

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

TORNIKE DAUSHVILI,

Petitioner,

v.

KRISTI NOEM, IN HER OFFICIAL
CAPACITY, SECRETARY, U.S.
DEPARTMENT OF HOMELAND SECURITY;

TODD M. LYONS, IN HIS OFFICIAL
CAPACITY ACTING DIRECTOR, U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT;

FRED FIGUEROA, IN HIS OFFICIAL
CAPACITY WARDEN, DIAMONDBACK
CORRECTIONAL FACILITY,

Respondents.

FILED

JAN 21 2026

JOAN KANE, CLERK
U.S. DIST. COURT WESTERN DIST. OKLA.
BY JP DEPUTY

**PETITION FOR WRIT OF HABEAS
CORPUS**

Case No. CIV-26-100-D

Petitioner respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, and states as follows:

INTRODUCTION

1. Petitioner, Tornike Daushvili ("Petitioner"), , is a citizen and national of Belarus.
2. Petitioner entered the United States over three years ago, on September 8, 2022, after fleeing Belarus due to political persecution, which compelled him to seek protection here.

3. On September 10, 2022, shortly after his entry into the United States, DHS enrolled Petitioner in the Intensive Supervision Appearance Program (ISAP), also known as Alternatives to Detention (ATD), including electronic monitoring via the BI SmartLINK system. This enrollment reflected DHS's determination that Petitioner could safely remain in the community under supervision pending further immigration processing.

4. On September 28, 2022, at the ICE office located at 532 Fellowship Road, Suite A, Mount Laurel, New Jersey 08054, Petitioner was served with a Notice to Appear ("NTA") initiating removal proceedings. (Ex. C.)

5. On the same date, DHS made an individualized custody determination under 8 U.S.C. § 1226(a) (INA § 236(a)), pursuant to its own Form I-286 (Notice of Custody Determination). (Ex. A.) In that form, DHS certified that Petitioner would be "Released on his own recognizance" pursuant to "the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations."

6. On the same date, DHS issued Form I-220A (Order of Release on Recognizance), formally releasing Petitioner on his own recognizance. (Ex. B.) This § 1226(a) custody determination, reflected in DHS Forms I-286 and I-220A, has never been vacated, modified, or superseded by any subsequent individualized custody redetermination or revocation.

7. On October 19, 2022, Petitioner timely filed Form I-589, Application for Asylum and for Withholding of Removal, which DHS received and accepted. The cover page of Petitioner's application file indicated that the case proceeded as "Non-Detained." (Ex. E.)

8. At the time of Petitioner's arrest and re-detention on September 26, 2025, his immigration court hearing had been scheduled for April 2029.

9. While his asylum case was pending, Petitioner was issued a valid Employment Authorization Document (“EAD”) by DHS (Ex. F) and also obtained a valid Commercial Driver’s License (“CDL”), allowing him to lawfully work in the United States.

10. Petitioner lived and worked in New Jersey, United States, for an extended period of time, complied with all immigration requirements, paid taxes, and established substantial ties to the community. Petitioner also has family members residing in the United States who are U.S. citizens, further demonstrating his strong community and family ties.

11. Petitioner has no criminal history and has never been arrested, charged, or convicted of any criminal offense.

12. On September 26, 2025, while Petitioner was lawfully working, he was stopped by officers of the Oklahoma Department of Transportation (“DOT”) at a weigh station in Oklahoma. Petitioner was subjected to a Level III inspection, which he successfully passed without any violations. (Ex.G.) Despite the absence of any violations, Petitioner was detained without explanation and without any individualized immigration custody determination at the time of arrest and transferred into ICE custody.

13. At the time of his transfer to ICE custody, Petitioner presented his valid REAL ID-compliant Commercial Driver’s License (“CDL”) and his valid Employment Authorization Document, which was valid through November 2029.

14. Nevertheless, ICE arrested Petitioner and transported him from Oklahoma and placed him in civil immigration detention at the Bluebonnet ICE Detention Center in Anson, Texas, where he was held without access to a meaningful bond determination.

15. On October 1, 2025, Petitioner requested a custody redetermination (bond hearing) before an Immigration Judge. (Ex. I.) The Immigration Court denied the request for lack of

jurisdiction, relying on the BIA's precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which DHS interprets as requiring detention under 8 U.S.C. § 1225(b) for certain noncitizens present in the United States without admission.

16. On or about January 9, 2026, ICE transferred Petitioner overnight from the Bluebonnet ICE Detention Center in Anson, Texas, to the newly opened Diamondback Correctional Facility in Watonga, Oklahoma, where he is currently detained in civil immigration custody. At the time of this transfer, Petitioner's master calendar hearing was scheduled for January 14, 2026 (later continued to February 4, 2026). The transfer occurred shortly before the anticipated filing of this Petition and significantly impaired Petitioner's ability to prepare for his immigration proceedings and maintain regular communication with his family and support network.

17. This continued detention is unlawful because it is predicated on a retroactive reinterpretation of Petitioner's legal status by DHS, which issued an internal policy memorandum announcing a revised interpretation of detention authority for certain applicants for admission, asserting that INA § 235(b), rather than INA § 236, applies in such cases.

18. This policy guidance cannot retroactively nullify DHS's prior individualized custody determination under § 1226(a), documented in Forms I-286 and I-220A absent a new individualized custody redetermination.

19. Independently, Petitioner was apprehended in the interior after prolonged residence and prior § 1226(a) processing, and therefore is not properly treated as "seeking admission" for purposes of § 1225(b)(2).

20. Petitioner has a pending application for asylum and related relief, which, if granted, would provide a lawful basis for remaining in the United States and ultimately eligibility for lawful permanent residence. While that application remains pending, Petitioner's removal is not

imminent, and continued detention without an individualized custody determination serves no legitimate governmental purpose.

21. Petitioner is detained at the Diamondback Correctional Facility in Watonga, Oklahoma, far from his family and sponsor in New Jersey and from his immigration counsel in New York, substantially impairing his access to support and to meaningful participation in his case.

22. Petitioner respectfully submits that his continued detention under 8 U.S.C. § 1225(b) is inconsistent with the Immigration and Nationality Act and its implementing regulations as applied to his circumstances. Petitioner was physically present in the United States for years, was previously processed and released under § 1226(a), and complied with supervision; he therefore cannot lawfully be placed into mandatory detention under § 1225(b)(2) absent a valid statutory basis and a new individualized custody determination consistent with the INA.

23. Through this Petition, Petitioner asks this Court to determine that Respondents lack lawful authority to continue detaining him under 8 U.S.C. § 1225(b), to declare that his detention must proceed, if at all, under 8 U.S.C. § 1226(a) consistent with DHS's original custody determination, and to order Petitioner's release from custody in accordance with that determination.

24. Petitioner alternatively requests an order requiring Respondents to provide an individualized bond hearing under the correct detention statute.

JURISDICTION AND VENUE

25. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).

26. Any reliance on 8 U.S.C. § 1252(b)(9) does not strip this Court of jurisdiction, because Petitioner does not seek review of any order of removal or the merits of removability, but instead

challenges the statutory authority governing his detention. *See Jennings v. Rodriguez*, 583 U.S. 281 (2018).

27. This habeas petition challenges the statutory authority for Petitioner's present physical detention and the absence of any individualized custody hearing. Because Petitioner seeks relief from ongoing confinement based on a pure question of law, the availability or pendency of administrative proceedings does not bar this Court's review or require Petitioner to await agency action before seeking habeas relief.

28. Venue is proper in this Court because, at the time of filing, Petitioner is physically detained at the Diamondback Correctional Facility in Watonga, Blaine County, Oklahoma, which is located within the Western District of Oklahoma. *See Rumsfeld v. Padilla*, 542 U.S. 426 (2004).

29. In the event Petitioner is transferred after filing, and should the Court determine that venue or jurisdiction is improper, Petitioner respectfully requests that the Court transfer this action rather than dismiss it, to avoid prejudice and delay.

PARTIES

Petitioner

30. Petitioner Tornike Daushvili is a citizen and national of Belarus and is currently confined at the Diamondback Correctional Facility (ICE) in Watonga, Oklahoma. This petition challenges the legality of his present physical immigration detention.

Respondents

31. Respondent Fred Figueroa, Warden of the Diamondback Correctional Facility, and any successor custodian, is Petitioner's immediate custodian and a proper respondent to a § 2241

petition challenging Petitioner's present physical custody. The Diamondback Correctional Facility is located in Watonga, Oklahoma, within the Western District of Oklahoma.

32. Respondent Todd M. Lyons, Acting Director of U.S. Immigration and Customs Enforcement ("ICE"), is sued in his official capacity.

33. Respondent Kristi Noem, Secretary of the U.S. Department of Homeland Security ("DHS"), is sued in her official capacity.

34. All Respondents are sued only in their official capacities.

LEGAL BACKGROUND

35. Under 28 U.S.C. § 2241, federal district courts have jurisdiction to grant writs of habeas corpus to individuals who are in custody in violation of the Constitution or laws of the United States. *See INS v. St. Cyr*, 533 U.S. 289 (2001).

36. Habeas corpus provides a meaningful opportunity for a detained individual to challenge custody based on an erroneous application or interpretation of the law. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008).

37. The Fifth Amendment's Due Process Clause protects all persons, including noncitizens, from deprivation of liberty without due process of law. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

38. The Immigration and Nationality Act ("INA") establishes different detention authorities, including:

- 8 U.S.C. § 1225, governing "applicants for admission" and certain arriving/non-admitted noncitizens;
- 8 U.S.C. § 1226, governing detention while removal proceedings are pending; and
- 8 U.S.C. § 1231, governing detention after a final order of removal.

These statutes establish distinct regimes applicable to different populations at different stages of the immigration process.

39. For decades following IIRIRA, DHS generally treated noncitizens who entered without inspection and were later arrested in the interior of the country were detained under 8 U.S.C. § 1226(a) and were eligible for release on bond or other conditions, unless subject to mandatory detention based on criminal history. *See 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).*

40. Consistent with this longstanding practice, Petitioner was initially processed, detained, and released by DHS under 8 U.S.C. § 1226(a), as expressly documented in Form I-286 and Form I-220A. (Exs. A, B.)

41. In July, 2025, DHS/ICE issued a policy memorandum asserting that certain noncitizens present in the United States without admission are subject to detention under INA § 235(b) and are not eligible for bond hearings before an Immigration Judge. *See DHS/ICE Memorandum, "Interim Guidance Regarding Detention Authority for Applicants for Admission" (July 8, 2025).*

42. Under well-established principles of administrative law, including those applied to DHS itself, a federal agency that changes course from a prior policy or practice must acknowledge the change and provide a reasoned explanation for its new position. *See Dep't of Homeland Sec. v. Regents of the Univ. of Cal., 140 S. Ct. 1891, 1913–15 (2020).* A general policy memorandum cannot, standing alone, override or nullify a prior individualized custody determination without a new, lawful, and individualized decision.

43. Sections 1225(b)(2)(A) and 1226(a) establish distinct detention regimes. Section 1225(b)(2)(A) authorizes mandatory detention only for “applicants for admission” who are also “seeking admission,” while § 1226(a) governs noncitizens arrested in the interior and requires an individualized custody determination with bond consideration.

44. Congress’s use of both phrases in § 1225(b)(2)(A) is deliberate. If all “applicants for admission” were necessarily “seeking admission,” the phrase “seeking admission” would be superfluous, contrary to basic canons of statutory construction. *See Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010); *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 2025 WL 2371588, at *6 (S.D.N.Y. Aug. 13, 2025).

45. Courts have further explained that “seeking admission” requires an affirmative act—such as arriving at a port of entry or formally applying for admission or a change of status—and that mere presence without admission does not itself constitute “seeking admission.” *See Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025).

Accordingly, noncitizens arrested in the interior—particularly those previously processed under § 1226(a)—remain governed by § 1226(a), not § 1225(b)(2)(A), and are entitled to bond consideration.

46. Federal district courts consistently reject the government’s § 1225(b)(2) argument in materially similar circumstances. *See, e.g., Cruz-Hernandez v. Noem*, No. CIV-25-1378-D, 2026 WL 18932 (W.D. Okla. Jan. 2, 2026); *Velasquez Salazar v. Dedos*, No. 1:25-cv-00835-DHU-JMR, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Becerra Vargas v. Bondi*, No. SA-25-CV-01023-FB, 2025 WL 3300141 (W.D. Tex. Nov. 26, 2025); *Guerrero Orellana v. Moniz*, No. 1:25-cv-12664, 2025 WL 2809996 (D. Mass. Dec. 19, 2025).

STATEMENT OF THE FACTS

47. Petitioner is a thirty-seven-year-old male with no criminal history.

48. Petitioner entered the United States on September 8, 2022, and requested asylum.

Removal proceedings were initiated, and Petitioner has remained in proceedings since that time.

49. On September 28, 2022, DHS issued Petitioner a Notice of Custody Determination (Form I-286) and an Order of Release on Recognizance (Form I-220A), both expressly citing "section 236 of the Immigration and Nationality Act" as the authority for his release on his own recognizance. (Exs. A, B.)

50. On October 19, 2022, Petitioner timely filed Form I-589, Application for Asylum and for Withholding of Removal, which remains pending. (Ex. E.) At the time of his September 26, 2025 arrest and redetention, his case was not near completion and his next merits hearing was scheduled for April 2029.

51. DHS's EARM records (Ex.D), first served on January 7, 2026, confirm that on September 28, 2022, Petitioner was processed under "Non-Detained Docket Control" (NDD) with an "Arrest Method: Non-Custodial Arrest." These official records reflect that DHS treated Petitioner as a non-detained respondent under 8 U.S.C. § 1226(a), rather than as an applicant for admission subject to 8 U.S.C. § 1225(b).

52. DHS issued Form I-286 and Form I-220A on September 28, 2022, expressly invoking "section 236" and releasing Petitioner on his own recognizance. (Exs. A, B.) For nearly three years, this § 1226(a) determination remained in effect without modification or revocation. On September 25, 2025, DHS created a new EARM case and retroactively reclassified Petitioner under § 1225(b) (Ex. H), without issuing any new individualized custody determination.

53. On November 28, 2024, DHS issued Petitioner a valid Employment Authorization Document (EAD) valid through November 27, 2029. (Ex. F.) Petitioner also obtained a valid Commercial Driver's License ("CDL"), allowing him to lawfully work in the United States.

54. On September 26, 2025, Petitioner was stopped while lawfully working at a DOT weigh station in Oklahoma and underwent a Level III inspection, which he passed without any violations. (Ex. G.)

55. Despite passing the inspection without any violations, and despite presenting his valid REAL ID-compliant Commercial Driver's License and valid Employment Authorization Document to the officers, Petitioner was nevertheless detained and subsequently transferred to ICE custody.

56. After his arrest, Petitioner was transferred into immigration custody and transported to Texas, where he was held at the Bluebonnet ICE Detention Center in Anson, Texas. Petitioner was taken into custody without a judicial warrant and without being informed of the legal basis for his detention at the time he was taken into custody.

57. On October 1, 2025, Petitioner requested a custody redetermination (bond hearing) before an Immigration Judge. The request was denied on the ground that the Immigration Court lacked jurisdiction to consider bond. (Ex. I.)

58. On or about January 9, 2026, ICE transferred Petitioner from the Bluebonnet ICE Detention Center in Anson, Texas, to the Diamondback Correctional Facility in Watonga, Oklahoma, where he remains detained.

59. DHS's current position therefore represents a post hoc reclassification of Petitioner's custody status without a new individualized custody determination, in violation of the administrative law principles articulated in *Department of Homeland Security v. Regents of the University of California*, 140 S. Ct. 1891 (2020).

60. Petitioner has a reliable sponsor, Avtandil Daushvili, a family member residing in New Jersey, who is willing and able to provide housing, financial support, and ensure Petitioner's appearance at all immigration proceedings if released.

61. Absent relief from this Court, Petitioner faces continued detention without the possibility of an individualized bond hearing.

CLAIM FOR RELIEF

I. Unlawful detention under the wrong statutory authority (8 U.S.C. § 1225(b)(2) instead of 8 U.S.C. § 1226(a))

62. Petitioner restates and realleges all preceding paragraphs as if fully set forth herein.

63. Petitioner was initially detained in September 2022. At that time, DHS processed Petitioner for detention under INA § 236(a), 8 U.S.C. § 1226(a), and authorized his release. This individualized custody determination is expressly documented in DHS's own records, including Form I-286 (Notice of Custody Determination) and Form I-220A (Order of Release on Recognizance). (Exs. A, B.)

64. On September 26, 2025, Petitioner was apprehended again despite no allegation that he violated any condition of his prior release, and despite DHS's prior determination that he could safely be released under § 1226(a).

65. DHS now asserts that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). That assertion is unlawful under the circumstances of this case. Section 1225(b)(2) governs applicants for admission who are "seeking admission" and explicitly does not apply to noncitizens who, like Petitioner, are already present in the United States after prior processing and individualized release under § 1226(a).

66. DHS's own custody records, including Forms I-286 and I-220A and its EARM entries, (Exs. A, B, H) show that Petitioner was processed and released under 8 U.S.C. § 1226(a) and treated as a non-detained respondent for over three years. DHS's current attempt to detain Petitioner under 8 U.S.C. § 1225(b)(2) is therefore a post hoc reclassification made without any new individualized custody determination, contrary to the administrative-law principles articulated in *Department of Homeland Security v. Regents of the University of California*, 140 S. Ct. 1891 (2020).

67. For decades following the enactment of IIRIRA in 1996, noncitizens who entered the United States without inspection and were later arrested in the interior were generally detained under 8 U.S.C. § 1226(a) and were eligible for release on bond or other conditions, unless subject to mandatory detention based on criminal history. *See 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997)*.

68. The text of 8 U.S.C. § 1226 applies to noncitizens charged as inadmissible, including those who entered without inspection. Subsection 1226(c)(1)(E) expressly references noncitizens inadmissible under 8 U.S.C. § 1182(a)(6)(A)—the same provision under which Petitioner is charged.

69. When Congress creates specific exceptions to a statute's general applicability, it confirms that, absent those exceptions, the statute otherwise applies. *See Shady Grove Orthopedic Assocs.*, 559 U.S. at 400; *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025). Accordingly, noncitizens charged with entry without inspection are detained under § 1226 and, unless subject to mandatory detention under subsection (c), are entitled to a bond hearing under subsection (a).

70. Congress recently amended § 1226 through the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), expanding mandatory-detention provisions within § 1226. If § 1225(b)(2) already mandated no-bond detention for long-term interior residents solely because they lack admission, Congress's targeted enhancement of § 1226 would be difficult to explain. The more coherent reading is that § 1226—rather than § 1225(b)(2)—is the default detention authority for noncitizens apprehended in the interior pending removal proceedings. *See Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *8 (E.D. Mich. Sept. 9, 2025).

71. DHS previously exercised discretion under § 1226(a) and authorized release. A later internal policy reinterpretation cannot, by itself, retroactively nullify that individualized determination or justify no-bond detention under § 1225(b) without a new individualized custody redetermination based on case-specific facts.

72. In the wake of DHS's July 2025 policy memorandum and the Board's precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), federal district courts across the country have repeatedly rejected the government's attempt to use § 1225(b)(2) to impose no-bond detention on noncitizens already present in the United States who were previously processed and released under § 1226(a). Numerous courts have granted habeas relief in materially similar post-Yajure circumstances and ordered custody determinations, bond hearings, or release under § 1226(a). *See, e.g., Carrillo Paniagua v. Noem*, No. 3:25-CV-2872-K-BK (N.D. Tex. Dec. 17, 2025); *Rodriguez Lara v. Bondi*, No. SA-25-CA-01581-XR (W.D. Tex. Dec. 16, 2025); *Orellana Cantarero v. Bondi*, No. 9:25-CV-00250-MJT-ZJH (E.D. Tex. Nov. 20, 2025); *Arenas-Santoyo v. Dickey*, No. H-25-5555 (S.D. Tex. Dec. 23, 2025); *Tinoco Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 WL 3471418 (W.D. Tex. Dec. 2, 2025); *Acosta-Balderas v. Bondi*, No. 5:25-CV-1629-JKP (W.D. Tex. Dec. 11, 2025); *Zaragoza Mosqueda v. Noem*, No.

5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); Becerra Vargas v. Bondi, No. SA-25-CV-01023-FB, 2025 WL 3300141 (W.D. Tex. Nov. 26, 2025); Gomes v. Hyde, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); Palma Perez v. Berg, No. 8:25CV494, 2025 WL 2531566 (D. Neb. Sept. 3, 2025); Parada-Hernandez v. Johnson, No. 3:25-CV-2729-K-BN, 2025 WL 3463682 (N.D. Tex. Dec. 2, 2025). Additional consistent district-court decisions are collected in Appendix A.

73. The weight of authority within the Tenth Circuit, and particularly within this district, independently confirms that § 1225(b)(2)(A) does not apply to noncitizens like Petitioner. Courts in the Western District of Oklahoma have consistently granted habeas relief in materially identical circumstances, holding that long-term residents arrested in the interior are detained under § 1226(a), not § 1225(b)(2), and are entitled to individualized bond consideration. *See, e.g., Cruz-Hernandez v. Noem, No. CIV-25-1378-D, 2026 WL 18932, at *2–3 (W.D. Okla. Jan. 2, 2026); Morocho Morocho v. Kelley, No. CIV-25-1247-R (W.D. Okla. Jan. 6, 2026); Valdez v. Holt, No. CIV-25-1250-R, 2025 WL 3709021 (W.D. Okla. Dec. 22, 2025); Martinez Diaz v. Holt, No. CIV-25-1179-J, 2025 WL 3296310 (W.D. Okla. Nov. 26, 2025); Garcia v. Holt, No. CIV-25-1225-J, 2025 WL 3516071 (W.D. Okla. Dec. 8, 2025); Escarcega v. Olson, No. CIV-25-1129-J, 2025 WL 3243438 (W.D. Okla. Nov. 20, 2025); Medina-Herrera v. Noem, No. CIV-25-1203-J, 2025 WL 3460946 (W.D. Okla. Dec. 2, 2025); Colin v. Holt, No. CIV-25-1189-D, 2025 WL 3645176 (W.D. Okla. Dec. 16, 2025); Velasquez Salazar v. Dedos, No. 1:25-cv-00835-DHU-JMR, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); Leonardo G.Z. v. Noem, No. 25-CV-0600-SEH-MTS, 2025 WL 3755590 (N.D. Okla. Dec. 29, 2025).*

74. DHS has already made an individualized custody determination under 8 U.S.C. § 1226(a) and authorized Petitioner’s release. That determination has never been vacated or lawfully

superseded by a new individualized custody finding. Petitioner's continued detention under § 1225(b)(2) is therefore unlawful.

II. Violation of due process — prolonged no-bond detention without individualized assessment

75. Petitioner incorporates all preceding factual allegations as though fully restated herein.

76. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V.

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

78. Immigration detention must always bear a reasonable relation to the purpose for which the individual was committed. *Demore v. Kim*, 538 U.S. 510, 527 (2003) (quoting *Zadvydas*, 533 U.S. at 690).

79. Under the *Mathews v. Eldridge* framework, the balance of interests strongly favors providing Petitioner an individualized bond hearing. Petitioner's private interest in freedom from physical detention is profound. See *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

80. The risk of arbitrary and erroneous deprivation is heightened by the BIA's recent departure from longstanding practice in *Matter of Yajure Hurtado*. For decades, noncitizens who entered without inspection and were arrested in the interior were detained under § 1226(a). This sudden reversal, made without a reasoned explanation, renders detention under the new interpretation particularly susceptible to error and arbitrary application. See *Parada-Hernandez*

v. Johnson, No. 3:25-cv-2729-K-BN (N.D. Tex. Dec. 2, 2025); Dep't of Homeland Sec. v. Regents of the Univ. of Cal., 140 S. Ct. 1891, 1913–15 (2020).

81. Petitioner's continued detention violates due process. (a) It categorically denies him any individualized bond consideration based solely on a statutory label, contrary to decisions such as *Maldonado Bautista v. Santacruz, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025)*; (b) Detention is arbitrary given DHS's prior authorization of Petitioner's release under § 1226(a), his full compliance, lack of criminal history, and substantial family and community ties; (c) Prolonged detention without individualized review of necessity constitutes unreasonable deprivation of liberty. *See Zadvydas v. Davis, 533 U.S. 678 (2001).*

82. These constitutional protections apply regardless of the detention statute invoked. Even assuming arguendo that Respondents properly classified Petitioner under § 1225(b)(2), detention without any individualized bond hearing or equivalent custody review violates the Fifth Amendment's Due Process Clause. *See Parada-Hernandez v. Johnson, No. 3:25-cv-2729-K-BN, at 8 (N.D. Tex. Dec. 2, 2025).*

83. In addition to holding Petitioner in no-bond detention, Respondents' transfer practices and the documented problems with mail and communication have materially interfered with Petitioner's ability to prepare for and participate in his immigration proceedings. ICE transferred Petitioner between remote facilities just days before a master calendar hearing that, at the time of transfer, was scheduled for January 14, 2026, and that was later continued. Regardless of the continuance, the transfer and mail delays impeded Petitioner's ability to consult with counsel, timely receive and review legal materials, and meaningfully participate in his case, in violation of the Due Process Clause.

84. Petitioner does not seek review of any removal order. He seeks only review of the legality of the statutory authority invoked to detain him without bond and the denial of any meaningful individualized custody determination.

PRAAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Assume jurisdiction over this Petition pursuant to 28 U.S.C. § 2241.

B. Issue an order to show cause and require Respondents to file a response within three (3) days of the Court's order, and set an expedited briefing schedule, given Petitioner's ongoing civil detention.

C. Declare that Respondents lack lawful authority to detain Petitioner under 8 U.S.C. § 1225(b)(2) on these facts, and that Petitioner's detention must proceed, if at all, under 8 U.S.C. § 1226(a).

D. Grant a writ of habeas corpus ordering Respondents to release Petitioner from custody, or, in the alternative, to provide Petitioner with an individualized bond hearing before an Immigration Judge pursuant to 8 U.S.C. § 1226(a) within seven (7) days of the Court's order.

E. Pending this Court's resolution of the Petition, enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court or otherwise altering his place of detention without prior notice to the Court.

F. In the event the Court grants relief, order Respondents to return to Petitioner, on the date of his release, all original identity and immigration documents and personal property taken at or in connection with his apprehension and detention, including but not limited to any Employment Authorization Document and driver's license, and to provide written confirmation of such return.

G. Grant such other and further relief as this Court deems just and proper.

APPENDIX A. Collected Cases Supporting §§ 46, 72, 73.

The following additional district-court decisions from across the country further reflect the consistent nationwide approach described in §§ 46, 72, and 73. These cases are provided as collected authorities; inclusion does not imply that each case independently addresses every statutory or constitutional issue raised in this Petition.

- *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 (D. Neb. Aug. 19, 2025).
- *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 (D. Neb. Aug. 14, 2025).
- *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025).
- *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025).
- *Samb v. Joyce*, No. 25 Civ. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025).
- *Espinoza Andres v. Noem*, No. 4:25-cv-05128 (S.D. Tex. Dec. 2, 2025).
- *Davila Mercado v. Lyons*, No. 5:25-cv-01623-JKP (W.D. Tex. Dec. 11, 2025).
- *Murzabaev v. Noem*, No. EP-25-CV-00647-DB (W.D. Tex. Dec. 16, 2025).
- *Siac Guzman v. Bondi*, No. 1:25-cv-02055-RP (W.D. Tex. Dec. 23, 2025).
- *Cruz Mendoza v. Warden, Dilley Immigration Processing Center*, No. 5:25-cv-01649-JKP (W.D. Tex. Dec. 12, 2025).
- *Lopez-Arevelo v. Ripa*, No. 3:25-CV-00337-KC (W.D. Tex. Sept. 22, 2025).
- *Lopez Santos v. Noem*, No. 3:25-CV-01193 (W.D. La. Sept. 11, 2025).
- *Corona Diaz v. Olson*, No. 25 CV 12141 (N.D. Ill. Oct. 29, 2025).
- *Aguilar Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025).
- *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), 2025 WL 2466670 (D. Minn. Aug. 27, 2025).
- *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025).
- *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025).
- *Rosado v. Figueroa*, No. CV 25-02157-PHX-DLR (CDB) (D. Ariz. Aug. 11, 2025), report and recommendation adopted (D. Ariz. Aug. 13, 2025).

VERIFICATION OF PETITION FOR WRIT OF HABEAS CORPUS

(28 U.S.C. § 1746)

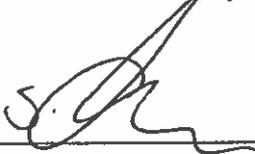
I, Avtandil Daushvili, declare under penalty of perjury that I am submitting this Petition on behalf of Petitioner Tornike Daushvili as his Next Friend.

Petitioner is currently detained and cannot practicably and timely review, sign, and verify this Petition due to restrictive detention conditions, including delays in outgoing and incoming mail and limited access to communication and legal materials. As a close family member with a significant relationship to Petitioner, I am dedicated to his best interests.

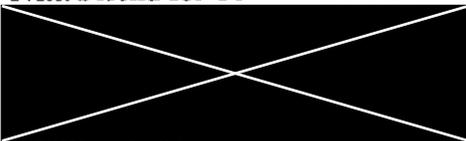
I have reviewed the Petition and the attached Exhibits.

The factual statements contained herein are true and correct to the best of my knowledge, information, and belief.

Executed on January 19, 2026



Avtandil Daushvili
Next Friend for Tornike Daushvili



Email: 

**DECLARATION OF AVTANDIL DAUSHVILI
(IN SUPPORT OF NEXT FRIEND STANDING)**

I, Avtandil Daushvili, declare as follows:

1. I am over the age of eighteen and competent to make this declaration. I submit this declaration in support of my request to proceed as Next Friend for Tornike Daushvili ("Petitioner").
2. I am Petitioner's cousin and have served as his sponsor in the United States. I reside in New Jersey and have a significant and genuine interest in Petitioner's welfare and liberty.
3. Petitioner is currently detained in ICE custody at the Diamondback Correctional Facility (ICE) in Watonga, Oklahoma. Because he is in immigration detention, he has restricted access to documents, printing, and outgoing legal mail, and there are delays associated with detention mail.
4. Due to these barriers, Petitioner cannot practicably and timely review, sign, and return the habeas petition without risking significant delay. Immediate filing is necessary to protect his rights.
5. Petitioner has communicated to me that he wishes to seek federal habeas relief challenging his current detention and to request release or, at a minimum, an individualized bond hearing. I am filing this Petition solely in Petitioner's best interests and at his request.
6. If and when practicable, I will seek to obtain Petitioner's signature or a separate verification and submit it to the Court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 19, 2026, at East Windsor, New Jersey.



Avtandil Daushvili

