Angela Alvero (SBN 864404)
Angela@LegalAllen.com
Law Offices of Wilfredo O. Allen
2250 S.W. 3rd Ave., Ste. 301
Miami, FL 33129
Telephone: (305) 854-5955

UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

LEONARDO LEYVA RAMIREZ, CASE NO.: 26-cv-199

Petitioner,

v.

JUAN BALTASAR, Warden of the Denver Contract Detention Facility, Aurora, Colorado, in his official capacity; FIELD OFFICE DIRECTOR or ACTING FIELD OFFICE DIRECTOR, Denver Field Office, U.S. Immigration and Customs Enforcement, in his official capacity; TODD LYONS, Acting Director of United States Immigration and Customs Enforcement, in his official capacity; KRISTI NOEM, Secretary of the United States Department of Homeland Security, in her official capacity; PAMELA BONDI, Attorney General of the United States, in her official capacity; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; and DEPARTMENT OF HOMELAND SECURITY,

Respondents.
_____/

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Respondents are illegally detaining LEONARDO LEYVA RAMIREZ ("Petitioner") in detention without bond at Immigration and Customs Enforcement's ("ICE") Denver Contract Detention Facility in Aurora, Colorado. Petitioner is entitled to a writ of habeas corpus to end his unlawful incarceration.

I. INTRODUCTION

1. Petitioner, LEONARDO LEYVA RAMIREZ entered the United States almost 3 1/2 years ago and has not left since. He has a fiancée who is a lawful permanent resident ("LPR").

She has known Petitioner for over 11years.

2. ICE first took Petitioner into custody and charged him with "entry without inspection" pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) on August 27, 2022. He was subsequently released under an ICE Order of Release on Recognizance on August 30, 2022. (*See* Exh. 1, ICE Order of Release on Recognizance). Since his release, Petitioner has remained in the community and has not violated any conditions of his release.

3. Nevertheless, ICE incarcerated Petitioner again without reason on or about November 15, 2025. Petitioner was reporting for a scheduled supervision appointment at an ICE field office in Miramar, Florida when his Release on Recognizance was revoked. ICE then brought Respondent to the Denver Contract Detention Facility located at 3130 N. Oakland Street, Aurora, Colorado. (*See* Exh. 2, ICE Detainee Locator).

4. Despite Mr. Leyva Ramirez' lack of disqualifying criminal convictions, longstanding ties to his community in the United States, and the hardship detention inflicts on his LPR fiancée; Respondents are unlawfully denying him release on bond while civilly incarcerating him at the ICE Denver Contract Detention Facility in Aurora, Colorado ("Aurora Facility").[1] (*See* Exh. 3, Form I-213).

II. PARTIES

5. ICE jails Petitioner at the Aurora Facility in Aurora, Colorado. Petitioner has lived in the United States for nearly 3 1/2 years along with his LPR fiancée. He and his fiancée have lived in Miami, Florida since 2022.

6. Juan Baltasar is the Warden of the Aurora Facility (where ICE jails Petitioner), and is an employee of the GEO Group, the for-profit prison company that operates the facility. Mr. Baltasar is a legal custodian of Petitioner. He is sued in his official capacity

7. The ICE Field Office Director or Acting Director of the Denver ICE Field Office is the immediate custodian of Petitioner and is sued in his official capacity.

8. Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). Ms. Noem is responsible for the implementation and enforcement of the INA. DHS is the parent

[1] This Petition does not refer to the Aurora Facility or Petitioner's loss of liberty as detention because it does not accurately reflect the conditions at the Aurora Facility. *See, L.G. v. Choate*, 744 F.Supp.3d 1172, 1182 (D. of Colo. 2024) (citation omitted) (acknowledging that the District of Colorado has already found that the GEO Facility is "more akin to incarceration than civil confinement").

agency of ICE, and thus Ms. Noem also oversees ICE, which is responsible for Petitioner's illegal detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

9. Todd M. Lyons is the Acting Director of ICE and is sued in his official capacity. Mr. Lyons is responsible for Petitioner's illegal detention and has custodial authority over him.

10. Pamela Bondi is the Attorney General of the United States. She is responsible for the actions of the Department of Justice ("DOJ"). The Executive Office for Immigration Review ("EOIR") and the immigration court system it operates are a component agency of DOJ. Ms. Bondi is sued in her official capacity.

11. Respondent U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT is an agency within the Department of Homeland Security charged with the enforcement of immigration laws, including the detention and removal of noncitizens.

12. Respondent DEPARTMENT OF HOMELAND SECURITY is the federal department responsible for administering and enforcing the INA, including statutory authority governing the detention of certain noncitizens.

III. JURISDICTION AND VENUE

13. Respondents originally detained Respondent and placed him at Florida Soft South Side for 20 days where he was held in inhumane conditions. Petitioner was subsequently incarcerated at the Aurora Facility in Aurora, Colorado since the end of November 2025. Petitioner is currently imprisoned in this District and is under the control of Respondents and their agents. (*See* Exh. 2)

14. Petitioner brings this action under 28 U.S.C. § 2241, the INA and its implementing regulations, the Administrative Procedures Act (5 §§ U.S.C. 500-596, 701-706), the All Writs Act (8 U.S.C. § 1651), the Declaratory Judgment Act, 28 U.S.C. § 2201, and the U.S. Constitution. District courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas corpus actions by noncitizens challenging the lawfulness and constitutionality of their civil immigration detention.

15. This Court also has federal question jurisdiction pursuant to 28 U.S.C. § 1331, as this is a civil action arising under the laws of the United States.

16. Venue is proper under 28 U.S.C. § 1391 because Respondents imprison Petitioner in Aurora, Colorado, within the jurisdiction of this Court. Likewise, a substantial part of the events giving rise to the claims in this action took place within this District.

IV. FACTUAL BACKGROUND

A. Legal Authority for Immigration Detention.

17. ICE's authority to jail noncitizens is proscribed by statute. Section 1226(a) of 8 U.S.C. establishes discretionary detention for noncitizens ICE arrests "[o]n a warrant issued by the Attorney General" and then place in 8 U.S.C. § 1229a removal proceedings. 8 U.S.C. § 1226(a). Those noncitizens may then request an immigration judge ("IJ") to redetermine the arresting immigration officer's "initial custody determination" at any time prior to a final order of removal. *Id.*; 8 C.F.R. §§ 236.1(d)(1), 1003.19(a), (b). During the custody redetermination request, i.e., bond hearing, the IJ determines whether the noncitizen establishes by the preponderance of the evidence if they are a risk of flight or danger to the community. *See generally Matter of Guerra*, 24 |. & N. Dec. 37 (B.I.A. 2006).

18. Section 1226(c) of 8 U.S.C. establishes mandatory detention for noncitizens with certain criminal legal contacts in § 1229a removal proceedings. 8 U.S.C. § 1226(c). IJs do not have the authority to consider these noncitizens' request for release on bond unless ICE is substantially unlikely to establish that the noncitizen falls within one of § 1226(c)'s mandatory detention provisions. *See generally Matter of Joseph*, 22 I & N. Dec. 799 (B.I.A. 1999).

19. The statute also provides for mandatory detention of a narrow subset of noncitizens subject to an expedited removal pursuant to § 1225(b) or for other noncitizen "applicants for admission" to the U.S. who are apprehended at the border or port of entry. *See* 8 U.S.C. § 1225(b)(2). Section 1225 focuses on noncitizens "arriv[ing]' "whether or not at a designated port of arrival," and applies to people like those who were "interdicted in international or United States waters" (§ 1225(a)(1)), are "stowaways" (§ 1225(a)(2)), and who are otherwise "applicants for admission" into the U.S. (§ 1225(a)(3)). In contrast to § 1226, § 1225 discusses matters such as "screening" "claims for asylum" (§ 1225(b)(1)(A)(i)-(ii)) at the border, "inspection" by an immigration officer to determine if a noncitizen "is ... clearly and beyond a doubt entitled to be admitted" (§ 1225(b)(2) & (d)), and "removal" of "an arriving [noncitizen]" (§ 1225(c)(1)).

20. Finally, the statute provides for detention of noncitizens with final removal orders. 8 U.S.C. § 1231(a), (b).

21. Petitioner does not have criminal legal contact rendering him subject to 8 U.S.C. §

1226(c). He is also not subject to § 1231 detention because he does not have a final removal order. Rather, this case concerns the discretionary detention provision at 8 U.S.C. § 1226(a) and Respondents' erroneous assertion that mandatory detention pursuant to § 1225(b) applies.

22. The Supreme Court summarizes the interplay between §§ 1226 and 1225 as follows: "In sum, U.S. immigration law authorizes the Government to detain certain [noncitizens] seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings under §§ 1226(a) and (c)." *Jennings v. Rodriguez*, 582 U.S. 281, 289 (2018) (Alito, J., emphasis added).

23. Both the § 1226 and § 1225 detention provisions were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226(a) was most recently amended in early 2025 by the Laken Riley Act (LRA), Pub. L. No. 119-1, 139 Stat. 3 (2025).

24. Following the enactment of the IIRIRA in 1996, EOIR wrote regulations applicable to proceedings before IJs explaining that, in general, people who entered the country without inspection (also known as "present without admission") were not detainable under § 1225 and instead could only be detained under § 1226(a). See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination').

25. Thus, in the following decades, people who entered without inspection and did not have certain criminal legal contacts could receive § 1226(a) bond hearings when placed in § 1229a proceedings. That practice was consistent with additional decades of pre-IIRIRA practice, in which noncitizens who were not "arriving" or seeking entry into the United States were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting the new § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

26. This practice - both pre- and post-enactment of the IIRIRA - is consistent with the fact that noncitizens present in the U.S. have constitutional rights. "[T]he Due Process Clause

applies to all 'persons' within the United States, including [noncitizens], whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

27. Despite this long-standing practice and the plain text of the statute, the Board of Immigration Appeals (BIA) issued an unpublished decision on May 22, 2025, holding that noncitizens who entered the United States without inspection were subject to § 1225(b)(2) mandatory detention as "applicants for admission."

28. On July 8, 2025, ICE, "in coordination with" the DOJ announced a new policy consistent with the unpublished BIA decision from May 22, 2025. The new ICE/DOJ policy, titled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all noncitizens present within the U.S. who entered without inspection - no matter how long ago, no matter where, and no matter how - are deemed "applicants for admission" under 8 U.S.C. § 1225, and thus subject to mandatory detention under § 1225(b)(2)(A). The new policy applies regardless of when and where a person was apprehended and affects people who have resided in the U.S. for years.

29. On September 5, 2025, the BIA published a precedential decision finding the same. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

30. The federal courts have since resoundingly rejected Respondents' position in more than 20 district court decisions. *See Rodriguez-Vazquez v. Bostock*, No. 779 F.Supp.3d 1239 (W.D. Wash. 2025) (granting preliminary relief); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, *8 (D. Mass. July 7, 2025) (granting individual habeas relief); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp.3d ---, 2025 WL 2084238, *9 (D. Mass. July 24, 2025) (denying reconsideration of individual habeas relief); *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01874-SSS-BFM, *13 (C.D. Cal. July 28, 2025) (granting preliminary relief); *Escalante v. Bondi*, No. 25-cv-3051, 2025 WL 2212104 (D. Minn. July 31, 2025) (report and recommendation to grant preliminary relief, adopted *sub nom O.E. v. Bondi*, 2025 WL 2235056 (D. Minn. Aug. 4, 2025)); *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL 2267803 (S.D. N.Y. Aug. 8, 2025) (granting individual habeas relief); *de Rocha Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (report and recommendation to grant habeas relief, adopted without objection at 2025 WL 2349133 (D. Ariz. Aug. 13, 2025)); *Dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025) (granting habeas relief); *Aquilar Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug.

15, 2025) (same); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug 15, 2025) (same); *Romero v. Hyde*, --- F.Supp.3d ----, 2025 WL 2403827 (D. Mass. Aug. 19, 2025) (same); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, Doc. 20 (D. Md. Aug. 24, 2025) (same); *Benitez v. Noem*, No. 5:25-cv-02190, Doc. 41 (C.D. Cal. Aug. 26, 2025) (granting preliminary relief); *Kostak v. Trump*, No. 3:25-cv-01093-JE, Doc. 20 (W.D. La. Aug. 27, 2025) (same); *Jose J.O.E. v. Bondi*, --- F.Supp.3d ---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) (same); *Lopez-Campos v. Raycraft*, --- F.Supp.3d --- , 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) (granting individual habeas relief and enjoining pursuit of detention on the basis of § 1225(b)(2)(A)); *Palma Perez v. Berg*, --- F.Supp.3d --- , 2025 WL 2531566 (D. Neb. Sept. 3, 2025) (finding 'little support" in the statute for detention under § 1225(b)(2) and ordering release on other grounds); *Cortes Fernandez v. Lyons*, No. 8:25-cv-506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025) (same); *Carmona-Lorenzo v. Trump*, No. 4:25-cv-3172, 2025 WL 2531521 (D. Neb. Sept. 3, 2025) (same); *Hernandez Nieves v. Kaiser*, No. 25-cv-06921-LB, 2025 WL 2533110 (N.D. Cal Sept. 3, 2025) (granting injunctive relief, ordering release and enjoining redetention without a bond hearing); *Vasquez Garcia et al. v. Noem*, No. 25-cv-02180-DMS-MMP, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025) (granting TRO in part, finding detention pursuant to § 1226(a) and ordering a bond hearing); *Doe v. Moniz*, No. 1:25-cv-12094-IT, 2025 WL 2576819 (D. Mass. Sept. 5, 2025) (granting habeas finding detention pursuant to § 1226(a)).

31. The federal courts' overwhelming rejection of Respondents' position continues after *Matter of Yajure Hurtado*. *See e.g., Zaragoza Mosqueda v. Noem*, No. 5:25-cv-02304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025) (enjoining continued detention without a §1226(a) bond hearing within seven days); *Sampiao v. Hyde*, --- F.Supp.3d ---, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (ordering release on bond); *Pizzaro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025) (granting habeas relief); *Cuevas Guzman v. Andrews*, No. 1:25-cv-01015-KES-SKO (HC), 2025 WL 2617256, (E.D. Cal. Sept. 9, 2025) (granting a preliminary injunction and ordering release); *Hinestroza v. Kaiser*, No. 25-cv-07559-JD, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025) (granting TRO and finding § 1225(b)(2) inapplicable); *Jimenez v. FCI Berlin, Warden et al.*, --- F.Supp.3d ---, 2025 WL 2639390 (D.N.H. Sept. 9, 2025) (finding detention pursuant to § 1226(a) and ordering a bail hearing); *Salcedo Aceros v. Kaiser et al.*, No 25-cv-06924-EMC (EMC), 2025 WL 2637503 (N.D. Ca. Sept. 12, 2025)

(granting PI and finding § 1225(b)(2) inapplicable).

32. That includes the District of Colorado where Judge Sweeney explains, *inter alia*, that the Government's argument for § 1225(b)(2) detention must fail when a noncitizen is not "seeking admission" into the United States. *Garcia Cortes v. Noem et al.*, No. 1:25-cv-02677-CNS, 2025 WL 2652880 at *3 (D. of Colo. Sept. 16, 2025) ("Because Petitioner is not, nor was he at the time he was arrested, seeking admission, § 1225(b)(2)(A)'s mandatory detention requirement does not apply").

33. Additionally, in the nationwide class action *Maldonado Bautista v. Noem, et al*, case no. 5:25-cv-01873-SSS-BFM (Dec. 18, 2025) from the District Court for the Central District of California, Hon. Sunshine S. Sykes held that the class, of which Petitioner would be a purported class member, is detained under INA § 236(a) (8 U.S.C. § 1226(a)) - not INA § 235(b)(2) (8 U.S.C. § 1225(b)(2)), meaning the class can be considered for bond eligibility under § 1226(a) and is not subject to mandatory detention under § 1225(b)(2), that class members are entitled to bond consideration and if not released by ICE, a custody redetermination (bond) hearing before an immigration judge, and vacated DHS's July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission" under the APA as unlawful.

34. As evidenced by the federal court decisions, the interpretation by DHS, DOJ, EOIR, and ICE that § 1225(b) governs detention in this case defies the plain language of the INA, fundamental canons of statutory construction, and the agency's long-extant implementing regulations.

35. Indeed, the statute's plain text demonstrates § 1226(a) - not § 1225(b) – applies to people like Petitioner. Section 1226(a) is the "default rule" applying to all persons "pending a decision on whether the [noncitizen] is to be removed." *Rodriguez Vazquez*, 779 F.Supp.3d at 1246; *Jennings*, 582 U.S. at 281.

36. Notably, the plain language of § 1226 applies to people charged as inadmissible for entering without inspection. *E.g.*, 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to inadmissible individuals makes clear that, by default, inadmissible individuals not subject to subparagraph (E)(ii) are entitled to a bond hearing under subjection (a). As the *Rodriguez-Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez-Vazquez*, 779 F.Supp.3d at 1256-57 (citing *Shady Grove Orthopedic Assocs., PA. v. Allstate Ins.*

Co., 559 U.S. 393, 400 (2010)).

37. Thus, § 1226 applies to noncitizens like Petitioner who are present without inspection, face related inadmissibility charges in removal proceedings and who do not have certain criminal legal contacts.

38. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the U.S. and are encountered at or near the border. Section 1225's entire framework is premised around inspection at the border of people who are "seeking admission" to the U.S. 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*, 582 U.S. at 287.

39. Accordingly, contrary to Respondents' erroneous interpretation of the statute, the mandatory detention provisions of § 1225(b)(2) do not apply to people like Petitioner who "arrived" in the country long ago and have resided in the United States for years before ICE jailed them.

B. Petitioner's Unlawful Detention Without Bond

40. Petitioner has resided in Miami, Florida since August 27, 2022. ICE placed him in removal proceedings and sought his removal pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) in August 29, 2022, for being present without inspection. He was subsequently released on an Order of Release on Recognizance. Petitioner thereafter continued to reside in the United States and complied with all terms of his release conditions while his case was pending in removal proceedings.

41. Petitioner has an LPR fiancée, Rachel Alvarez-Lastra Melon, as well as friends who are U.S. citizens and residents who have attested to his good moral character. Respondent was employed at Construction Testing & Inspection, Inc., where he was described as an essential member of the team and vouched for his expertise and leadership. Before his detention, he lived at a fixed address with his family. Petitioner pays all required taxes - including Social Security taxes even though he would not benefit from the Social Security program.

42. In short, Petitioner has a fixed address, strong ties to the community, and no disqualifying criminal convictions. As such, Petitioner is an excellent candidate for release from immigration detention on bond. In fact, he was previously released without bond and upheld all

conditions of his release. The only difference between now and then is Respondents' unlawful policy shift and the additional positive equities Respondent acquired since release; *e.g.,* his fiancée, continued residence in the United States, gainful employment, compliance with his release conditions for 3 ½ years, and no adverse legal contacts.

43. Nevertheless, ICE took Petitioner into custody and imprisoned him at the Aurora Facility. DHS objected to bond for Petitioner under § 1226(a) before an IJ at a Custody Redetermination hearing on January 12, 2025.

44. On January 7, 2025, through counsel, Petitioner requested a bond hearing before an IJ. On January 12, 2025, IJ Carbone of the Aurora Immigration Court denied Petitioner's Motion for Custody Redetermination because the court lacked jurisdiction "redetermine the respondent's custody. See Matter of Q. Li., 29 I&N Dec. 66 (BIA 2025)." Although the IJ denied the motion orally on January 12, 2025, an order was not entered by the IJ until January 14, 2025. (*See* Exh. 4, Order of the IJ on Custody Redetermination).

V. CLAIMS FOR RELIEF

COUNT I

Respondents Jail Petitioner in Violation of 8 U.S.C. § 1226(a)

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

46. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Petitioner because he was present and residing in the U.S., has been placed in § 1229a removal proceedings, and charged with inadmissibility pursuant to 8 U.S.C. § 1182. Simply, § 1225 does not apply to people like Petitioner who previously entered the country and reside in the U.S. prior to being detained and placed in removal proceedings. Such noncitizens may only be detained pursuant to § 1226(a), unless they are subject to mandatory detention provisions irrelevant here. Detention under § 1226(a) requires access to bond.

47. Applying 1225 to Petitioner unlawfully mandates his continued detention without a bond hearing and violates 8 U.S.C. § 1226(a).

COUNT II

Respondents are Detaining Petitioner in Violation of the INA Bond Regulations (8 C.F.R. §§ 236.1, 1236.1 & 1003.19)

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

49. Respondent EOIR and the then Immigration and Naturalization Service issued a rule to interpret and apply the IIRIRA under the heading "Apprehension, Custody, and Detention of [Noncitizens]," which explained: "Despite 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*." 62 Fed. Reg. at 10323 (emphasis added). Respondents thus long-ago made clear that people like Petitioner who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and the implementing regulations.

50. Nonetheless, Respondents here deemed Petitioner subject to mandatory detention under § 1225.

51. Applying 1225 to Petitioner instead unlawfully mandates his continued detention under § 1225(b)(2).

52. Respondents' application of § 1225(b)(2) to Petitioner unlawfully requires his continued detention in violation of 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III

Respondents are Detaining Petitioner in Violation of the Administrative Procedures Act (5 U.S.C. § 706(2))

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

54. Under the APA, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

55. Respondents' detention of Petitioner pursuant to § 1225 is arbitrary and capricious, and in violation of the Fifth Amendment of the United States Constitution. Respondents do not have statutory authority under § 1225 to detain Petitioner.

56. Respondents' detention of Petitioner without access to bond is arbitrary, capricious, an abuse of discretion, violative of the United States Constitution, and without statutory authority, all in violation of 5 U.S.C. § 706(2).

COUNT IV

Respondents Detain Petitioner in Violation of his Fifth Amendment Due Process Rights

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

58. The Government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. Amend. V. "Freedom from imprisonment - from government custody, detention, or other forms of physical restraint - lies at the heart of the liberty that the [Fifth Amendment's due process] Clause protects." *Zadvydas*, 533 U.S. at 690.

59. Petitioner has a fundamental interest in liberty and being free from official restraint, such as imprisonment in the Aurora Facility.

60. Respondents' detention of Petitioner without providing him a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to Due Process.

PRAYER FOR RELIEF

Petitioner respectfully asks that this Court take jurisdiction over this matter and grant the following relief:

1. Issue a writ of habeas corpus requiring Respondents to either release Petitioner immediately or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

2. Enjoin respondents from transferring Petitioner outside the jurisdiction of the District of Colorado pending resolution of this case;

3. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and,

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

Respectfully submitted on this 16th day of January, 2026.

LEONARDO LEYVA RAMIREZ

By his attorney:

/s/ Angela Alvero
Angela Alvero (SBN 864404)
Angela@LegalAllen.com
Law Offices of Wilfredo O. Allen
2250 S.W. 3rd Ave., Ste. 301
Miami, FL 33129
Telephone: (305) 854-5955

Attorney for Petitioner

VERIFICATION

1. Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

2. Because many of the allegations in this petition require a legal knowledge not possessed by Petitioner, I am making this verification on his behalf.

Executed this 16th day of January, 2026.

/s/ Angela Alvero

Angela Alvero (SBN 864404)
Angela@LegalAllen.com
Law Offices of Wilfredo O. Allen
2250 S.W. 3rd Ave., Ste. 301
Miami, FL 33129
Telephone: (305) 854-5955

Attorney for Petitioner