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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

ELVIN JAHIR ENAMORADO CRUZ,

Petitioner,

v.

RONNIE WOODALL, Warden of FLORIDA
BAKER CORRECTIONAL INSTITUTE,
GARRET RIPA, Field Office Director of
Enforcement and Removal Operations, MIAMI
Field Office, Immigration and Customs
Enforcement; KRISTI NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; PAMELA BONDI, U.S. Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW;

Respondents.

Case No. 3:26-cv-00092-JEP-MCR

**PETITION FOR WRIT OF
HABEAS CORPUS UNDER
28 U.S.C. § 2241 AND EMERGENCY
RELIEF**

INTRODUCTION

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2 1. Petitioner ELVIN JAHIR ENAMORADO CRUZ is in the physical custody of
3 Respondents at the FLORIDA BAKER CORRECTIONAL INSTITUTE. He now faces
4 unlawful detention because the Department of Homeland Security (DHS), in direct collaboration
5 with the adjudicative body with jurisdiction over immigrants (the Executive Office of
6 Immigration Review) (EOIR) have concluded Petitioner is subject to mandatory detention.

7 2. Petitioner is charged with having entered the United States without admission or
8 inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

9 3. Based on this allegation in Petitioner's removal proceedings, DHS denied
10 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,
11 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
12 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
13 admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and
14 therefore ineligible to be released on bond.

15 4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or
16 Board) issued a precedent decision, binding on all immigration judges, holding that an
17 immigration judge has no authority to consider bond requests for any person who entered the
18 United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
19 The Board determined that such individuals are subject to detention under 8 U.S.C. §
20 1225(b)(2)(A) and therefore ineligible to be released on bond.

21 5. Petitioner's detention on this basis violates the plain language of the Immigration
22 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
23 previously entered and are now residing in the United States. Instead, such individuals are
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1 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.
2 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
3 having entered the United States without inspection.

4 6. Respondents' new legal interpretation is plainly contrary to the statutory
5 framework and contrary to decades of agency practice applying § 1226(a) to people like
6 Petitioner.

7 7. Furthermore, the Government itself has made an abrupt about face on this issue.
8 Respondents should be judicially estopped from asserting their current interpretation of 8 U.S.C.
9 § 1225(b)(2)(A), because they previously prevailed in litigation after asserting the opposite
10 interpretation. As explained in *New Hampshire v. Maine*, 532 U.S. 742 (2001), judicial estoppel
11 applies when a party assumes a position in a legal proceeding, succeeds in maintaining that
12 position, and then adopts a contrary position in a subsequent proceeding to gain an unfair
13 advantage. Here, Respondents previously, and successfully, argued that individuals who entered
14 the United States without inspection were subject to detention under § 1226(a), and not
15 §1225(b)(2)(A), thereby denying them bond hearings. This shift in legal position undermines the
16 integrity of the judicial process and imposes an unfair detriment on Petitioners who relied on the
17 prior interpretation. Accordingly, Respondents should be estopped from asserting this
18 inconsistent position.

19 8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that be released
20 unless Respondents provide a bond hearing under § 1226(a) within seven days.

21 JURISDICTION

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9. Petitioner is in the physical custody of Respondents. Petitioner is detained at the FLORIDA BAKER CORRECTIONAL INSTITUTE located at 20706 US Highway 90 West, Sanderson, FL 32087.

10. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the MIDDLE DISTRICT OF FLORIDA, the judicial district in which Petitioner currently is detained.

13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the MIDDLE DISTRICT OF FLORIDA.

REQUIREMENTS OF 28 U.S.C. § 2243

14. 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, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

16. Petitioner ELVIN JAHIR ENAMORADO CRUZ is a citizen of HONDURAS who has been in immigration detention since November 18, 2025. After arresting Petitioner in Panama City, Florida, ICE did not set bond and Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

17. Respondent RONNIE WOODALL is the Warden of Florida Baker Correctional Institute, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

18. Respondent GARRETT RIPA is the Director of the MIAMI Field Office of ICE's Enforcement and Removal Operations division. As such, GARRETT RIPA is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

19. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

1 20. Respondent Department of Homeland Security (DHS) is the federal agency
2 responsible for implementing and enforcing the INA, including the detention and removal of
3 noncitizens.

4 21. Respondent Pamela Bondi is the Attorney General of the United States. She is
5 responsible for the Department of Justice, of which the Executive Office for Immigration Review
6 and the immigration court system it operates is a component agency. She is sued in her official
7 capacity.

8 22. Respondent Executive Office for Immigration Review (EOIR) is the federal
9 agency responsible for implementing and enforcing the INA in removal proceedings, including
10 for custody redeterminations in bond hearings.

11 **LEGAL FRAMEWORK**

12 23. The INA prescribes three basic forms of detention for the vast majority of
13 noncitizens in removal proceedings.

14 24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
15 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally
16 entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d),
17 while noncitizens who have been arrested, charged with, or convicted of certain crimes are
18 subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

19 25. Second, the INA provides for mandatory detention of noncitizens subject to
20 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
21 referred to under § 1225(b)(2).

22 26. Last, the INA also provides for detention of noncitizens who have been ordered
23 removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).
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1 27. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

2 28. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
3 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
4 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section
5 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1,
6 139 Stat. 3 (2025).

7 29. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining
8 that, in general, people who entered the country without inspection were not considered detained
9 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited
10 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
11 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

12 30. Thus, in the decades that followed, most people who entered without inspection
13 and were placed in standard removal proceedings received bond hearings, unless their criminal
14 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
15 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
16 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
17 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
18 “restates” the detention authority previously found at § 1252(a)).

19 31. In *Jennings v. Rodriguez*, the Department of Homeland Security (DHS) explicitly
20 acknowledged that individuals who have already entered the United States and are not
21 apprehended within 100 miles of the border or within 14 days of entry are subject to
22 discretionary detention under 8 U.S.C. § 1226(a), not mandatory detention under § 1225(b).
23 During oral argument on November 30, 2016, then-Solicitor General Ian Gershengorn stated: “If
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1 they are not detained within 100 miles of the border or within 14 days ... then they are under
2 1226(a) and not 1226(c)” and further clarified, in response to a question concerning “an alien
3 who has come into the United States illegally without being admitted [and] who takes up
4 residence 50 miles from the border,” the Government responded, “The answer is they are held
5 under 1226(a) and that they get a bond hearing...” Transcript of Oral Argument at 7-8, *Jennings*
6 *v. Rodriguez*, 583 U.S. ____ (2018) (No. 15-1204). DHS reiterated that such individuals “would
7 be held under 1226(a)” and cited the administrative record to support that position. *Id.* These
8 statements reflect DHS’s prior litigation stance that § 1226(a) governs detention for noncitizens
9 who have entered and are residing in the United States, a position directly contrary to the
10 agency’s current interpretation applying § 1225(b)(2)(A) to such individuals. Having prevailed
11 in *Jennings* after taking this position, they should be estopped from taking the contrary position
12 now simply because their political or litigation interest have changed. Estoppel in this case is
13 necessary to preserve the predictability inherent in the rule of law and due process under the
14 Fifth Amendment, as well as to protect the integrity of the judicial system.

15 32. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
16 rejected well-established understanding of the statutory framework and reversed decades of
17 practice.

18 33. The new policy, entitled “Interim Guidance Regarding Detention Authority for
19 Applicants for Admission,”¹ claims that all persons who entered the United States without
20 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The
21 policy applies regardless of when a person is apprehended and affects those who have resided in
22 the United States for months, years, and even decades.

23 _____
24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 34. On September 5, 2025, the BIA adopted this same position in a published
2 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the
3 United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are
4 ineligible for IJ bond hearings.

5 35. Since Respondents adopted their new policies, dozens of federal courts have
6 rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected
7 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

8 36. Even before ICE or the BIA introduced these nationwide policies, IJs in the
9 Tacoma, Washington, immigration court stopped providing bond hearings for persons who
10 entered the United States without inspection and who have since resided here. There, the U.S.
11 District Court in the Western District of Washington found that such a reading of the INA is
12 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
13 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
14 1239 (W.D. Wash. 2025).

15 37. Subsequently, court after court has adopted the same reading of the INA's
16 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*,
17 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,
18 No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
19 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
20 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
21 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
22 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE,
23 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-
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1 ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-
 2 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH),
 3 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-
 4 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-
 5 02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-
 6 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
 7 (ECT/DJF), --- F. Supp. 3d ---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
 8 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
 9 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
 10 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
 11 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
 12 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
 13 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
 14 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
 15 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
 16 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
 17 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

18 38. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it
 19 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the
 20 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

21 39. Section 1226(a) applies by default to all persons “pending a decision on whether
 22 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
 23 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”
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42. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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1 44. Petitioner entered the United States without inspection on June 29, 2019, and was
2 apprehended by immigration officials on June 30, 2019. Petitioner was charged with being
3 inadmissible pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) and was issued a Notice to Appear dated
4 June 30, 2019. He was subsequently released on his own recognizance pursuant to 8 U.S.C. §
5 1226(a) custody provision on June 30, 2019.

6 45. Petitioner has resided in the United States since then and was living at 

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8 46. On November 18, 2025, Petitioner was arrested at approximately 5:40 AM for a
9 traffic violation. Approximately 10 minutes away from Petitioner's place of residence an officer
10 pulled him and his stepfather over while on their way to work. The officer began to ask for their
11 immigration status and subsequently detained them. Petitioner has since been detained at the
12 Florida Baker Correctional Institute.

13 47. To date, the Department of Homeland Security has not explained its reasons for
14 concluding that Petitioner's detention is necessary.

15 48. The Petitioner's ongoing detention has caused significant financial, emotional,
16 and other hardships for himself and his family.

17 49. Petitioner has resided in the United States for 6 years and has no criminal record.
18 Petitioner is neither a flight risk nor a danger to the community.

19 50. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider
20 Petitioner's bond request.

21 51. As a result, Petitioner remains in detention. Without relief from this court, he
22 faces the prospect of months, or even years, in immigration custody, separated from their family
23 and community.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

52. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

53. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

54. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II
Violation of the Bond Regulations

55. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

56. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without

1 inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. §
2 1226 and its implementing regulations.

3 57. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and
4 practice of applying § 1225(b)(2) to individual like Petitioner.

5 58. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued
6 detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

7 **COUNT III**
8 **Violation of Due Process**

9 59. Petitioner repeats, re-alleges, and incorporates by reference each and every
10 allegation in the preceding paragraphs as if fully set forth herein.

11 60. The government may not deprive a person of life, liberty, or property without due
12 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government
13 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
14 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

15 61. Petitioner has a fundamental interest in liberty and being free from official
16 restraint.

17 62. The government’s detention of Petitioner without a bond redetermination hearing
18 to determine whether he is a flight risk or danger to others violates his right to due process.

19 **COUNT IV**
20 **Judicial Estoppel**

21 63. Petitioner repeats, re-alleges, and incorporates by reference each and every
22 allegation in the preceding paragraphs as if fully set forth herein.

23 64. The Government is judicially estopped from asserting that Petitioner is subject to
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1 mandatory detention under 8 U.S.C. § 1225(b)(2)(A). In prior litigation, including *Jennings v.*
2 *Rodriguez*, the Government successfully argued that individuals who entered without inspection
3 and were not apprehended near the border or within 14 days were subject to discretionary
4 detention under § 1226(a), and not mandatory detention under § 1225(b)(2)(A). See *Jennings v.*
5 *Rodriguez*, No. 15-1204, Tr. Oral Arg. at 7-8 (Nov. 30, 2016). Courts accepted that position.
6 Now, the Government reverses course and asserts the opposite interpretation to deny bond
7 hearings. Under *New Hampshire v. Maine*, 532 U.S. 742 (2001), judicial estoppel applies where
8 a party assumes a position, prevails, and then adopts a contrary position to gain an unfair
9 advantage. The Government's reversal undermines the integrity of the judicial process and
10 prejudices Petitioners who relied on the prior interpretation.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 13 a. Assume jurisdiction over this matter;
- 14 b. Order that Petitioner shall not be transferred outside the Middle District of Florida
15 while this habeas petition is pending;
- 16 c. Issue an Order to Show Cause ordering Respondents to show cause why this
17 Petition should not be granted within three days;
- 18 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in
19 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §
20 1226(a) within seven days;
- 21 e. Declare that Petitioner's detention is unlawful;
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1 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
2 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
3 law; and

4 g. Grant any other and further relief that this Court deems just and proper.

5 DATED this 11th day of December, 2025.

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