IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

MANISH KUMAR,

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the ICE Denver Contract Detention Facility; **ROBERT HAGAN**, in his official capacity as Denver Field Office Director for U.S. Immigration and Customs Enforcement; **TODD LYONS**, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; **KRISTI NOEM**, in her official capacity as Secretary of the Department of Homeland Security; and **PAMELA BONDI**, in her official capacity as Attorney General of the United States,

Respondents.

Case No. 26-cv-254

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

INTRODUCTION

1. This case is one of thousands that have been filed nationwide stemming from the Government's unlawful detention of noncitizens under an inapplicable statute. Petitioner Manish Kumar is an Indian asylum-seeker who fled political and religious persecution in his homeland and came to the United States as a refugee in 2023. When he arrived, ICE determined that he was neither a danger nor a flight risk and released him on his own recognizance on September 6, 2023. Since that time, he has followed all the requirements of his release, including appearing at immigration hearings, has worked legally pursuant to an employment authorization, and has built a life for himself. He has no criminal record. Nonetheless, he was detained by ICE and is currently

being held without the possibility of bond at the Denver Contract Detention Facility in Aurora, Colorado. Respondents are purporting to detain him pursuant to 8 U.S.C. § 1225(b)(2), a statute that requires mandatory detention for "arriving aliens" who are "seeking admission" before an "examining immigration officer" at the border or a port of entry. Respondents' position has been rejected by hundreds upon hundreds of district courts nationwide, as well as by the Seventh Circuit and numerous courts in this district. *Barco Mercado v. Francis*, -- F. Supp. 3d --, 2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025) (citing "350 cases decided by over 160 different judges sitting in about fifty different courts spread across the United States" who have rejected Respondents' position); *Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1061-62 (7th Cir. 2025) (finding that the Government was "not likely to succeed on the merits of their argument that those individuals, whom ICE arrested without a warrant, are subject to mandatory detention under § 1225(b)(2)(A)"); *see also, e.g., Garcia Abanil v. Baltazar*, 25-cv-4029, 2026 WL 100587 (D. Colo. Jan. 14, 2026) (Martinez, J.); *Garcia-Perez v. Guadian*, 25-cv-4069, 2026 WL 89613 (D. Colo. Jan. 13, 2026) (Brimmer, C.J.); *Trejo Trejo v. Baltazar*, 25-cv-4026, 2026 WL 63431 (D. Colo. Jan. 8, 2026) (Crews, J.); *Briales-Zuniga v. Baltazar*, 25-cv-3439, 2026 WL 35227 (D. Colo. Jan. 6, 2026) (Wang, J.); *Jimenez Reyes v. Olson*, 2:25-cv-622-JRS-MG, 2025 WL 3765963 (S.D. Ind. Dec. 30, 2025); *Rico v. Baltazar*, 25-cv-3943, 2025 WL 3640366 (D. Colo. Dec. 16, 2025) (Sweeney, J.); *Facio v. Baltazar*, 25-cv-3592, 2025 WL 3559128 (D. Colo. Dec. 12, 2025) (Chung, J.); *Gutierrez v. Baltasar*, 25-cv-2720, 2025 WL 3251143 (D. Colo. Nov. 21, 2025) (Rodriguez, J.); *Batz Barreno v. Baltasar*, 25-cv-3017, 2025 WL 3190936 (D. Colo. Nov. 14, 2025) (Gallagher, J.). In these cases, and hundreds of others like them, federal courts

have ordered that the respondents either release individuals like Mr. Kumar or provide them with a bond hearing pursuant to 8 U.S.C. § 1226(a).

2. Petitioner has been placed in removal proceedings, where he is charged with entering the United States without inspection pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). He is represented by counsel in his removal proceedings, in which he filed a Form I-589 seeking asylum, withholding of removal, and protection under the Convention Against Torture.

3. On July 8, 2025, DHS issued a new policy instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—*i.e.*, those who entered the United States without inspection—to be an "applicant for admission" under § 1225(b)(2)(A) and therefore subject to mandatory detention. Consistent with this policy, DHS has denied Petitioner release from immigration custody.

4. Petitioner's detention on this basis violates the plain language of the INA. Section 1225(b)(2) does not apply to individuals like Petitioner, given that he entered the United States over two years ago and is not seeking admission at the border or a port of entry. Instead, such individuals are subject to discretionary detention under § 1226(a), which allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

5. Respondents' new legal interpretation is plainly contrary to the statutory text, statutory framework, Congressional intent, decades of agency practice, and decisions of federal courts across the nation, including courts in this district, which apply § 1226(a) to people like Petitioner. Further, Respondents' detention of individuals like Petitioner without a bond hearing to determine whether they are a flight risk or danger to others violates their right to due process.

6. In fact, Respondents' own documents in this case reflect that Mr. Kumar is detained under § 1226(a). His Order of Release on Recognizance (ECF No. 1-1) states that it is issued "[i]n accordance with section 236 of the Immigration and Nationality Act." Section 236 of the INA is codified at 8 U.S.C. § 1226. In other words, it is plain from DHS's own documentation that Mr. Kumar is not detained pursuant to § 1225(b)(2). Indeed, the statute under which Respondents now purport to detain Petitioner, § 1225(b), does not permit release on recognizance; the fact that ICE previously released him under § 1226 is strong evidence that he continues to be detained under that statute. *See, e.g., Huaman-Rodriguez v. Lynch*, 2025 WL 3267768 (W.D. Mich. Nov. 24, 2025).

7. If there were any remaining doubt as to which statute governs Mr. Kumar's detention, it was put to rest on December 18, 2025, when a district court in the Central District of California issued a final judgment in a nationwide class action, declaring that 8 U.S.C. § 1226(a), not § 1225(b), applies to those like Mr. Kumar who entered without inspection. *Maldonado Bautista v. Santacruz*, 5:25-cv-1873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025).

8. Moreover, district courts around the country have held that when a petitioner has previously been released on an order of release on recognizance, like Mr. Kumar, Respondents may not revoke that person's liberty without a pre-deprivation hearing. As discussed more fully below, Respondents' failure to afford Petitioner a pre-deprivation hearing before revoking his release on recognizance violates his right to due process and requires his immediate release on the terms that existed before his re-detention.

9. Accordingly, Petitioner seeks a writ of habeas corpus requiring his immediate release, or in the alternative, a bond hearing under § 1226(a), at which Respondents bear the burden

to demonstrate by clear and convincing evidence that his continued detention is warranted.

JURISDICTION

10. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Denver Contract Detention Facility in Aurora, Colorado, within the jurisdiction of this Court.

11. 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).

12. 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

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

14. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States and because a substantial part of the events or omissions giving rise to the claims occurred in this district.

REQUIREMENTS OF 28 U.S.C. § 2243

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

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

PARTIES

17. Petitioner Manish Kumar is a citizen of India who has resided in the United States since on or about September 6, 2023. He has been in immigration detention since on or about December 30, 2025.

18. Respondent Robert Hagan is the ICE Field Office Director for the Denver area. As such, Respondent Hagan 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.

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

21. Respondent Todd Lyons is the Acting Director of ICE. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner. He is sued in his official capacity.

22. Respondent Juan Baltazar is the Warden of the ICE Denver Contract Detention Facility, where Petitioner is currently detained. He is an immediate custodian of Petitioner. He is sued in his official capacity.

FACTUAL BACKGROUND

23. Petitioner Manish Kumar is a 25-year-old Indian national who fled his homeland to escape political and religious persecution and death threats stemming from his conversion from Hinduism to Christianity.

24. Petitioner entered the United States on or around September 6, 2023. He was arrested shortly after his arrival in the United States and DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. Petitioner's Notice to Appear charges him with being "an alien present in the United States who has not been admitted or paroled" pursuant to U.S.C. § 1182(a)(6)(A)(i) because he entered the United States without inspection. ECF No. 1-2. Notably, despite Respondents' use of § 1225(b)(2) to detain him, the box stating "You are an arriving alien" is not checked on the NTA. *See, e.g., E.M. v. Noem*, 2025 WL 3157839 (D. Minn. Nov. 12, 2025), at *7 (citing this as evidence that § 1226, not § 1225, applied to petitioner's detention); *Guaita Quinapanta v. Bondi*, 2025 WL 3157867 (W.D. Wis. Nov. 12, 2025), at *5 (same).

25. DHS charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection. Shortly thereafter, he was

determined to be neither a flight risk nor a danger and was released on his own recognizance pursuant to 8 U.S.C. § 1226(a). *See* ECF No. 1-1 (order of release on recognizance).

26. On or around December 30, 2025, Petitioner was arrested while driving his truck when he had parked it on the shoulder of the road in a no-parking area. He was transferred to immigration custody and eventually moved to the Denver Contract Detention Facility, where he currently remains in custody.

27. Petitioner is scheduled for his next master calendar hearing before the Denver Immigration Court on January 29, 2026.

28. Petitioner has no criminal history.

29. Petitioner is represented by counsel in his removal proceedings. He is eligible and has applied for asylum, withholding of removal, and protection under the Convention Against Torture.

30. Pursuant to Respondents' new policy, discussed *infra*, Petitioner remains in mandatory detention. Absent relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community without ever receiving an individualized hearing justifying his detention in violation of the INA and Due Process.

EXHAUSTION OF REMEDIES

31. No statutory requirement of administrative exhaustion applies to Petitioner's case. *See, e.g., L.G. v. Choate*, 744 F. Supp. 3d 1172, 1181 (D. Colo. 2024) (noting that in habeas cases under 28 U.S.C. § 2241, "the government admits administrative exhaustion is not required by statute"). Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to

Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), *superseded by statute on other grounds as recognized in Woodford v. Ngo*, 548 U.S. 81 (2006).

32. DHS has taken the position that noncitizens like Petitioner, who entered without inspection, are subject to mandatory detention under 8 U.S.C. § 1225, and the Executive Office for Immigration Review has affirmed that view. In a published decision, the Board of Immigration Appeals recently held that "Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission." *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under the BIA's interpretation, Petitioner is ineligible for bond as a noncitizen who entered the United States without inspection. Accordingly, there are no administrative remedies that he could exhaust before seeking habeas relief. *See Singh v. Lewis*, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025) ("[t]he United States has made clear their position on Section 1225, and it is being applied at all levels within the DHS. Therefore, it is unlikely that any administrative review would lead to the United States changing its position and precluding judicial review"); *Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771, 789 (E.D. Mich. 2025) ("Because exhaustion would be futile and unable to provide Lopez-Campos with the relief he requests in a timely manner, the Court waives administrative exhaustion and will address the merits of the habeas petition.").

33. As recently as January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance instructing all immigration judges to continue to follow *Yajure Hurtado* and to ignore the Central District of California's decision in *Maldonado Bautista*. *See* "Practice Alert: EOIR Issues Nationwide Guidance on *Maldonado Bautista*," available at:

https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista.

34. Administrative exhaustion is also not required because neither an immigration judge nor the Board of Immigration Appeals can rule on a petitioner's constitutional claims, such as the due process claims raised in this petition. *See Matter of R-A-V-P-,* 27 I&N Dec. 803, 804 n.2 (BIA 2020) (holding that IJs and the BIA lack authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C-*, 20 I&N Dec. 529, 532 (BIA 1992) ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations."); s*ee also Gonzalez v. O'Connell*, 355 F.3d 1010, 1017 (7th Cir. 2004) (noting that "the BIA has no jurisdiction to adjudicate constitutional issues").

35. As courts have held, the Government's argument that petitioners should be forced to exhaust futile administrative remedies before seeking habeas relief "is Kafkaesque. Requiring Petitioner to exhaust his administrative remedies would be futile because Respondents' position is that he is *statutorily precluded* from obtaining the relief he seeks." *Delgado Avila v. Crowley*, -- F. Supp. 3d --, 2025 WL 3171175, at *2 (S.D. Ind. Nov. 13, 2025) (citing *Valencia v. Noem*, 2025 WL 3042520, at *2 (N.D. Ill. Oct. 31, 2025)).

36. Appealing the IJ's bond denial to the BIA, which will necessarily deny it pursuant to *Yajure Hurtado*, would be the quintessence of futility. The problem is exacerbated by the slowness of the immigration court process: bond appeals have "an average processing time of 204 days," while many cases take "a year or longer to resolve." *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1253 (W.D. Wash. 2025). To require Petitioner to file a bond appeal that is guaranteed to

fail and then make him wait 6-12 months (or more) for that inevitable denial only underscores the nature of the futility here, given that Petitioner's immigration case will likely be over by that time anyway, leaving him without effective recourse to challenge his unlawful detention. *See Lopez-Campos v. Raycraft*, 797 F. Supp. 3d at 779.

ARGUMENT

I. Despite Respondents' recent attempts to expand mandatory detention under § 1225(b), Petitioner in this case remains subject to discretionary detention under § 1226(a) and is eligible for release.

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

38. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens who are in removal proceedings. *See* 8 U.S.C. § 1229a; *see also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings"). Under § 1226(a), individuals who are taken into immigration custody pending a decision on whether they are to be removed can be detained, but are generally entitled to seek release on bond. The bond may be set by ICE itself as part of an initial custody determination, *see* 8 C.F.R. § 1236.1(c)(8), and/or the individual may seek a bond hearing in immigration court at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Section 1226(a) is the statute that, for decades, has been applied to people like Petitioner, who has been living in the United States and is charged with inadmissibility under § 1182(a)(6)(A)(i).

39. Section 1226(c) "carves out a statutory category" of noncitizens from § 1226(a) for whom detention is mandatory, composed of individuals who have committed certain "enumerated … criminal offenses [or] terrorist activities." *Jennings*, 583 U.S. at 289 (citing § 1226(c)(1)).

Among the individuals carved out and subject to mandatory detention are certain categories of "inadmissible" noncitizens. § 1226(c)(1)(A), (D), (E). Reference to such inadmissible noncitizens makes clear that, by default, people who are applicants for admission but encountered in the interior are afforded a bond hearing under § 1226(a). Courts have confirmed this understanding of § 1226. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)) ("When Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies."); *see also, e.g.*, *Gomes v. Hyde*, 2025 WL 1869299, at *6 (D. Mass. July 7, 2025) ("inadmissibility on one of the three grounds specified in Section 1226(c)(1)(E)(i) is not by itself sufficient to except [a noncitizen] from Section 1226(a)'s discretionary detention framework").

40. Second, the INA provides for mandatory detention of certain recently arrived noncitizens, namely those subject to expedited removal under 8 U.S.C. § 1225(b)(1), and other recent arrivals seeking admission under § 1225(b)(2). *See Jennings*, 583 U.S. at 287, 289 (explaining that § 1225(b)(2)'s mandatory detention scheme applies "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the United States."). Noncitizens subject to mandatory detention under § 1225 may not be released except "for urgent humanitarian reasons or significant public benefit" under the parole authority provided by 8 U.S.C. § 1182(d)(5)(A). *See id.* at 300. Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Petitioner.

41. Section 1225 is split into two categories. Section 1225(b)(1) provides for mandatory detention of noncitizens charged with enumerated grounds of inadmissibility *and*

placed in expedited removal proceedings. 8 U.S.C. § 1225(b)(1)(A)(i). Meanwhile, Section 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry.

42. Lastly, the INA also provides for detention of noncitizens who have already been ordered removed, *see* 8 U.S.C. § 1231. Section 1231 is not relevant here.

43. This case challenges Respondents' erroneous decision that Petitioner is subject to mandatory detention without bond under § 1225(b)(2), rather than being bond-eligible under § 1226(a).

44. The detention provisions of § 1226(a) and § 1225(b)(2) 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, 582–583, 585. Section 1226(a) was most recently amended last year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

45. Following the 1996 enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not detained under § 1225 and were instead 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. 10,312, 10,323 (Mar. 6, 1997) (explaining that "[d]espite being applicants for admission, [noncitizens] 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.").

46. Thus, in the three decades that followed, people who entered without inspection and were subsequently placed in removal proceedings received bond hearings if ICE chose to detain them, unless their criminal history rendered them ineligible. That practice was consistent

with many more decades of prior practice, in which noncitizens who were not deemed "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 that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

47. However, on July 8, 2025, ICE, "in coordination with" the Department of Justice, suddenly announced a new governmental policy that rejected the well-established understanding of the statutory framework and reversed decades of agency practice.

48. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection are subject to mandatory detention without bond under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months or even years.

49. In decision after decision, federal courts—both nationwide and here in the District of Colorado—have rejected Respondents' sudden reinterpretation of the statutory scheme, and have instead held that § 1226(a), not § 1225(b), applies to noncitizens who entered without inspection months or years before their detention. *See, e.g., Garcia Abanil v. Baltazar*, 25-cv-4029, 2026 WL 100587 (D. Colo. Jan. 14, 2026) (Martinez, J.); *Garcia-Perez v. Guadian*, 25-cv-4069, 2026 WL 89613 (D. Colo. Jan. 13, 2026) (Brimmer, C.J.); *Trejo Trejo v. Baltazar*, 25-cv-4026, 2026 WL 63431 (D. Colo. Jan. 8, 2026) (Crews, J.); *Briales-Zuniga v. Baltazar*, 25-cv-3439, 2026 WL 35227 (D. Colo. Jan. 6, 2026) (Wang, J.); *Jimenez Reyes v. Olson*, 2:25-cv-622-JRS-MG, 2025 WL 3765963 (S.D. Ind. Dec. 30, 2025); *Rico v. Baltazar*, 25-cv-3943, 2025 WL 3640366 (D. Colo. Dec. 16, 2025) (Sweeney, J.); *Facio v. Baltazar*, 25-cv-3592, 2025 WL 3559128 (D.

Colo. Dec. 12, 2025) (Chung, J.); *Gutierrez v. Baltasar*, 25-cv-2720, 2025 WL 3251143 (D. Colo. Nov. 21, 2025) (Rodriguez, J.); *Batz Barreno v. Baltasar*, 25-cv-3017, 2025 WL 3190936 (D. Colo. Nov. 14, 2025) (Gallagher, J.); *see also Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, 792 F. Supp. 3d 211 (D. Mass. 2025); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475 (S.D.N.Y. 2025); *Maldonado v. Olson*, 795 F. Supp. 3d 1134 (D. Minn. 2025); *Romero v. Hyde*, 795 F. Supp. 3d 271 (D. Mass. 2025); *Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771 (E.D. Mich. 2025); *Doe v. Moniz*, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Beltran Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Chogllo Chafla v. Scott*, 2025 WL 2688541 (D. Me. Sept. 21, 2025); *Quispe-Ardiles v. Noem*, 2025 WL 2783800 (E.D. Va. Sept. 30, 2025); *Alejandro v. Olson*, 2025 WL 2896348 (S.D. Ind. Oct. 11, 2025); *Ochoa v. Noem*, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025).

50. This list is far from complete. As the media has reported, "Judges have ruled against the administration in more than 1,600 cases." Kyle Cheney, *Hundreds of judges reject Trump's mandatory detention policy, with no end in sight*, Politico (Jan. 5, 2026), https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494. Dozens of new cases are added to Westlaw on a daily basis.

51. On September 5, 2025, the BIA issued a precedential decision that rejected the overwhelming consensus of the federal courts. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision held that all noncitizens who entered the United States without admission or parole are ineligible for bond hearings before an IJ.

52. The *Yajure Hurtado* decision—like the government policy it seeks to uphold—defies the INA. As one court wrote, the BIA's reasoning is unpersuasive and "a non-binding decision that [] deviat[es] from longstanding practice." *Alejandro*, 2025 WL 2896348, at *6. *See also Sampiao*, 2025 WL 2607924, at *8 n.11 (noting court's disagreement with BIA's analysis in *Yajure Hurtado*); *Beltran Barrera*, 2025 WL 2690565, at *5 (same); *Chogllo Chafla*, 2025 WL 2688541, at *7-8 (same).

53. As court after court has explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

54. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

55. The text of § 1226 also explicitly applies 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 such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez*, 779 F. Supp. 3d at 1256-57 (citation omitted).

56. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

57. 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). *See Jennings*, 583 U.S. at 287 (explaining 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.").

58. The text of § 1225, along with its placement in the overall detention scheme of the INA, make clear that the terms "applicant for admission" and "seeking admission" in § 1225(b)(2) do not include individuals who have entered without inspection and are apprehended when already inside the United States.

59. Section 1225 is titled: "Inspection by immigration officers; expedited removal of inadmissible *arriving* aliens; referral for hearing." (emphasis added). As courts have recognized, "[t]he added word of 'arriving' indicates that the statute governs 'arriving' noncitizens, not those present already." *Beltran Barrera v. Tindall*, 2025 WL 2690565, at *4 (W.D. Ky. Sept. 19, 2025) (citing *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025)). This limitation is particularly clear when compared to § 1226's general title: "Apprehension and detention of aliens."

60. Further, § 1225(b)(2)'s specific subheading, "Inspection of Other Aliens," subsection 1225(b)(2)(B)'s mention of "crewm[e]n" and "stowaway[s]," and § 1225(b)(2)(C)'s use of the present participle "arriving," reinforce the limited scope of § 1225(b)(2)'s applicability to those who have recently arrived at a border or port of entry.

61. Finally, the term "seeking" in "seeking admission" "implies action – something that is currently occurring, and in this instance, would most logically occur at the border upon inspection." *Lopez-Campos*, 797 F. Supp. 3d 771, 781 (E.D. Mich. 2025); *see also Beltran*

Barrera, 2025 WL 2690565, at *4. Noncitizens who have been present in the country for years are not "seeking admission." *Lopez-Campos*, 797 F. Supp. 3d at 781; *Beltran Barrera*, 2025 WL 2690565, at *4.

62. The INA's entire framework is premised on § 1225 governing detention of "arriving [noncitizens]" while § 1226 "applies to [noncitizens] already present in the United States." *Jennings*, 583 U.S. at 288, 301; *see also Lopez Benitez*, 795 F. Supp. 3d at 490-91 ("[T]he line historically drawn between sections 1225 and 1226, which makes sense of their text and the overall statutory scheme, is that section 1225 governs detention of non-citizens 'seeking admission into the country,' whereas section 1226 governs detention of non-citizens 'already in the country.'") (cleaned up) (citing *Jennings*, 583 U.S. at 288-89); *Martinez*, 792 F. Supp. 3d at 222 ("The idea that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission into the country,' is consonant with the core logic of our immigration system") (cleaned up) (citing *Jennings*, 583 U.S. at 289).

63. A fundamental principle of statutory construction is that courts must interpret statutes to give meaning to all provisions and avoid reading out or rendering superfluous any single provision. *Corley v. United States*, 556 U.S. 303, 314 (2009) ("one of the most basic interpretive canons . . . [a] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant[.]") (cleaned up). The government's current reading of § 1225(b)(2) violates this principle.

64. Section 1226(c) includes carve-outs for certain categories of inadmissible noncitizens, who would otherwise fall under § 1226(a), that are instead subject to mandatory detention. 8 U.S.C. § 1226(c)(1)(A), (D), (E). The inclusion of these carve-outs in § 1226(c)

indicates that, contrary to Respondents' interpretation, there are noncitizens who have not been admitted and that are not governed by § 1225's mandatory detention scheme. Indeed, if the government's interpretation were correct, it would render these portions of § 1226(c) superfluous since those same individuals would already be subject to mandatory detention under § 1225(b)(2).

65. The recent amendment to § 1226(c) confirms this statutory framework. Just last year, Congress passed the Laken Riley Act, which added additional categories of § 1226(a) carve-outs that are now subject to mandatory detention under § 1226(c). Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c)(1)(E). Specifically, the Laken Riley Act mandates detention of noncitizens who are inadmissible under §§ 1182(a)(6)(A) (noncitizens "present in the United States without being admitted or paroled"), 1182(a)(6)(C) (misrepresentation), or 1182(a)(7) (lacking valid documentation) and who have been arrested for, charged with, or convicted of certain crimes. *Id.* Again, if § 1225(b)(2) were already meant to subject these groups of inadmissible noncitizens to mandatory detention, it would render this portion of the Laken Riley Act redundant. *See Beltran Barrera*, 2025 WL 2690565, at *4; *Lopez-Campos*, 797 F. Supp. 3d at 783.

66. As the court made clear in *Singh v. Bondi*, 2025 WL 3029524 (S.D. Ind. Oct. 30, 2025), at *5, the fact that Mr. Kumar was released on an order of recognizance is "strong evidence" that he is detained pursuant to § 1226, not § 1225. This is because "[i]f [Mr. Kumar] was deemed an applicant for admission by virtue of his entry into the United States, the government was statutorily obligated to detain him under § 1225(b) at the time he was initially apprehended. It did not do so. Instead, [Mr. Kumar] was released on his own recognizance, subject to conditions of supervision, based expressly on § 1226. In fact, § 1226 was the *only* basis cited for [Mr. Kumar's]

release. Under § 1225, the government's options were limited to removal or detention pending review by an asylum officer. The fact that the government's release of [Mr. Kumar], on his own recognizance, was based on § 1226 is strong evidence that he currently remains subject" to that statute.

67. The Order of Release on Recognizance specifically cites to § 1226, but rather than acknowledge DHS's own prior position on Petitioner's eligibility for bond as stated in its own agency documents, Respondents purport to detain Petitioner under § 1225(b)(2). This Court should discount Respondents' conclusory statements and instead take DHS's documentation citing to detention authority under § 1226 "at face value." *See Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025), at *6. Post-hoc justifications purporting to change the basis for an individual's detention deserve no credit. *Beltran Barrera v. Tindall,* 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025), at *4; *Singh v. Lewis*, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025), at *5; *Lopez-Campos*, 797 F. Supp. 3d at 782-83.

68. The mandatory-detention provision of § 1225(b)(2) does not apply to people who have already entered and were long residing in the United States at the time they were apprehended by immigration authorities and detained. Because § 1226(a), not § 1225(b), is the applicable statute, Petitioner's detention without eligibility for bond is unlawful.

II. Petitioner's Detention Violates the INA

69. As discussed above, mandatory detention under § 1225(b)(2) applies only to recently arrived noncitizens seeking admission at a border or port of entry, not individuals who entered without inspection and were later detained inside the country.

70. Here, "there is nothing in the record to suggest that [Petitioner] ever attempted to gain lawful entry." *Lopez-Campos*, 797 F. Supp. 3d at 781. Petitioner entered without inspection and lived in the United States for over two years before being detained. In addition, Petitioner's Notice to Appear indicates that he is a noncitizen present in the United States; the "arriving alien" box is not checked. Furthermore, he was previously released on his own recognizance under § 1226. As such, Petitioner is not subject to mandatory detention under § 1225(b)(2).

71. Petitioner's ongoing detention is not authorized under § 1226(a), either. As discussed above, § 1226(a)'s discretionary detention framework requires a bond hearing to make an individualized custody determination based on Petitioner's risk of flight or dangerousness. Here, where Mr. Kumar has no criminal history and has ties to his community, including his work (and indeed has previously been determined by DHS not to be a danger or a flight risk, as evidenced by his release on recognizance), he would be eligible for bond under § 1226(a).

72. Lacking any statutory basis for his detention, Respondents must release Petitioner or, in the alternative, promptly hold a bond hearing to determine whether he should remain in custody. At such a bond hearing, Respondents must bear the burden to demonstrate by clear and convincing evidence that Petitioner's continuing detention is warranted. "When granting immigrant detainees' habeas petitions, an 'overwhelming consensus' of courts have placed the burden on the government to prove by clear and convincing evidence that the detainee poses a danger or flight risk." *Ochoa v. Noem*, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025), at *8 (citing cases from the First, Second, Third, and Ninth Circuits and several district courts); *see also L.G.*, 744 F. Supp. 3d at 1186 (recognizing that "the rights of noncitizens are not the same as citizens" but nonetheless concluding that due process requires the burden to be on the Government).

III. Applying the three-part test from *Mathews v. Eldridge*, Petitioner's detention violates his due process rights.

73. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). To determine whether civil detention violates a noncitizen's Fifth Amendment due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

74. Under *Mathews*, courts weigh 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." 424 U.S. at 335.

a. Private Interest

75. As to the first *Mathews* factor, "[t]he interest in being free from physical detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 531 (2004). Petitioner has been detained for over three months in conditions that are indistinguishable from criminal incarceration. This detention prevents him from going to work to support himself and deprives him of any privacy and freedom of movement. Courts in similar cases have not hesitated to find that the first *Mathews* factor weighs in favor of petitioners. *See, e.g., Delgado Avila*, 2025 WL 3171175, at *5; *Sanchez Alvarez v. Noem,* 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025), at *7 ("The first *Mathews* factor weighs strongly in favor of Petitioner. There is no dispute that Petitioner has a significant private interest in avoiding detention."); *Ochoa Ochoa v. Noem*, 2025

WL 2938779 (N.D. Ill. Oct. 16, 2025), at *7 ("Ochoa Ochoa has a cognizable private interest in being freed from unlawful detention without any opportunity for a bond hearing").

b. ***Risk of Erroneous Deprivation***

76. As to the second *Mathews* factor, courts must "assess whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Gunaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. 2025). The current procedures cause an erroneous deprivation of Petitioner's liberty interest in remaining free from detention.

77. As discussed above, the statutory text and framework, congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation leave no doubt that § 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry, not noncitizens who entered without inspection and were detained inside the country.

78. Here, Petitioner was not arriving at a border or port of entry when he was detained. Instead, he entered without inspection and lived in the United States for over two years before being detained. As such, Petitioner is not subject to mandatory detention under § 1225(b)(2).

79. Therefore, it is clear that the government's current procedure, subjecting Petitioner to mandatory detention under § 1225(b)(2), creates a substantial risk of erroneous deprivation of Petitioner's interest in being free from arbitrary confinement.

80. Additionally, there are reasonable alternatives available for Respondents to pursue. As discussed above, § 1226(a) applies to noncitizens facing charges of inadmissibility, including noncitizens like Petitioner who entered without inspection and were later detained while residing

inside the country. As such, proper application of the INA's detention scheme allows for the possibility of detaining Petitioner under § 1226(a) but first requires a bond hearing to make an individualized determination of their risk of flight or dangerousness. Courts have held that without such a bond hearing, the risk of erroneous deprivation of a petitioner's freedom is high. *See Delgado Avila*, 2025 WL 3171175, at *5; *Singh v. Lewis*, 2025 WL 2699219, at *9 ("the risk of erroneously depriving him of his freedom is high if the IJ fails to assess his risk of flight or dangerousness."); *Ochoa*, 2025 WL 2938779, at *7 ("there is a severe risk of erroneous deprivation"); *Sanchez Alvarez*, 2025 WL 2942648, at *8 ("The second *Mathews* factor also weighs in Petitioner's favor. An individualized bond hearing ensures that an immigration judge can assess whether Petitioner poses a flight risk or a danger to the community, reducing the risk that Petitioner will suffer an erroneous deprivation of his rights.") (internal quote marks omitted).

c. Government Interest

81. As to the third *Mathews* factor, the government's interest in maintaining the current procedure is minimal here. The new interpretation of § 1225(b)(2) – that people like Petitioner who have resided in the United States for years are now subject to mandatory detention – flies in the face of the statutory text, statutory framework, congressional intent, almost three decades of prior practice, and the decisions of federal courts across the nation. Any government interest in public safety or ensuring that Petitioner attends future immigration proceedings would be satisfied through proper application of § 1226(a), which requires a bond redetermination hearing where an immigration judge will consider Petitioner's individualized facts and circumstances to determine whether he is a danger to the community or a flight risk. *See, e.g., Sanchez Alvarez*, 2025 WL 2942648, at *8 ("Respondents have not established a significant interest in potentially detaining

someone who could convince a neutral adjudicator … that his ongoing detention is not warranted") (cleaned up); *Ochoa*, 2025 WL 2938779, at *7 ("the government's interest is slight insofar as Ochoa Ochoa has been redetained without an individualized custody determination evaluating dangerousness and flight risk.").

IV. Respondents' failure to provide Petitioner with a pre-deprivation hearing provides an additional, independent basis for this Court to order his immediate release.

82. Petitioner was originally released on an order of recognizance (Form I-220A), which required Petitioner to comply with certain requirements, such as not breaking any laws and making sure to attend all immigration court hearings. Petitioner complied with all the terms of his release order.

83. Due process requires that if DHS seeks to re-arrest a person like Petitioner—who has lived in the United States for over two years without incident after DHS first released him, and has attended all required immigration check-ins and complied with the terms of his release—the government must afford a hearing before a neutral decisionmaker to determine whether re-detention is justified, and whether the person is a flight risk or danger to the community.

84. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

85. Consistent with this principle, individuals released on parole or other forms of conditional release have a liberty interest in their "continued liberty." *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Such liberty is protected by the Fifth Amendment because, "although indeterminate, [it] includes many of the core values of unqualified liberty," such as the ability to

be gainfully employed and live with family, "and its termination inflicts a 'grievous loss' on the [released individual] and often on others." *Id.*

86. To protect against arbitrary re-detention and to ensure the right to liberty, due process requires "adequate procedural protections" that test whether the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (citation modified).

87. Due process thus guarantees notice and an individualized hearing before a neutral decisionmaker to assess danger or flight risk before the revocation of an individual's release. *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) ("The fundamental requisite of due process of law is the opportunity to be heard . . . at a meaningful time in a meaningful manner.") (cleaned up); *see also, e.g.*, *Morrissey*, 408 U.S. at 485 (requiring "preliminary hearing to determine whether there is probable cause or reasonable ground to believe that the arrested parolee has committed . . . a violation of parole conditions" and that such determination be made "by someone not directly involved in the case" (cleaned up)).

88. Numerous courts have recognized that these principles apply with respect to the re-detention of the many noncitizens that DHS has recently begun taking back into custody, often after such persons have been released for months or years. Some of these cases deal with noncitizens released on parole, while others involve noncitizens released subject to an order of release on recognizance or an order of supervision, but the legal analysis is the same, regardless of the nomenclature.

89. For example, in *J.C.L.A. v. Wofford*, 2025 WL 2959250 (E.D. Cal. Oct. 17, 2025), the court determined that the petitioner's "release on his own recognizance pending his removal

proceedings is similar" to the scenarios in *Morrissey* and other Supreme Court cases, finding that the petitioner "has a protected liberty interest" in his release on recognizance. *Id.* at *4. The *J.C.L.A.* court applied the framework from *Mathews v. Eldridge*, 424 U.S. 319 (1976), to hold that the petitioner's re-detention could not occur absent a pre-deprivation bond hearing. *Id.* at *5-7.

90. In applying the three *Mathews* factors, the *J.C.L.A.* court held that the petitioner "has a significant private interest in remaining free from detention … Petitioner had been out of custody for over a year, and during that time, he obtained a work authorization and he lived with and cared for his family, including his two minor children. His detention denies him that freedom." *Id.* at *6. The court further explained that the risk of an erroneous deprivation of liberty is high "where, as here, the petitioner has not received any bond or custody redetermination hearing." *Id.* (cleaned up). Finally, the court explained that "the Government's interest in detaining petitioner without a hearing is low. In immigration court, custody hearings are routine and impose a minimal cost." *Id.* at *7 (cleaned up). As a result, the court ordered the petitioner's immediate release. *Id.* at *8.

91. Other courts have reached similar conclusions in similar scenarios. *See, e.g.*, *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316 (W.D. Wash. Aug. 19, 2025) (ordering immediate release of petitioner who was redetained without a hearing after having previously been released on his own recognizance); *Valdez v. Joyce*, 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Pinchi v. Noem*, 792 F. Supp. 3d 1025 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar); *Rodriguez*

v. Kaiser, 2025 WL 2855193 (E.D. Cal. Oct. 8, 2025), at *6 (similar); *Faizyan v. Casey*, 2025 WL 3208844 (S.D. Cal. Nov. 17, 2025), at *7 (similar).

92. The same framework and principles apply here and compel Petitioner's immediate release. *See, e.g., Lopez v. Lyons*, 2025 WL 3124116 (E.D. Cal. Nov. 7, 2025), at *3-4 ("Petitioner was released on his own recognizance by the Government in 2022. Since that time, he has remained out of custody, without incident. Petitioner has a clear liberty interest in his continued freedom. . . [Petitioner] is entitled to process, and that process should have been afforded to him immediately upon detention.").

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

94. 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 detained 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. But Respondents' actions here violate § 1226(a) too because, to date, Respondents have failed to conduct a bond hearing for Petitioner.

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

COUNT II

Violation of the Due Process Clause (U.S. Const. amend. V)

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

97. 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 Clause protects." *Zadvydas*, 533 U.S. at 690.

98. Petitioner has a fundamental interest in liberty and being free from official restraint.

99. Petitioner entered the country without inspection and lived in the United States for around two years before being detained. Such an individual may only be subject to discretionary detention under 8 U.S.C. § 1226(a), which provides for release on bond. Respondents now erroneously detain Petitioner under the mandatory provision in § 1225(b)(2).

100. Respondents' detention of Petitioner without any neutral decisionmaker having determined that his continued detention is warranted because of danger or flight risk violates his due process rights.

101. Moreover, Respondents' revocation of Petitioner's release on recognizance without a pre-deprivation hearing violates his right to due process and requires his immediate release.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Enjoin Petitioner's removal outside the District of Colorado pending resolution of this matter;

c. Issue an Order to Show Cause ordering Respondents to show cause within three days as to why this Petition should not be granted as required by 28 U.S.C. § 2243;

d. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner subject to the same terms as his original Order of Release on Recognizance;

e. In the alternative, issue a writ of habeas corpus requiring Petitioner's immediate release unless Respondents provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 7 days, at which Respondents bear the burden of justifying Petitioner's continued detention by clear and convincing evidence;

f. Enjoin Respondents from denying bond on the basis of § 1225(b) or *Yajure Hurtado*;

g. Enjoin Respondents from imposing any conditions of release, including but not limited to a GPS ankle monitor, unless approved by an immigration judge at the bond hearing;

h. Enjoin Respondents from re-detaining Petitioner without first affording him a pre-deprivation hearing before a neutral decisionmaker;

i. Declare that Petitioner's continued detention violates the INA and the Due Process Clause of the Fifth Amendment;

j. Award Petitioner his reasonable attorney's fees and costs under the Equal Access to Justice Act or other applicable law;

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

Dated: January 21, 2026

Respectfully submitted,

/s/ James D. Jenkins
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Counsel for Petitioner

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

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. The factual allegations contained in this Petition are based upon information provided to me by Petitioner's immigration attorney and his sponsor as well as my own review of the documents referenced herein. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

Dated: January 21, 2026

Respectfully submitted,

/s/ James D. Jenkins
James D. Jenkins