §235(b), 8 U.S.C. § 1225(b). At that point, any subsequent detention authority arises, if at all, under § 1226, which provides for discretionary detention and access to an individualized bond hearing. *See Rios Porras v. O'Neill*, No. 25-6801, slip op. at 4–5 (E.D. Pa. Dec. 22, 2025).

51. As explained in the Argument section below, DHS's attempt to reclassify a noncitizen as subject to mandatory detention under § 1225(b) after an affirmative release into the interior finds no support in the INA's text or structure and has been uniformly rejected by courts.

D. 8 U.S.C. § 1225(b) Does Not Apply After Conditional Parole

52. Section 1225(b) applies only to individuals who are seeking admission and have not been admitted or paroled. 8 U.S.C. § 1225(b).

53. Once DHS paroles a noncitizen into the United States, § 1225(b) no longer governs detention authority. DHS may not later treat the same individual as an "arriving alien" subject to mandatory detention. *Rios Porras*, slip op. at 4–5.

54. Courts in this District have repeatedly rejected the Government's attempt to re-invoke § 1225(b) after parole. *See, e.g., Kashranov v. Jamison*, 2025 WL 3188399, at *5–6 (E.D.

Pa. Nov. 14, 2025); *Ndiaye v. Jamison*, 2025 WL 3229307, at *3–4 (E.D. Pa. Nov. 19, 2025).

VII. ARGUMENT

A. PETITIONER'S DETENTION VIOLATES THE IMMIGRATION AND NATIONALITY ACT

55. DHS's detention of Petitioner under 8 U.S.C. § 1225(b) is unlawful because DHS already exercised its conditional parole authority under INA § 236(a), thereby removing Petitioner from the statutory class governed by § 1225(b).

56. Section 1225(b) authorizes mandatory detention only for noncitizens who are seeking admission and who have not been admitted or paroled into the United States. 8 U.S.C. § 1225(b).

57. As the Eastern District of Pennsylvania recently explained in a materially similar case, DHS "cannot parole an individual into the United States and later claim that the same individual is 'present without admission or parole.'" *Rios Porras v. O'Neill*, No. 25-6801, slip op. at 4 (E.D. Pa. Dec. 22, 2025). In *Rios Porras*, DHS apprehended the petitioner at the border, released him on parole, and then detained him years later at his home while asserting mandatory detention authority under § 1225(b). The court squarely rejected that theory, holding that parole is the legally operative act for detention purposes. *Id.* at 3–5.

58. Once parole is granted, whether conditional or humanitarian, detention authority,if any, arises under 8 U.S.C. § 1226(a), which governs the discretionary detention of noncitizens pending a decision on removal and requires an individualized bond hearing. *Id.*; *Demirel v. Fed. Det. Ctr. Phila.*, 2025 WL 3218243, at *2–3 (E.D. Pa. Nov. 18, 2025). Section

1226(a) does not authorize categorical or mandatory detention; rather, it permits release on bond or conditional parole after individualized consideration. 8 U.S.C. § 1226(a)(2).

59. Though the grant of parole does not change Petitioner's entry status for the purposes of determining removability, DHS's exercise of parole authority for Petitioner makes any subsequent detention subject to 8 U.S.C. § 1226(a)(2), rather than 8 U.S.C. § 1225(b).

60. Under U.S.C. § 1226(a), a noncitizen is eligible for custody redetermination unless there is evidence of their involvement with foreign terrorist groups or they present a danger to public safety and/or national security. 8 U.S.C. § 1227(a)(4)(A).

61. Because Petitioner does not fall within one of the categories enumerated in § 1227(a)(4)(A) and his current detention is governed by § 1226(a)(2), he is entitled to an individualized custody determination.

62. Here, DHS has provided Petitioner with no bond hearing at all, despite having paroled him into the United States under INA § 236(a). Detention without a bond hearing under these circumstances exceeds DHS's statutory authority and violates the plain language of the INA. See *Rios Porras*, slip op. at 4–5; *Demirel*, 2025 WL 3218243, at *3.

63. Regardless of the manner of entry, DHS's discretionary decision to grant parole, whether through INA § 236(a) or INA § 212(d), terminated any detention authority under 8 U.S.C. § 1225(b). See *Rios Porras v. O'Neill*, No. 25-6801, slip op. at 3–4 (E.D. Pa. Dec. 22, 2025); *Kashranov v. Jamison*, No. 25-5555, 2025 WL 3188399, at *6–7 (E.D. Pa. Nov. 14, 2025).

B. INITIAL BORDER APPREHENSION IS LEGALLY IRRELEVANT

64. The Government frequently argues that initial apprehension at or near the border permanently subjects a noncitizen to mandatory detention under § 1225(b), even after DHS has exercised parole authority. Courts have uniformly rejected that argument.

65. As multiple courts in this District have explained, initial apprehension is not the legally operative event for detention purposes. Rather, the operative event is DHS's affirmative decision to parole the individual into the United States. *Rios Porras*, slip op. at 3–4. Once DHS chooses parole, it cannot later erase the legal consequences of that decision by invoking a statute that applies only to individuals who have not been admitted or paroled. *Id.*

66. The Eastern District has repeatedly emphasized that DHS may not "toggle" between detention statutes based on enforcement preference. See *Kashranov v. Jamison*, 2025 WL 3188399, at *6 (E.D. Pa. Nov. 14, 2025) ("The government's attempt to resurrect § 1225(b) after parole finds no support in the statutory text."). In *Kashranov*, as here, DHS argued that the petitioner's original border encounter justified continued mandatory detention notwithstanding parole. The court rejected that position, holding that once parole is granted, § 1225(b) no longer applies "regardless of where or how the individual was first encountered." *Id.*

67. Accordingly, the fact that Petitioner was initially apprehended at the border on October 23, 2022 is legally irrelevant. DHS's own discretionary act of parole governs the applicable detention framework, and that framework does not permit mandatory detention without a bond hearing.

C. PETITIONER'S CONTINUED DETENTION VIOLATES THE FIFTH AMENDMENT

i. Procedural Due Process

68. The Fifth Amendment's Due Process Clause protects all "persons" within the United States—including noncitizens—from deprivation of liberty without due process of law. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Freedom from physical restraint "lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas*, 533 U.S. at 690.

69. At minimum, procedural due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner before liberty is restrained. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). In the immigration detention context, that principle is typically satisfied through an individualized bond hearing where the government must justify continued detention.

70. Petitioner received no such process. After being paroled into the United States and complying with all requirements for years, he was detained at an ICE check-in without notice, without explanation, and without any hearing. DHS provided no individualized determination that detention was necessary and no opportunity for Petitioner to contest his confinement.

71. Courts in this District have found materially similar conduct to be procedurally unconstitutional. See *Rios Porras*, slip op. at 4–5 (finding detention without a bond hearing after parole violated due process). The absence of any hearing or individualized assessment creates a substantial risk of erroneous deprivation of liberty and fails even the most basic procedural requirements of the Fifth Amendment.

ii. Substantive Due Process

72. Substantive due process imposes an independent constraint on civil detention. Even where procedures are provided, detention must bear a reasonable relation to a legitimate governmental purpose and may not be arbitrary or punitive. *Zadvydas*, 533 U.S. at 690; *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

73. In the immigration context, the Supreme Court has recognized only two legitimate purposes for civil detention: preventing flight and protecting the community. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 528 (2003). Detention that does not reasonably further either purpose violates substantive due process.

74. Petitioner's detention serves neither. DHS itself determined that Petitioner was suitable for parole, and permitted him to live in the community for years. Petitioner complied fully by maintaining a stable address, being gainfully employed, paying taxes, and building community ties—conduct that demonstrates compliance, not flight risk. *See* **Exhibit C-D**. There has been no individualized finding, or even allegation, that Petitioner poses a danger to the community.

75. Detention imposed under these circumstances is arbitrary. As the Supreme Court has cautioned, justification based on flight risk "is weak or nonexistent where removal seems a remote possibility." *Zadvydas*, 533 U.S. at 690. Moreover, detention imposed without statutory authorization is itself substantively unconstitutional. *Clark v. Martinez*, 543 U.S. 371, 386–87 (2005) (holding that detention beyond statutory limits violates due process).

76. Because DHS lacks statutory authority to detain a paroled individual without a bond hearing, Petitioner's continued confinement is not merely excessive—it is unlawful and unconstitutional.

D. IN THE ALTERNATIVE, PETITIONER IS ENTITLED TO A BOND HEARING UNDER *MALDONADO BAUTISTA*

77. Even if this Court were to conclude that Petitioner is detained under 8 U.S.C. § 1225(b), which he is not, his continued detention without a bond hearing is independently unlawful under *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.).

78. On November 20, 2025, the United States District Court for the Central District of California granted partial summary judgment holding that noncitizens detained under circumstances identical to Petitioner's are properly detained under 8 U.S.C. § 1226(a) and therefore may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025). On November 25, 2025, the court certified a nationwide Bond Eligible Class and expressly extended that declaratory judgment to all class members. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

79. Critically, on December 18, 2025, the court entered final judgment after finding that immigration courts and the Department of Homeland Security were continuing to deny bond hearings and disregard the Court's declaratory relief. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, slip op. at 8–11 (C.D. Cal. Dec. 18, 2025) (entering final judgment pursuant to Fed. R. Civ. P. 54(b) based on evidence of agency noncompliance). The court expressly recognized that immigration judges had been

instructed to continue following *Matter of Yajure Hurtado* despite the Court's ruling, and that such noncompliance created exigent circumstances and ongoing irreparable harm to detained class members. *Id.* at 8–9.

80. The *Maldonado Bautista* declaratory judgment, now a final judgment, holds that application of mandatory detention under § 1225(b)(2) to Bond Eligible Class members violates the Immigration and Nationality Act, and that such individuals are detained under § 1226(a) as a matter of law. *Maldonado Bautista*, 2025 WL 3289861, at *11. That judgment has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

81. Courts in the Eastern District of Pennsylvania have repeatedly relied on *Maldonado Bautista* in ordering release or bond hearings for similarly situated petitioners. See, e.g., *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at *5 (E.D. Pa. Nov. 18, 2025); *Anirudh v. McShane*, No. 25-6458, 2025 WL 3527528 (E.D. Pa. Dec. 9, 2025); *Ndiaye v. Jamison*, No. 25-6007, 2025 WL 3229307 (E.D. Pa. Nov. 19, 2025).

82. Accordingly, even under Respondents' erroneous theory of detention, Petitioner is entitled to immediate release, or at minimum, an individualized bond hearing under 8 U.S.C. § 1226(a) within seven days.

83. Where detention exceeds statutory or constitutional limits, habeas relief is appropriate. *Zadvydas*, 533 U.S. at 699–701.

84. Courts in this District regularly order immediate release or bond hearings in similar cases. *Rios Porras*, slip op. at 5; *Ndiaye*, 2025 WL 3229307, at *4.

VIII. CLAIMS FOR RELIEF

A. FIRST CLAIM FOR RELIEF

a. Violation of the Immigration and Nationality Act Unlawful Detention and Denial of Bond Hearing 8 U.S.C. §§ 1225(b), 1226(a)

85. Petitioner re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

86. The mandatory detention provision at 8 U.S.C. § 1225(b) applies only to noncitizens who are seeking admission and who have not been admitted or paroled. It does not apply once the Department of Homeland Security ("DHS") has affirmatively exercised its discretionary authority to parole a noncitizen into the United States pursuant to INA § 212(d)(5) or INA §236(a).

87. Petitioner was apprehended by the Department of Homeland Security ("DHS") after entering the United States on or about October 23, 2022. Petitioner remained in DHS custody for two (2) days, and was thereafter paroled into the United States under DHS's discretionary parole authority. ***Id.*** Regardless of the manner of entry, DHS's discretionary decision to grant parole terminated any detention authority under 8 U.S.C. § 1225(b). See *Rios Porras v. O'Neill*, No. 25-6801, slip op. at 3–4 (E.D. Pa. Dec. 22, 2025); *Kashranov v. Jamison*, No. 25-5555, 2025 WL 3188399, at *6–7 (E.D. Pa. Nov. 14, 2025).

88. Following his parole pursuant to INA § 236(a), Petitioner sought additional immigration relief by filing an Application for Asylum and Withholding of Removal with U.S. Citizenship and Immigration Services ("USCIS"), underscoring DHS's recognition that

Petitioner was properly present in the United States following his release and eligible to pursue relief through established statutory processes.

89. Once DHS paroles a noncitizen into the United States, any subsequent detention authority—if it exists at all—arises under 8 U.S.C. § 1226(a) and requires an individualized bond hearing. *Rios Porras*, slip op. at 4–5; *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at *2–3 (E.D. Pa. Nov. 18, 2025).

90. Nonetheless, Respondents have detained Petitioner without providing a bond hearing and without identifying any lawful statutory basis for detention. Respondents' application of § 1225(b) to Petitioner is contrary to the plain language of the INA and violates 8 U.S.C. § 1226(a).

B. SECOND CLAIM FOR RELIEF

a. Violation of the Immigration and Nationality Act Alternative Claim Under *Maldonado Bautista* 8 U.S.C. § 1226(a)

91. Petitioner re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

92. In the alternative, even if this Court were to conclude that Respondents are detaining Petitioner under 8 U.S.C. § 1225(b)—which they may not—Petitioner's continued detention without a bond hearing is unlawful under *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.).

93. In *Maldonado Bautista*, the district court granted partial summary judgment holding that similarly situated noncitizens are detained under § 1226(a) and may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista v.*

Santacruz, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025).

94. The court subsequently certified a nationwide Bond Eligible Class and extended declaratory relief to all class members. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

95. On December 18, 2025, the court entered final judgment after finding that immigration courts and DHS were continuing to deny bond hearings and disregard the court's declaratory relief. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, slip op. at 8–11 (C.D. Cal. Dec. 18, 2025). The court expressly recognized that such noncompliance created exigent circumstances and ongoing irreparable harm to detained noncitizens.

96. The declaratory judgment in *Maldonado Bautista*—now reduced to final judgment—has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). Respondents' continued detention of Petitioner without a bond hearing therefore violates the INA.

C. THIRD CLAIM FOR RELIEF

a. Violation of the Administrative Procedure Act Arbitrary, Capricious, and Contrary to Law Agency Action 5 U.S.C. § 706(2)

97. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

98. The Administrative Procedure Act ("APA") requires courts to hold unlawful and set aside agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

99. Respondents' detention of Petitioner under § 1225(b), despite DHS's prior grant of parole and binding federal court decisions holding such detention unlawful, is contrary to the

INA and reflects an unexplained and unjustified departure from settled law and practice. See *Rios Porras*, slip op. at 3–5; *Demirel*, 2025 WL 3218243, at *5.

100. Respondents have failed to articulate a reasoned explanation for treating Petitioner as subject to mandatory detention, have relied on factors Congress did not intend them to consider, and have disregarded binding judicial authority. Their actions are therefore arbitrary, capricious, and not in accordance with law in violation of the APA.

D. FOURTH CLAIM FOR RELIEF

a. Violation of the Fifth Amendment Due Process Clause Procedural and Substantive Due Process

101. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

102. The Fifth Amendment's Due Process Clause protects all "persons" within the United States from deprivation of liberty without due process of law. U.S. Const. amend. V; *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

103. Procedural due process requires, at minimum, notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Petitioner was detained without notice, without a hearing, and without any individualized determination, rendering his detention procedurally unconstitutional.

104. Substantive due process further requires that civil immigration detention bear a reasonable relation to a legitimate governmental purpose and may not be arbitrary or punitive. *Zadvydas*, 533 U.S. at 690; *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

105. Petitioner poses no flight risk and no danger to the community. DHS paroled him into the United States, permitted him to reside in the community for years, and detained him without notice. Detention imposed without statutory authorization and without any

individualized justification violates substantive due process. *Clark v. Martinez*, 543 U.S. 371, 386–87 (2005).

IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1) Grants the Petition for Writ of Habeas Corpus;
2) Orders Petitioner's immediate release from ICE custody;
3) In the alternative, holds a bond hearing at which the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger,
4) Awards Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
5) Grants such further relief as the Court deems just and proper.

Respectfully submitted,

Dated: January 15, 2026

VASSOR LAW, LLC.

/s/ Dean Vassor

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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys, and I have discussed the claims with Petitioner's legal team. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully submitted,

Dated: January 15, 2026

VASSOR LAW, LLC.

/s/ Dean Vassor

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