

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

OSCAR MERLIN LOPEZ,

Plaintiff-Petitioner,

v.

SCOTTY RHODEN,

*in his official capacity as
Warden of Baker County
Detention Center as Sheriff
of Baker County Sheriff's Office,*

GARRETT J. RIPA,

*in his official capacity as
Field Office Director of
Miami Field Office of
U.S. Immigration & Customs
Enforcement,*

TODD LYONS,

*in his official capacity as Acting
Director, U.S. Immigration and
Customs Enforcement,*

KRISTI NOEM,

*in her official capacity as
Secretary, U.S. Department
of Homeland Security,*

PAMELA BONDI,

*in her official capacity as
Attorney General of the
United States,*

Defendants-Respondents.

Civil No. _____

**PETITION FOR WRIT OF HABEAS CORPUS AND
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

COMES NOW Plaintiff-Petitioner OSCAR MERLIN LOPEZ and hereby respectfully petitions this Court for a writ of habeas corpus to remedy his wrongful and unlawful detention absent any bond or other individualized hearing and files the instant Complaint for Declaratory and Injunctive Relief against Defendants-Respondents Sheriff SCOTTY RHODEN, in his official capacity as Warden of Baker County Detention Center; GARRETT RIPA, in his official capacity as Field Office Director of Miami, Field Office of U.S. Immigration & Customs Enforcement ("ICE"); TODD LYONS, in his official capacity as Acting Director of ICE; KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; and PAMELA BONDI, in her official capacity as Attorney General of the United States, challenging his unlawful and unconstitutional immigration detention by ICE as violative of the Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2)(A)-(E); contrary to 8 U.S.C. § 1226 and 8 C.F.R. §§ 1003.19(i)(2), 1236(d)(1); and in contravention of his Fifth Amendment right to procedural and substantive due process. In support of the relief requested herein, Plaintiff-Petitioner respectfully states as follows:

INTRODUCTION

Contrary to long-standing precedent, existing statutory and regulatory authority, and established agency policies and practices, the Executive—acting contrary to law, arbitrarily and capriciously, and in disregard and violation of both procedural and substantive due process guaranteed under the Fifth Amendment to the United States Constitution—reclassified all undocumented aliens in the United States as “applicant[s] for admission” at the border subject to mandatory immigration detention without bond pending the entirety of their removal proceedings.

Specifically, on September 5, 2025, the Board of Immigration Appeals (“BIA”) issued *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), a precedent decision declaring that any noncitizen who is present in the United States without having been inspected and admitted is now subject to detention under 8 U.S.C. § 1225(b)(2), which applies only to “arriving aliens,” and not subject to 8 U.S.C. § 1226(a), which applies to “aliens already in the country.” *See Jennings v. Rodriguez*, 583 U.S. 281, 281 (2018). This decision is based on a new strained reading of Section 1225, previously adopted by DHS on July 8, 2025, as articulated in *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025).

Together, *Q. Li* and *Hurtado* purport to strip Immigration Judges of jurisdiction over custody redeterminations for noncitizens who entered without inspection and have not subsequently obtained lawful status. These decisions

create a sweeping new rule that deprives most noncitizens who entered the United States without inspection any right to seek bond from an Immigration Judge regardless of how long they have been residing in the country or where they were arrested.

This detention is also maintained to last the entirety of the noncitizen's removal process. According to latest TRAC Immigration and Executive Office for Immigration Review ("EOIR") reports, the average length of time from a Notice to Appear ("NTA") to a final order of removal is from two (2) to three (3) years nationwide (with some busier jurisdictions taking longer). As a result, this newly discovered detention authority invented by ICE is akin to a confinement sentence in a term of years to any noncitizen picked up off the street by ICE today, tomorrow, and unless nationwide compulsory injunctive relief is issued or until current immigration enforcement efforts are altered. This radical shift in policy constitutes a thinly veiled attempt to utilize detention as an instrument of suffering and to psychologically and financially coerce immigrants to abandon the legal process as both the foreseeable result and unstated goal undergirding the change.

This reclassification and reasoning have already been rejected by this Court and District Courts nationwide. *See, e.g., Patel v. Hardin*, No. 2:25-cv-870-JES-NPM, 2025 WL 3442706 (M.D. Fla. Dec. 1, 2025); *Cetino v. Hardin*, 2:25-cv-1037-JES-DNF, 2025 WL 3558138 (M.D. Fla. Dec. 12, 2025); *Bravo-*

Diaz v. Mordant, 2:25-cv-1013-JES-DNF (M.D. Fla. Dec. 16, 2025); *Garcia v. Noem*, 2:25-cv-00879-SPC-NPM (M.D. Fla. Oct 31, 2025); *Vieira v. Anda-Ybarra*, EP-25-CV-00432-DB (W.D. Tex. Oct 16, 2025); *Hernandez-Fernandez v. Lyons*, 5:25-CV-00773-JKP (W.D. Tex. Oct 21, 2025); *Antonio Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 U.S. Dist. LEXIS 217348 (S.D. Ga. Nov. 4, 2025); *Juan Ortega Jimenez v. Warden FCI Atlanta (DHS)*, No. 1:25-cv-5650 (N.D. Ga. Nov. 6, 2025); *Hernandez v. Glades Warden (DHS)*, No. 2:25-cv-830-KCD-NPM, 2025 U.S. Dist. LEXIS 212865 (M.D. Fla. Oct. 29, 2025); *Puga v. DHS*, No. 25-24535, 2025 U.S. Dist. LEXIS 203222 (S.D. Fla. Oct. 15, 2025); *Contreras-Cervantes v. DHS*, No. 2:25-cv-13073, 2025 U.S. Dist. LEXIS 205416, at *22 n.4 (E.D. Mich. Oct. 17, 2025) (collecting cases); *Sixto Hernandez v. DHS*, No. 1:25-cv-1565, 2025 U.S. Dist. LEXIS 204978 (E.D. Va. Oct. 16, 2025); *E.C. v. DHS*, No. 2:25-cv-1789 (D. Nev. Oct. 14, 2025); *S.D.B.B. v. DHS*, No. 1:25-cv-882, 2025 U.S. Dist. LEXIS 194795 (M.D.N.C. Oct. 7, 2025); *Orellana v. DHS*, No. 25-1788, 2025 U.S. Dist. LEXIS 164986 (D. Md. Oct. 7, 2025); *Quispe v. Crawford*, No. 1:25-cv-1471, 2025 U.S. Dist. LEXIS 194070 (E.D. Va. Sept. 29, 2025).

Moreover, the United States District Court for the Central District of California entered a nationwide injunction enjoining DHS from imposition of mandatory detention under 8 U.S.C. § 1225(b)(2), on foreign nationals including Plaintiff-Petitioner herein. *See Bautista v. Santacruz*, No. 2:25-cv-

4271, 2025 U.S. Dist. LEXIS 233085, at *28–29 (C.D. Cal. Nov. 20, 2025) (Order Granting Motion for Partial Summary Judgment); *see also* *Bautista v. Santacruz*, No. 2:25-cv-4271, 2025 U.S. Dist. LEXIS 231977, at *2 (C.D. Cal. Nov. 25, 2025) (Order Granting Class Certification).

Despite this Court’s prior rulings and the nationwide injunction in force flowing from *Bautista*, DHS continues to unlawfully detain Plaintiff-Petitioner under 8 U.S.C. § 1225(b)(2). As widely reported, more than 300 federal courts have now rejected this same detention authority. *See* Kyle Cheney, *Hundreds of Judges Reject Trump’s Mandatory Detention Policy*, Politico (Jan. 5, 2026). Yet Plaintiff-Petitioner’s unquestionably unlawful detention persists contrary to this Court’s prior ruling on point and a compulsory Order in a certified class action enjoining such detention. This Court should not countenance such willful disobedience and disregard of judicial authority by the Executive and ongoing misapplication of immigration detention authority in this context.

Plaintiff-Petitioner now brings this petition for a writ of habeas corpus to seek enforcement of his rights as members of the bond-eligible class certified in *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Plaintiff-Petitioner requests the Court either mandate his release from immigration custody or declare and enforce his right to a bond redetermination or other individualized hearing forthwith.

Due to the ongoing deprivation of his liberty and urgent irreparable harms flowing to himself and his loved ones, Plaintiff-Petitioner respectfully requests entry of an Order to Show Cause within three (3) days under 28 U.S.C. § 2243, and specifically reserves the right to file an Emergency Motion for Temporary Restraining Order in accordance with Fed. R. Civ. P. 65(b).

PARTIES

1. Plaintiff-Petitioner OSCAR MERLIN LOPEZ ("Petitioner") is an individual who currently resides in Jacksonville, Florida.

2. Petitioner is currently in the physical custody of U.S. Immigration and Customs Enforcement ("ICE"), a component of the U.S. Department of Homeland Security ("DHS").

3. Petitioner is currently detained at Baker County Detention Center, located in the City of Macclenny, which is located in Baker County, Florida.

4. Defendant-Respondent Sheriff Scotty Rhoden is sued in his official capacity as Warden of Baker County Detention Center, U.S. Immigration & Customs Enforcement.

5. Defendant-Respondent Garrett Ripa is sued in his capacity as Field Office Director, Miami Field Office, ICE, with oversight over Baker County Detention Center. As Field Office Director, he is Plaintiff-Petitioner's legal custodian.

6. Defendant-Respondent Todd Lyons is sued in his official capacity as the Acting Director of Immigration and Customs Enforcement, which is a component of DHS. As Acting Director of ICE, he is Plaintiff-Petitioner's legal custodian.

7. Defendant-Respondent Kristi Noem is sued in her official capacity as Secretary of DHS and generally responsible for the administration and enforcement of applicable laws and statutes governing immigration. As Secretary of DHS, she is Plaintiff-Petitioner's legal custodian.

8. Defendant-Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. She has responsibility for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. § 1103, and thus legal custodian of Plaintiff-Petitioner.

JURISDICTION

9. This action arises under the United States Constitution and the Immigration and Nationality Act of 1952, 8 U.S.C. § 1101, *et seq.* ("INA").

10. This Court has jurisdiction over this petition for writ of habeas corpus under 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (mandamus); art. I, § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); U.S. Const. amend. V (the Due Process Clause of the U.S. Constitution); and has jurisdiction to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201-02.

11. This Court may grant habeas relief pursuant to 28 U.S.C. §§ 2201-02, 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

12. This Court has jurisdiction over all non-habeas claims alleged in this action pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1346 (federal defendant); and 5 U.S.C. § 702 (right of review).

13. The Court is authorized to grant the requested relief under 5 U.S.C. § 706(2)(A)-(E); 28 U.S.C. §§ 2201-2202; and 28 U.S.C. § 1651, as well as pursuant to its inherent equitable powers.

VENUE

14. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2), and (e)(1)(B) because a substantial part of the events or omissions giving rise to the claim occurred in this District, no real property is involved, and Plaintiff-Petitioner is detained within this judicial district.

FACTS & BACKGROUND

15. Plaintiff-Petitioner OSCAR MERLIN LOPEZ ("Petitioner") is a twenty-three-year-old native and citizen of Mexico. See Motion for Bond Hearing dated December 2, 2025 (filed herewith as Exhibit A) and Notice of Filing ("NOF") Documents in Support of Release on Bond dated December 5, 2025 (filed herewith as Exhibit B).

16. Petitioner last entered the United States without inspection in 2021 and has resided continuously in the United States since that time.

Exhibit B. Plaintiff-Petitioner has established his home, work, and life in Florida, where he continuously resided until his detention in October of 2025. *Id.*

17. Petitioner is engaged to Maria Guadalupe Lopez, a United States citizen. Exhibit B. Letters from Petitioner's fiancée and others confirm his good moral character and devotion to his loved ones. *Id.*

18. Petitioner is a hard worker who runs his own business,   Exhibit B. Letters from his family and friends confirm his good moral character and devotion to his loved ones. *Id.*

Efforts to Legalize Immigration Status

19. Petitioner has no prior removals or immigration violations beyond his initial entry. *See* Exhibit B.

20. Petitioner qualifies for a T nonimmigrant visa under the Trafficking and Violence Protection Act (TVPA) of 2000, Pub. L. 106-386, 114 Stat. 1464, 1470 (October 28, 2000), which is codified at 22 U.S.C. 7101. *See* Trafficking and Violence Protection Act (TVPA) of 2000, Pub. L. 106-386, 114 Stat. 1464, 1470 (October 28, 2000), codified at 22 U.S.C. 7101; Exhibit B. Petitioner's brother, Martin Merlin Lopez, has already submitted his Form I-914, Application for T Nonimmigrant Status. *Id.* Petitioner was trafficked at the same time as his brother, qualifies for a T nonimmigrant visa, and will be submitting a Form I-914, Application for T Nonimmigrant Status. *Id.*

21. Petitioner also qualifies for asylum status based on 

 *Id.*

Petitioner is eligible for a grant of asylum pursuant to Section 208 of the Immigration and Nationality Act (“INA” or the “Act”), 8 C.F.R. Sections 208 and 1208, for withholding of removal pursuant to INA § 241(b)(3), as well as relief under the Convention Against Torture, Pub. L. 105-277, H.R. 4328, 105th Cong. (1998), 8 C.F.R. Sections §§ 208.16(c)(3) and 208.17. Petitioner will soon be submitting Form I-589, Application for Asylum and for Withholding of Removal.

ICE Arrest & Ongoing, Unlawful Detention

22. On October 29, 2025 Petitioner was pulled over by Flagler County Sheriff’s Office for a civil traffic infraction in Palm Coast, Florida. *See* Exhibit B. He was cited for unlawful speed, arrested, and then booked at Flagler County Jail. *Id.* This is his first and only arrest.

23. Petitioner was quickly transferred to ICE custody. *Id.*

24. Sometime thereafter, Petitioner was transported to and remains detained at Baker County Detention Center in Macclenny, Florida. *See* Notice to Appear (“NTA”) dated October 30, 2025 (filed herewith as Exhibit C).

25. On October 30, 2025, ICE served Petitioner with a NTA, charging him as “an alien present in the United States who has not been admitted or paroled” pursuant to INA § 212(a)(6)(A)(i), codified at 8 U.S.C. §

1182(a)(6)(A)(i) and as “an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act...” pursuant to INA § 212(a)(7)(A)(i)(I), codified at 8 U.S.C. § 1182(a)(7)(A)(i)I. *Id.*

26. His removal proceedings are pending with the Orlando Immigration Court before Immigration Judge Pedro Espinal. *See* Notice of Internet-Based Hearing dated January 12, 2026 (filed herewith as Exhibit D).

27. Upon arrest of Petitioner, ICE determined that he should be detained pending removal. Exhibit C.

28. On November 25, 2025, the Central District in California certified the nationwide class in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners’ proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners’ Motion for Partial Summary Judgment).

29. Members of the nationwide bond-eligible class are as follows: 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. *See Maldonado Bautista*, 2025 WL 3288403, at *1.

30. After certification of the nationwide class and declaratory judgment in *Maldonado Bautista*, on December 2, 2025, in accordance with 8 C.F.R. §§ 1003.14(a), 236.1(c), Petitioner requested a bond hearing by and through his removal defense counsel. *See* Exhibit A. Petitioner filed a Motion for Bond Hearing with the Orlando Immigration Court, seeking a custody redetermination pursuant to 8 C.F.R. § 1236. *Id.*

31. On December 8, 2025, the Immigration Judge denied Petitioner's request for a change in custody status, stating:

However, the court in *Bautista* granted class certification and partial summary judgment for the plaintiffs in that case but did not issue a class-wide declaratory judgment. The court also did not issue a class-wide injunction, which would not be permitted by law. Until and unless the *Bautista* court issues a class-wide declaratory judgment or injunction, the *Bautista* court's opinion and partial grant of summary judgment does not constitute a judgment. *See, e.g., Fed. R. Civ. P. 54(b)* (second sentence). As such, they do not have preclusive effect with respect to other cases. Rather, there is currently no declaratory relief with respect to other cases filed by people who are now [Maldonado] *Bautista* class members raising claims concerning the proper interpretation of the mandatory detention provisions. *Matter of E-L-H-*, 23 I&N Dec. 814 (BIA 2005), makes clear that Immigration Judges must follow Board precedent to ensure uniform application of immigration law nationwide. The Board recently issued a precedential decision holding that, based on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act ("INA"), 8 U.S.C.

§ 1225(b)(2)(A), Immigration Judges lack the authority over bond requests for aliens who are present in the United States without admission. See *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220-28 (BIA 2025). The Notice to Appear issued in this case demonstrates that the respondent is charged as inadmissible under section 212(a)(6)(A)(i) of the INA, 8 U.S.C. § 1182(a)(6)(A)(i). Pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. at 220-28, the Immigration Judge lacks authority to hear the respondent's request for a bond because the respondent is an applicant for admission and is subject to mandatory detention under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and the regulation at 8 C.F.R. § 235.3(b)(1)(ii).

See Exhibit E.

32. Despite Petitioner's eligibility for a bond hearing as a certified class member under *Maldonado Bautista*, the Orlando Immigration Court denied his request for a change in custody status, relying on Board precedent that has since been invalidated by the Final Judgment entered on December 18, 2025. *Id.*

33. Petitioner's ongoing detention persists in direct conflict with the nationwide declaratory judgment, creating continued hardship and legal uncertainty for similarly situated individuals in the certified class. Members of the nationwide bond-eligible class are as follows: 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*, 2025 WL 3288403, at *1.

34. Petitioner is a member of the nationally certified bond-eligible class in *Maldonado Bautista* as defined above. First, Petitioner is not a citizen of the United States and does not have lawful status in the United States. See Exhibit B; Exhibit C. Second, Petitioner entered without inspection. Exhibit C. Third, Petitioner was not apprehended upon arrival. Exhibit B. Fourth, Petitioner was not subject to mandatory detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security made its initial custody determination. 8 U.S.C. § 1226(c)(mandating the detention of certain criminal aliens); 8 U.S.C. § 1225(b)(1)(regarding certain applicants for admission including arriving aliens and certain aliens who have not been admitted or paroled and who cannot demonstrate physical presence for two years before the determination of inadmissibility date); 8 U.S.C. § 1231 (regarding the detention and removal or aliens ordered removed); Exhibit B; Exhibit C.

35. On December 18, 2025, the U.S. District Court for the Central District of California entered Final Judgment in the nationwide class action of *Maldonado Bautista et. al. v. Santacruz et. al.*, 5:25-cv-01873-SSS-BFM [Doc.92]. In doing so, the district court rejected the government's argument

that its prior class certification was merely interlocutory, declared the policy unlawful, and certified the class by entering Final Judgment on Counts I-III. *Id.* The Court also held that the legal conclusion underlying the decision in *Yajure Hurtado* was no longer tenable and that therefore *Yajure Hurtado* was no longer controlling. *Id.* The government, as Respondents in *Maldonado Bautista*, were bound by the declaratory judgment and should have abandoned the policy and practice that *Maldonado Bautista* declared to be unlawful.

36. However, they have not done so, even after the Final Judgment in *Maldonado Bautista*, and therefore Petitioner's continued detention and denial for his request for custody determination remain unlawful.

Ongoing & Irreparable Harms

37. Petitioner's detention has caused severe hardship to himself, his family, his business, and his community. *See* Exhibit B.

38. Petitioner's U.S. Citizen girlfriend and others have provided letters describing the harm caused by Petitioner's detention. *Id.*

LEGAL AUTHORITY

Categories of Immigration Detention

39. The INA generally provides for three (3) forms of civil detention for noncitizens in removal proceedings.

40. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens arrested "on a warrant" pending the resolution of standard removal

proceedings before an IJ. *See* 8 U.S.C. § 1229(a). Unless they have been arrested, charged with, or convicted of certain enumerated crimes, which would subject them to mandatory detention until their removal proceedings are concluded, *see* 8 U.S.C. § 1226(c), an individual detained under Section 1226(a) can be released by ICE on bond or conditional parole. *See* 8 U.S.C. § 1226(a)(1); 8 C.F.R. § 236.1(c)(8). If release is denied by ICE, the detainee can seek a custody redetermination before an Immigration Judge, i.e., bond hearing, at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). At the hearing, the noncitizen may present evidence to show they are not a flight risk or danger to the community and should therefore be released on bond. *See generally Matter of Guerra*, 24 I. & N. Dec. 37, 50 (BIA 2006).

41. Second, the INA imposes mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and of an “applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted” under Section 1225(b)(2). Individuals detained under Section 1225(b) receive no bond hearing, *see* 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV), (b)(2)(A), and can only be released under humanitarian parole at the arresting agency’s discretion. *See Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018); 8 U.S.C. § 1192(d)(5).

42. Lastly, the INA provides for detention of noncitizens who have been issued a final order of removal and pending removal from the United

States. *See* 8 U.S.C. § 1231(a)-(b). This authority is not applicable here.

43. This action concerns distinction between mandatory versus discretionary detention provisions under Section 1226(a) and Section 1225(b)(2), which 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 was most recently amended this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

44. The Supreme Court summarizes the interplay between Sections 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*, 582 U.S. at 289 (emphasis added).

45. The policy challenged herein is based on a reading of Section 1225(b)(2) to require mandatory detention for any individual who entered the United States without inspection despite having not been apprehended upon arrival or shortly thereafter.

46. Prior to the enactment of the IIRIRA, noncitizens arrested in the interior and charged with entering the U.S. without inspection were entitled

to a custody hearing before an Immigration Judge or other hearing officer, while those stopped at the border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994) (authorizing detention of noncitizens “arriving at ports of the United States”). Congress clarified that the IIRIRA amendment of Section 1226(a) simply “restate[d]” the detention authority previously found at § 1252(a) “to arrest, detain, and release on bond a[] [noncitizen] who is not lawfully in the United States.”. *See* H.R. Rep. No. 104-469, pt. 1, at 229 (1996); *see also* H.R. Rep. No. 104-828, at 210 (1996) (Conf. Rep.).

47. Congress separately maintained the existing mandatory detention scheme for noncitizens arriving in the United States without a clear right to admission and expanded the scope of that detention scheme to include certain recently arrived noncitizens. Compare 8 U.S.C. § 1225(b) (1994 ed.), with 8 U.S.C. § 1225(b)(1)-(2). These amendments were designed to address the perceived problem of noncitizens arriving in the United States. *See* H.R. Rep. No. 104-469, p. 1, at 157-58, 228-29.

48. In distinguishing between noncitizens arriving versus noncitizens residing in the United States, Congress reflected its understanding of longstanding due process precedent that recognizes the more substantial due process rights of noncitizens already residing in the U.S. with those of noncitizens recently arriving. *Id.* at pt. 1, at 163-66 (recognizing the “constitutional liberty interest[s]” of noncitizens present in the U.S., versus the

assumed minimal due process rights of arriving noncitizens) (citing *Knauff v. Shaughnessy*, 338 U.S. 537 (1950)).

49. Until DHS and DOJ adopted the policy described below, the longstanding practice of the agencies charged with interpreting and enforcing the INA applied Section 1226(a) to noncitizens like Plaintiff-Petitioner, who entered the United States without inspection and were apprehended while residing in the United States. Regulations drafted following the enactment of the IIRIRA explained this distinction. *See Inspection and Expedited Removal of Aliens*, 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 The effect of this change is that inadmissible aliens, except for arriving aliens, have available to them bond redetermination hearings before an immigration judge, while arriving aliens do not. This procedure maintains the status quo . . .”).

50. Accordingly in the decades since IIRIRA was enacted, DHS and the EOIR have applied Section 1226(a) to the detention of individuals apprehended within the continental United States who entered without inspection and provided them access to release on bond.

51. That practice was consistent with additional decades of pre-IIRIRA practice, in which noncitizens who were not “arriving” 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 Section 1226(a) simply “restates” the detention authority previously found at Section 1252(a)).

52. Prior to the change in policy on July 8, 2025, at issue, noncitizens apprehended in the United States were largely granted individualized bond hearings under Section 1226(a), and ICE never argued that that Section 1226(a) did not apply to them.

53. The Laken Riley Act created additional exceptions to Section 1226 and authorized mandatory detention for certain categories of noncitizens under Section 1226(c). *See* Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c).

54. Specifically, Section 1226(c)(1)(E) (enacted by the Laken Riley Act) requires mandatory detention for people who were charged as being (1) inadmissible under Section 1182(a)(6)(A)(i) (the inadmissibility ground for entry without inspection) or (a)(7) (the inadmissibility ground for lacking valid documentation to enter the United States) and who (2) have been arrested, charged with, or convicted of certain crimes not relevant here. *See* 8 U.S.C. § 1226(c)(1)(E). The Laken Riley amendments otherwise continued to authorize discretionary detention of noncitizens charged with being inadmissible who do not fall into those enumerated Section 1226—not Section 1225—applies to

individuals such as Plaintiff-Petitioner herein who are apprehended well-within the interior of the United States and many years after their entry without inspection.

New ICE Unlawful Detention Policy

55. Section 1226, not Section 1225, applies to Plaintiff-Petitioner. The statute must be read against the backdrop of “our constitutional principles.” *Zadvydas*, 533 U.S. at 690-99.

56. Regardless of the BIA’s recent decisions in *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025) and *Matter of Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), the task of resolving this issue belongs to the independent judgment of the courts. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385 (2024) (“When the meaning of a statute [is] at issue, the judicial role [is] to interpret the act of Congress, in order to ascertain the rights of the parties.”) (internal quotation marks and citation omitted).

57. The first step of interpreting the relevant INA provisions is to determine the plain meaning of the statute. *Esquivel-Quintana v. Sessions*, 581 U.S. 385, 391 (2018) (“We begin, as always, with the text.”)).

58. First, the title of Section 1225 indicates that it concerns “inspection by immigration officers,” and “expedited removal of inadmissible arriving aliens.” See 8 U.S.C. § 1225. Paragraph (b)(1) of that Section sets forth the procedure for inspection of “aliens arriving in the United States and certain

other aliens who have not been admitted or paroled.” *Id.* at § 1225(b)(1).

59. Paragraph (b)(1) goes on to encompass “an alien . . . who is arriving in the United States,” and other “certain other aliens” designated by the Attorney General “who [have] not been admitted or paroled into the United States” and “who [have] not affirmatively shown . . . that [they have] been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination under this subparagraph.” *Id.*

60. ICE’s “one-size-fits -all application of Section 1225(b)(2) to all aliens, with no distinctions, violates the fundamental canons of statutory construction and renders Section 1226 utterly superfluous. Laken Riley Act amendments to Section 1226(c), the legislative history of the IIRIRA, and longstanding practice supports the conclusion that Section 1225 does not apply to a noncitizen who has been residing in the United States for more than two (2) years.

61. Paragraph (b)(1) sets forth a process for expedited removal of the above-described classes of noncitizens. *Id.* at 1225(b)(1). Section 1225(b)(2), the provision at issue herein, concerns “Inspection of other aliens” not covered by Paragraph (b)(1). Paragraph (b)(2)(A) states:

[I]n the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the

alien shall be detained for a proceeding under section 1229a of this title.

See 8 U.S.C. § 1225(b)(2)(A).

62. By its plain text, Section 1225(b)(2) thus applies where several conditions are met: (1) an “examining immigration officer” in the context of “inspection” (2) determines that an individual is an “applicant for admission” who is (3) “seeking admission.” Section 1225(a)(1) defines “aliens treated as applicants for admission” for purposes of “inspection” under this Section as follows:

An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission.

See 8 U.S.C. § 1225(a)(1).

63. To reiterate, Section 1225(b)(2)(A) narrows the above broader definition of “applicants for admission” and applies in the context of (1) “inspection” by an “examining immigration officer” only to (2) “applicants for admission” as defined above, who are (3) “seeking admission,” and (4) whom Section (b)(1) does not address.

64. ICE avers that this definition of “applicant for admission” is the key provision and necessarily encompasses any noncitizen in the United States who has not been admitted, no matter how long they have resided in the United

States. Stretching the phrase to continue potentially for years or decades pushes the statutory text beyond its breaking point.

65. ICE's sweeping and unlimited reading of "applicants for admission" ignores the fact that that term is further limited in Section 1225(b)(2) by the active construction of the phrase "seeking admission" which entails some kind of affirmative action taken to obtain authorized entry. *See e.g., Martinez v. Hyde*, 2025 U.S. Dist. LEXIS 141724 (D. Mass. July 24, 2025); *see also Lopez Benitez v. Francis*, 2025 U.S. Dist. LEXIS 153952 (S.D.N.Y. Aug. 13, 2025). It is inconsistent with the plain, ordinary meaning of the phrase "seeking admission" to apply this section to all noncitizens already present and residing in the United States, regardless of whether they are taking any affirmative acts that constitute "seeking admission."

66. The statutory text indicates that for purposes of mandatory detention under Section 1225(b)(2)(A), the phrases "applicants for admission" and "seeking admission," taken together, are limited in temporal scope, and cannot be read to apply indefinitely to all noncitizens residing in the United States for years or even decades.

67. By contrast, ICE's reading effectively ignores the phrase "seeking admission" and asserts only the phrase "applicants for admission" controls. But that interpretation, which relies on conflating the phrases "applicants for admission" and "seeking admission" as "synonymous" would render the phrase

“seeking admission” redundant notwithstanding that one of the most basic interpretative canons instructs that a “statute should be construed so that effect is given to all its provisions.” *Corley v. United States*, 556 U.S. 303, 314 (2009).

68. Section 1225’s limited temporal focus is further evident in other provisions of Section 1225 which suggest Congress’ focus was on ports of entry or recent arrivals, not long-time noncitizen residents intercepted far from any border. *See K Mart Corp. v. Cartier, Inc.*, 488 U.S. 281, 291 (1988) (“In ascertaining the plain meaning of the statute, the court must look to the particular statutory language at issue, as well as the language and design of the statute as a whole.”)

69. Simply put, ICE’s interpretation defies the plain language of the INA, its long-extant implementing regulations, and canons of statutory construction. The INA’s plain text demonstrates Section 1226(a)—not Section 1225(b)—applies to people like Plaintiff-Petitioner. Section 1226(a) is the default rule applying to all persons pending a decision on whether the noncitizen is to be removed. *Jennings*, 582 U.S. at 281.

70. Indeed, portions of the text of Section 1226 also explicitly apply to people charged as being inadmissible including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to inadmissible individuals makes clear that, by default, inadmissible individuals

are not subject to subparagraph (E)(ii) are entitled to a bond hearing under subsection (a). When Congress creates specific exceptions to a statute's applicability, it self-proves that absent those exceptions, the statute generally applies. *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010).

71. It is beyond debate that the mandatory detention provision of Section 1225(b)(2) does not apply to Plaintiff-Petitioner and that his detention is governed by Section 1226 and he is thus eligible for bond redetermination under 8 C.F.R. §§ 1003.19(i)(2), 1236(d)(1).

72. Respondents are further bound by the final judgment in *Maldonado Bautista*.

73. Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Plaintiff-Petitioner to unlawful detention despite his clear entitlement to consideration for release on bond as a Bond Eligible Class member.

74. Plaintiff-Petitioner has retained undersigned counsel to represent him in this lawsuit and is obligated to pay their reasonable attorneys' fees.

75. All conditions precedent to bringing this action have occurred or have been waived.

76. Plaintiff-Petitioner now brings this petition for issuance of a writ of habeas corpus under 28 U.S.C. § 2241, and action averring violation of the

Administrative Procedure Act (“APA”), 5 U.S.C. § 706(2)(A)-(E) due to ICE’s wrongful, arbitrary and capricious, and unlawful deprivation of his liberty in immigration detention absent any bond redetermination or other individualized hearing contrary to 8 U.S.C. § 1226 and 8 C.F.R. §§ 1003.19(i)(2), 1236(d)(1), as well as violation of his Fifth Amendment rights to procedural and substantive due process, seeking declaratory and injunctive relief.

CLAIMS FOR RELIEF

COUNT I

WRIT OF HABEAS CORPUS

Deprivation of Liberty Contrary to Law

77. Plaintiff-Petitioner adopts, repeats, and realleges all foregoing allegations in Paragraphs 1-76 above as though fully stated and set forth herein.

78. The Constitution guarantees that the writ of habeas corpus is “available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art I, § 9, cl. 2). “The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

79. A writ of habeas corpus may be granted to a petitioner who demonstrates that he is in custody in violation of the Constitution or federal law. *See* 28 U.S.C. § 2241(c)(3).

80. Historically, “the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.” *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001). Accordingly, a district court’s habeas jurisdiction includes challenges to immigration-related detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *see also Demore v. Kim*, 538 U.S. 510, 517 (2003).

81. As discussed, *supra*, at Paragraph Nos.22-36 and 39-73, Plaintiff-Petitioner is being detained in direct violation of the governing statutory and regulatory scheme, as interpreted by the Supreme Court.

82. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal issues have already been resolved for class members in *Maldonado Bautista*.

83. Defendants-Respondents have denied under erroneous and *ultra vires* authority Plaintiff-Petitioner any bond redetermination hearing or other individualized hearing with constitutionally adequate procedures.

84. Defendants-Respondents lack sufficient legal authority to detain Plaintiff-Petitioner absent any meaningful bond redetermination hearing or

other individualized hearing with constitutionally adequate procedures in contravention of 8 U.S.C. § 1226 and 8 C.F.R. §§ 1003.19(i)(2).

COUNT II
VIOLATION OF THE INA
Request for Relief Pursuant to *Maldonado Bautista*

85. Plaintiff-Petitioner adopts, repeats, and realleges all foregoing allegations in Paragraphs 1-76 above as though fully stated and set forth herein.

86. As a member of the Bond Eligible Class, Plaintiff-Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

87. The order granting final judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

88. Respondents are parties to *Maldonado Bautista* and bound by the Court's final judgment.

89. By denying Plaintiff-Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Plaintiff-Petitioner's statutory rights under the INA and the Court's final judgment in *Maldonado Bautista*.

COUNT III
VIOLATION OF ADMINISTRATIVE PROCEDURE ACT
Deprivation of Liberty Contrary to Law

90. Plaintiff-Petitioner adopts, repeats, and realleges all foregoing allegations in Paragraphs 1-76 above as though fully stated and set forth herein.

91. Under § 706(a) of the APA, final agency action can be set aside if it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; . . . [or] without observance of procedure required by law.” *See* 5 U.S.C. § 706(2)(A), (C)-(D).

92. As discussed, *supra*, at Paragraph Nos. and 34-68, Plaintiff-Petitioner is being detained in direct violation of the governing statutory and regulatory scheme, as interpreted by the Supreme Court.

92. Defendants-Respondents have denied under erroneous and *ultra vires* authority Plaintiff-Petitioner any bond redetermination hearing or other individualized hearing with constitutionally adequate procedures.

93. Plaintiff-Petitioner is subject to 8 U.S.C. § 1226(a), which applies to “aliens already in the country,” and not 8 U.S.C. § 1225, which applies to “arriving aliens” at the border. *See Jennings v. Rodriguez*, 583 U.S. 281, 281 (2018).

94. Additionally, nothing in Plaintiff-Petitioner's criminal history or other history provides any basis or justification for his continued detention and/or denial of a bond redetermination hearing or other individualized hearing with constitutionally adequate procedures.

95. Continued detention of Plaintiff-Petitioner is therefore not in accordance with law, in excess of statutory authority, and without observance of procedure required by law.

96. As a direct and proximate result of his wrongful, unlawful, and *ultra vires* detention by Defendants-Respondents absent any meaningful bond redetermination hearing or other individualized and constitutionally adequate hearing under 8 U.S.C. § 1226(a), Plaintiff-Petitioner has suffered and will continue to suffer injury.

COUNT IV
VIOLATION OF ADMINISTRATIVE PROCEDURE ACT
Arbitrary & Capricious Deprivation of Liberty

97. Plaintiff-Petitioner adopts, repeats, and realleges all foregoing allegations in Paragraphs 1-76 above as though fully stated and set forth herein.

98. Under § 706(a) of the APA, final agency action can be set aside if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," including if it fails to make a rational connection between the facts found and the decision made. *See* 5 U.S.C. § 706(2)(A).

99. Defendants-Respondents have failed to articulate any facts or sufficient legal authority that forms a basis for their decision to detain Plaintiff-Petitioner let alone any rational connection between the facts found and their adverse decision made.

100. Due to the lack of any meaningful bond redetermination hearing, Defendants-Respondents have made no determinations of fact at issue.

101. As discussed, *supra*, at Paragraph 22-36 and 39-73, Plaintiff-Petitioner is being detained in direct violation of the governing statutory and regulatory scheme, as interpreted by the Supreme Court. Plaintiff-Petitioner's continued detention absent any meaningful bond redetermination hearing or other individualized and constitutionally adequate hearing under 8 U.S.C. § 1226(a) is unlawful.

102. The adverse action by Defendants-Respondents is therefore arbitrary and capricious.

103. As a direct and proximate result of his wrongful, unlawful, and *ultra vires* detention by Defendants-Respondents absent any meaningful bond redetermination hearing or other individualized and constitutionally adequate hearing under 8 U.S.C. § 1226(a), Plaintiff-Petitioner has suffered and will continue to suffer injury.

COUNT V
VIOLATION OF FIFTH AMENDMENT
Procedural Due Process

104. Plaintiff-Petitioner adopts, repeats, and realleges all foregoing allegations in Paragraphs 1-76 above as though fully stated and set forth herein.

105. Procedural due process requires that the government be constrained before it acts in a way that deprives individuals of liberty interests protected under the Due Process Clause of the Fifth Amendment to the United States Constitution.

106. To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

107. Pursuant to *Mathews*, courts weigh the following three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335.

108. Plaintiff-Petitioner has a significant interest at stake. Being free from physical detention by one's own government "is the most elemental of liberty interests." *See Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

109. Plaintiff-Petitioner is being held in the same conditions as criminal inmates and is far from his U.S. citizen fiancée and other family members, who desperately require both his financial assistance and logistical support.

110. There is a large risk of erroneous deprivation of Plaintiff-Petitioner's liberty interest through the procedures used in this case (in this case none) and there are available alternative procedures which would ameliorate those risks.

111. The risk of deprivation is high because, contrary to law, Defendants-Respondents refuse to afford Plaintiff-Petitioner any meaningful bond redetermination hearing or other individualized and constitutionally adequate hearing under 8 U.S.C. § 1226 and 8 C.F.R. §§ 1003.19(i)(2).

112. Defendants-Respondents have not determined Plaintiff-Petitioner to be flight risk or danger to the community or any other individualized factors; rather, they have unliterally deprived Plaintiff-Petitioner of his liberty based upon an erroneous reinterpretation of legal authority that strains credulity and runs against the grain of long-standing precedent, existing statutory and regulatory authority, and established agency policies and practices as well as

an overwhelming amount of District Court authority holding same detention is unlawful.

113. There are no significant governmental interest at stake related to Plaintiff-Petitioner's continued detention because his availability for removal proceedings may be secured by less restrictive means, i.e., bond, in light of the fact that Plaintiff-Petitioner is unquestionably neither a danger to any community nor a flight risk as well as the high likelihood he will succeed in obtaining favorable relief in his removal proceedings.

114. As a direct and proximate result of the violation of Plaintiff-Petitioner's procedural due process rights, Plaintiff-Petitioner has suffered and will continue to suffer injury.

COUNT VI
VIOLATION OF ADMINISTRATIVE PROCEDURE ACT
Procedural Due Process

115. Plaintiff-Petitioner adopts, repeats, and realleges all foregoing allegations in Paragraphs 1-76 above as though fully stated and set forth herein.

116. Under § 706(a) of the APA, final agency action can be set aside if it is "contrary to a constitutional right, power, privilege, or immunity." See 5 U.S.C. § 706(2)(B).

117. As discussed, *supra*, at Paragraph 22-36 and 39-73, Plaintiff-Petitioner is being detained in direct violation of the governing statutory and regulatory scheme, as interpreted by the Supreme Court.

118. Defendants-Respondents have deprived Plaintiff-Petitioner of his liberty without providing any meaningful bond redetermination hearing or other individualized and constitutionally adequate hearing.

119. Continued detention of Plaintiff-Petitioner absent any meaningful bond redetermination hearing or other individualized and constitutionally adequate hearing or sufficient and compelling legitimate government interest constitutes a violation of Due Process Clause of the Fifth Amendment to the United States Constitution.

120. The adverse agency action at issue is therefore necessarily contrary to a constitutional right and thus falls within the ambit of 5 U.S.C. § 706(2)(B).

121. As a direct and proximate result of the unauthorized and unlawful detention alleged herein, Plaintiff-Petitioner has suffered and will continue to suffer injury.

COUNT VII
VIOLATION OF FIFTH AMENDMENT
Substantive Due Process

122. Plaintiff-Petitioner adopts, repeats, and realleges all foregoing allegations in Paragraphs 1-76 above as though fully stated herein.

123. The Due Process Clause of the Fifth Amendment forbids the Government from indefinitely detaining inadmissible aliens—potentially forever—without a tenable justification.

124. The Fifth Amendment guarantees that no person shall be deprived of liberty 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 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678 (2001).

125. Government detention violates the fundamental substantive Due Process rights guaranteed to non-citizens unless it is either ordered in a criminal proceeding with adequate procedural protections or it falls into “special and narrow non-punitive circumstances where a special justification, such as harm-threatening mental illness, outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (citations omitted); see also *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997).

126. Defendants-Respondents have not attempted to show any special justification or compelling governmental interest which would outweigh Plaintiff-Petitioner’s constitutional liberty.

127. Defendants-Respondents have not determined Plaintiff-Petitioner to be flight risk or danger to the community or any other individualized factors;

rather, they have unliterally deprived Plaintiff-Petitioner of his liberty based upon an erroneous reinterpretation of legal authority that strains credulity and runs against the grain of long-standing precedent, existing statutory and regulatory authority, and established agency policies and practices as well as an overwhelming amount of District Court authority holding same detention is unlawful.

128. There are no significant governmental interest at stake related to Plaintiff-Petitioner's continued detention because his availability for removal proceedings may be secured by less restrictive means, i.e., bond, in light of the fact that Plaintiff-Petitioner is unquestionably neither a danger to any community nor a flight risk as well as the high likelihood he will succeed in obtaining favorable relief in his removal proceedings.

129. As a direct and proximate result of the violation of substantive due process rights alleged herein, Plaintiff-Petitioner has suffered and will continue to suffer injury.

PRAYER FOR RELIEF

WHEREFORE Plaintiff-Petitioner respectfully requests the Court enter an Order: (1) mandating that Defendants-Respondents show cause, returnable within three (3) days pursuant to 28 U.S.C. § 2243, as to why the relief requested in this petition should not be granted; (2) issuing a writ of habeas corpus directing Defendants-Respondents to immediately release Plaintiff-

Petitioner from custody under reasonable conditions of supervision or, in the alternative, to release Plaintiff-Petitioner unless they conduct a bond redetermination hearing or other individualized and constitutionally adequate hearing under 8 U.S.C. § 1226(a) as applied to Plaintiff-Petitioner within seven days wherein Defendants-Respondents must demonstrate that continued detention is justified; (3) recording judgment against Defendants-Respondents as to Counts I-VII; (4) declaring Plaintiff-Petitioner's continued detention to be contrary to law, arbitrary and capricious, and violative of the Fifth Amendment of the U.S. Constitution; (5) awarding Plaintiff-Petitioner his reasonable costs and attorneys' fees incurred in this action in accordance with the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d)(2); and (6) granting such other and further relief as this Court deems appropriate, just, or equitable under the circumstances.

Date: January 16, 2026

Respectfully submitted,

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