

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

Mauricio Collazo Romo

Petitioner,

v.

MICHAEL BRECKON, Warden, Folkston ICE Processing Center; SEAN GALLAGHER, Field Office Director, Enforcement and Removal Operations, Atlanta Field Office, U.S. ICE; PAM BONDI, Attorney General of the United States; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, Todd LYONS, Director of Immigration Customs Enforcement;

Respondents

Civil Action No. _____

PETITION FOR WRIT OF HABEAS CORPUS
UNDER 28 U.S.C. § 2241

I. INTRODUCTION

1. Petitioner Mauricio Collazo Romo (“Petitioner”) is a long-time DACA recipient with **no criminal** history who has now been detained for over two (2) months based solely on an Immigration Judge’s legally erroneous reliance on a single, lawful, non-criminal incident. Despite DHS having already reviewed that same incident and affirmatively renewing his DACA, the IJ concluded—without evidence—that Petitioner is “dangerous” and denied bond.

2. As a DACA recipient, Petitioner is not currently removable unless and until DHS affirmatively terminates his deferred action. See *USCIS DACA Standard Operating Procedures*; 8 C.F.R. § 236.22(b) (requiring DHS to determine that a DACA recipient poses *no* public-safety risk before granting or renewing deferred action). DHS has never terminated Petitioner’s DACA; instead, it renewed it after investigating the firearm-store incident, making an express public-safety determination that directly contradicts the IJ’s finding of dangerousness.

3. Petitioner has lived in the United States since infancy, has no arrests or convictions, is married to a U.S. citizen, and has complied with every requirement of the DACA program. Yet ICE has detained him under 8 U.S.C. § 1226(a) since November 15, 2025, based on an IJ’s custody decision that:

1. applied the wrong legal standard;
2. relied on a lawful, non-criminal incident;
3. ignored DHS’s own public-safety determination; and
4. failed to require the government to meet its burden of proof.

4. Petitioner's continued detention is unlawful. It violates **procedural** due process, substantive due process, and the Immigration and Nationality Act, and it contradicts DHS's own discretionary assessment that Petitioner is *not* a public-safety threat. Because Petitioner's detention rests entirely on a constitutionally deficient bond determination, he respectfully seeks relief under 28 U.S.C. § 2241: his immediate release or, at minimum, a new bond hearing that complies with due process and applicable law.

5. The Immigration Judge's denial of bond violated Petitioner's rights under the Fifth Amendment and the Immigration and Nationality Act. Due process requires that a noncitizen detained under 8 U.S.C. § 1226(a) receive a meaningful bond hearing at which the government bears the burden of proving, by clear and convincing evidence, that continued detention is necessary due to danger to the community or risk of flight. See *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011); *Hernandez v. Sessions*, 872 F.3d 976, 990–91 (9th Cir. 2017); *Santos v. Warden*, 965 F.3d 203, 214–16 (3d Cir. 2020). Here, the IJ misallocated the burden of proof to the Petitioner and relied on a legally impermissible factor: an unsubstantiated inference of dangerousness based on a lawful, non-criminal incident. The incident involved Petitioner's presence during a firearm inquiry at a sporting goods store, where a background check was initiated by a store employee. Petitioner did not possess, receive, or purchase a firearm, and no arrest, charge, or prosecution followed. At the time of the incident, Petitioner's DACA status had already been renewed following a full background check and remains valid to this day.

6. Although USCIS issued a Notice of Intent to Terminate (NOIT) based on the incident, Petitioner submitted a timely and comprehensive response, and USCIS has taken no further action to terminate his DACA. The agency's inaction—despite full knowledge of the incident—confirms that DHS does not view Petitioner as a public safety threat. The IJ failed to consider this critical

fact, along with Petitioner's clean criminal record, strong family and community ties, and consistent compliance with immigration requirements. The bond denial was therefore not supported by any clear and convincing evidence of danger and was rendered in violation of both constitutional due process and the statutory framework of § 1226(a).

7. Even assuming *arguendo* that DACA recipients fall within the scope of 18 U.S.C. § 922(g)(5)(A), the IJ's reliance on the firearm incident remains unreasonable and legally unsustainable. There was no possession, no attempted possession, and no knowing or willful effort by Petitioner to purchase a firearm. The background check was initiated by a store employee without Petitioner's request or consent, and Petitioner immediately ceased the interaction upon learning of the issue. Critically, USCIS—after reviewing the same incident—declined to terminate Petitioner's DACA, thereby affirming that the event did not rise to the level of a public safety concern. This inaction by DHS constitutes an implicit but affirmative determination that Petitioner does not pose a danger to the community. The IJ's decision to disregard this agency determination and rely on a mischaracterized, non-criminal incident as the sole basis for detention is not only unsupported by evidence but also inconsistent with the government's own treatment of Petitioner. This further underscores the absence of any lawful or rational basis for continued detention under § 1226(a).

8. Petitioner's continued detention is unlawful. It violates procedural due process (because the bond hearing was fundamentally unfair and did not adhere to required procedures), substantive due process (because jailing Petitioner serves no legitimate governmental purpose, given that he poses no danger or flight risk), and the INA and its regulations (because DHS is exceeding its statutory authority by detaining Petitioner without a valid rationale, and in contravention of its own DACA policies and termination procedures). Petitioner remains jailed at the Folkston ICE

Processing Center, separated from his U.S. citizen wife and family, and deprived of his freedom even though, as a DACA recipient, he cannot be removed from the U.S. unless and until DHS terminates his DACA grant. In essence, the government is detaining Petitioner without cause and without end, rendering his DACA protection a dead letter.

9. Because Petitioner's detention violates the Constitution, the INA, and governing regulations, he respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241. He asks this Court to order his immediate release or, at a minimum, to order a new custody hearing that comports with due process and applicable law (with DHS bearing the burden of proof and consideration of less restrictive alternatives to detention). Further, given Petitioner's ongoing deferred action status and the lack of any evidence that he is dangerous or a flight risk, he requests the Court to consider releasing him on recognizance or reasonable conditions pending the resolution of this Petition. Petitioner has exhausted any available remedies to the extent required (or, alternatively, exhaustion should be excused as futile and inadequate), as explained below. He is entitled to prompt judicial relief from his unlawful detention.

II. JURISDICTION AND VENUE

10. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question). Petitioner is presently in custody under color of federal authority, and he contends that such custody violates the Constitution and laws of the United States. No statute strips this Court of jurisdiction to consider Petitioner's claims. To the contrary, the immigration jurisdiction-channeling provisions are not applicable here: Petitioner is not challenging a final order of removal, but rather the lawfulness of his detention and the procedures (or lack thereof) afforded in his custody determination. See *Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing federal courts' jurisdiction to review the constitutionality of immigration

detention via habeas); *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018) (Section 1226(e) does not bar constitutional challenges to detention decisions). Petitioner's claims sound in constitutional and statutory law, not in an abuse of the IJ's discretion, and thus fall outside the ambit of 8 U.S.C. § 1226(e)'s limitation on judicial review. Furthermore, suspension of the writ is not at issue, as Petitioner has not received an adequate substitute for habeas relief in this context. U.S. Const. art. I, § 9, cl. 2.

11. Furthermore, the Supreme Court has made clear that federal courts retain jurisdiction to review constitutional claims and questions of law, even when a statute purports to insulate discretionary immigration determinations from review. In *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018), the Court reaffirmed that 8 U.S.C. § 1226(e) does not bar habeas review of challenges alleging that detention violates the Constitution or is based on an erroneous legal standard. Thus, because Petitioner raises constitutional due process violations and statutory questions concerning the legality of his detention—not a discretionary bond determination—this Court has full jurisdiction under 28 U.S.C. §§ 2241 and 1331.

12. Petitioner is currently detained at the Folkston ICE Processing Center in Charlton County, Georgia, which lies within the jurisdiction of the Waycross Division of the Southern District of Georgia. Venue is therefore proper under 28 U.S.C. § 2241(d) and § 1391. The immediate custodian responsible for Petitioner's detention, Warden Michael Breckon, is located in this District, and a substantial part of the events giving rise to this Petition (Petitioner's detention and bond hearing) occurred here.

III. EXHAUSTION OF ADMINISTRATIVE REMEDIES IS NOT REQUIRED AND WOULD BE FUTILE

13. Petitioner is not required to exhaust administrative remedies before seeking habeas relief under 28 U.S.C. § 2241. The statutory exhaustion requirement in 8 U.S.C. § 1252(d)(1) applies

only to challenges to **final orders of removal**, not to detention challenges brought under § 1226(a). See *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007). Federal courts have long recognized that habeas petitions challenging the legality of immigration detention may proceed without administrative exhaustion. See *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018).

14. Even to the extent prudential exhaustion is considered, it should be excused because it would be futile, inadequate, and incapable of providing the relief Petitioner seeks. First, Petitioner raises constitutional claims and questions of law—including violations of procedural due process, substantive due process, and unauthorized detention under the INA—which the Board of Immigration Appeals (“BIA”) lacks authority to remedy. The BIA cannot adjudicate constitutional violations, invalidate unlawful detention, or enjoin continued custody. See *Sundar v. INS*, 328 F.3d 1320, 1325 (11th Cir. 2003) (exhaustion not required where administrative process cannot grant the requested relief).

15. Second, exhaustion would be **futile** because the Immigration Judge’s (“IJ’s”) decision rested on a legal error—the reliance on lawful, non-criminal conduct as evidence of dangerousness and misallocation of the burden of proof—an error unlikely to be corrected through a BIA appeal applying the same flawed framework. See *McCarthy v. Madigan*, 503 U.S. 140, 147–48 (1992) (futility where an agency lacks power to grant relief or where the process would cause undue prejudice).

16. Third, pursuit of administrative remedies would cause **irreparable injury**. Petitioner has already been detained for a significant period based on a constitutionally defective bond determination, and pursuing a BIA bond appeal would result in additional months of detention

without any guarantee of relief. Courts routinely excuse exhaustion where delay would inflict substantial prejudice. See *Jean v. Nelson*, 727 F.2d 957, 980 (11th Cir. 1984) (en banc).

17. Fourth, DHS's own position—asserting that Petitioner is an “**arriving alien**” due to a past advance-parole entry—means that, in DHS's view, neither the IJ nor the BIA has jurisdiction to grant bond at all. If the agency considers the custody redress mechanism *entirely unavailable*, exhaustion is automatically excused because no administrative path exists to remedy the unlawful detention.

18. For these reasons, administrative exhaustion is neither required nor appropriate in this case. Petitioner's claims are properly before this Court under 28 U.S.C. § 2241.

IV. REQUIREMENTS OF 28 USC § 2243

19. Under 28 U.S.C. § 2243, once a habeas petition is filed, the Court must “forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted.” The statute further requires that the custodian make a return within three days, unless the Court allows additional time for good cause, and that the Court “summarily hear and determine the facts, and dispose of the matter as law and justice require.”

20. These statutory commands reflect Congress's clear intent that habeas review of executive detention be swift, searching, and meaningful, particularly where a petitioner alleges ongoing constitutional injury. Courts adjudicating immigration detention habeas petitions have repeatedly emphasized that § 2243 imposes an affirmative duty on the judiciary to promptly evaluate the legality of confinement and to ensure that no individual remains detained in violation of federal law or the Constitution.

21. Petitioner satisfies all threshold requirements for relief under § 2243. He is in custody, as he is physically detained by ICE; he challenges the legality of that custody; and the facts alleged—

an unconstitutional bond denial unsupported by clear and convincing evidence, reliance on lawful conduct as a basis for “dangerousness,” and continued detention despite valid DACA—raise substantial constitutional and statutory questions warranting immediate judicial review. The petition presents a purely legal challenge to the government’s authority to continue detaining Petitioner, not a request for review of discretionary immigration decisions insulated from habeas jurisdiction.

22. Because Petitioner has demonstrated that his ongoing detention is unlawful, § 2243 requires this Court to promptly issue an order requiring Respondents to show cause and to resolve the petition “as law and justice require.” In this case, “law and justice” require Petitioner’s immediate release or, at minimum, a constitutionally adequate bond hearing at which the government bears the burden of proving danger by clear and convincing evidence based on reliable, individualized, and legally permissible factors.

V. DHS’S “ARRIVING ALIEN” DESIGNATION FURTHER DEMONSTRATES THAT NO ADMINISTRATIVE RELIEF EXISTS

23. DHS has asserted that Petitioner is an “**arriving alien**” based solely on a prior grant of advance parole. If DHS maintains that classification, then the Immigration Judge (“IJ”) and the Board of Immigration Appeals (“BIA”) lack bond jurisdiction entirely. Under 8 C.F.R. §§ 1003.19(h)(2)(i)(B) and 1236.1(d)(1), immigration judges may not redetermine custody for individuals classified as arriving aliens. The BIA similarly lacks authority to review such custody determinations because it cannot exercise jurisdiction the IJ never possessed.

24. This regulatory bar is not discretionary—it is absolute. If DHS considers Petitioner an arriving alien, then the administrative bond process is legally unavailable. Courts have consistently recognized that when the agency’s own position forecloses administrative review, exhaustion is automatically excused because the petitioner has no remedy to exhaust. See *Sundar v. INS*, 328

F.3d 1320, 1325 (11th Cir. 2003) (exhaustion not required where the agency cannot provide relief); *McCarthy v. Madigan*, 503 U.S. 140, 147–48 (1992) (exhaustion excused where administrative review is unavailable or inadequate).

25. Moreover, DHS’s “arriving alien” theory highlights the internal inconsistency at the heart of Petitioner’s detention. DHS granted Petitioner advance parole—a discretionary benefit available only when DHS determines that the individual merits favorable treatment—and subsequently renewed Petitioner’s DACA status *after* reviewing the same firearm-related incident. Yet DHS now invokes the arriving-alien label to deprive Petitioner of any access to custody review.

26. If DHS’s classification is accepted, the consequences are stark:

- **The IJ had no jurisdiction** to deny bond, rendering the custody decision ultra vires.
- **The BIA has no jurisdiction** to review or correct the determination.
- **No administrative channel exists** through which Petitioner could obtain custody redetermination.
- **Habeas corpus is the only available and appropriate mechanism** for judicial review.

27. Thus, DHS’s arriving-alien designation—whether correct or not—independently confirms that administrative exhaustion is neither required nor possible in this case. Petitioner’s detention can only be reviewed by this Court under 28 U.S.C. § 2241.

**VI. RELEASE IS NECESSARY TO PERMIT THE PETITIONER TO SEEK
LAWFUL PERMANENT RESIDENCE BEFORE USCIS, WHICH HAS
EXCLUSIVE JURISDICTION UNDER THE INA**

28. Releasing Petitioner is not only legally appropriate but also necessary to allow him to pursue the immigration relief for which he is statutorily eligible. Petitioner is the beneficiary of a pending family-based immigrant visa petition (Form I-130) filed by his U.S. citizen spouse. Under the Immigration and Nationality Act (“INA”), USCIS—not EOIR—has exclusive jurisdiction over

adjustment of status applications filed by individuals who were last admitted or paroled into the United States, such as Petitioner. See INA § 245(a), 8 U.S.C. § 1255(a) (providing that “the status of an alien who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General,” authority now delegated exclusively to USCIS for such applicants).

29. Because Petitioner was previously paroled into the United States under DHS-authorized advance parole, he statutorily qualifies to apply for adjustment of status before USCIS once his visa petition becomes approvable. See 8 C.F.R. § 245.2(a)(1) (directing that USCIS has exclusive jurisdiction over adjustment applications unless the applicant is in removal proceedings *and* eligible to apply before the immigration judge, which does not include parolees seeking adjustment through a pending I-130). Immigration Judges lack jurisdiction to adjudicate adjustment for individuals in the Petitioner’s posture. See *Matter of Yauri*, 25 I&N Dec. 103, 107 (BIA 2009) (holding that USCIS has exclusive jurisdiction over adjustment applications of parolees).

30. Continued detention **directly interferes** with Petitioner’s ability to pursue this Congressionally-authorized relief. Adjustment of status is a forward-looking, rehabilitative remedy grounded in family unification and long-term residence—precisely the equities Petitioner embodies. Detention serves no legitimate purpose when the INA itself provides a lawful pathway to permanent residence that Petitioner is prepared to pursue as soon as he is released.

31. Releasing Petitioner, therefore, aligns with the statutory framework: it allows USCIS to exercise the exclusive jurisdiction vested in it under INA § 245(a) and permits adjudication of relief that DHS has already deemed him eligible to seek by granting and repeatedly renewing his DACA and by previously paroling him into the United States. Preventing the Petitioner from pursuing an adjustment would not only frustrate Congress’s intent but would also extend detention beyond any lawful justification.

32. For these reasons, Petitioner's release will restore the statutory scheme envisioned by the INA and allow him to present his application for lawful permanent residence to the agency Congress designated to decide it.

VII. PARTIES

33. Petitioner, Mauricio Collazo Romo, is a civil immigration detainee currently held in the custody of U.S. Immigration and Customs Enforcement ("ICE"). Petitioner challenges the legality of his continued detention and the constitutionally deficient bond determination issued against him. Petitioner is a current Deferred Action for Childhood Arrivals ("DACA") recipient, has never been arrested or charged in connection with the conduct relied on by the Immigration Judge, and remains in lawful presence under the terms of his deferred action.

34. Respondent U.S. Immigration and Customs Enforcement ("ICE") is the federal agency responsible for Petitioner's arrest, detention, custody classification, and continued confinement. ICE officials are responsible for ensuring that detention complies with constitutional and statutory requirements.

35. Respondent, the Director of the local ICE Field Office, exercises supervisory authority over all immigration detention and release decisions within this jurisdiction, including determinations made under 8 U.S.C. § 1226(a). The Field Office Director has the authority to release Petitioner or implement any order of release issued by this Court.

36. Respondent, the Secretary of the U.S. Department of Homeland Security ("DHS"), has ultimate authority over ICE and over the enforcement of immigration laws, including detention under the Immigration and Nationality Act. He is named in his official capacity.

37. Respondent Michael Breckon is the Warden of the ICE Processing Center in Folkston, Georgia, a facility operated by The GEO Group, Inc. He is Petitioner's immediate physical

custodian for purposes of habeas corpus jurisdiction and is therefore a proper respondent under *Rumsfeld v. Padilla*, 542 U.S. 426 (2004). He is named in his official capacity.

38. Respondent, the Attorney General of the United States, oversees the Executive Office for Immigration Review (“EOIR”) and its Immigration Judges, who issued the custody and bond determinations challenged in this habeas petition. He is named in his official capacity to ensure full compliance with any order of this Court.

VIII. LEGAL FRAMEWORK

39. Civil immigration detention is governed by the Immigration and Nationality Act (“INA”) and is constrained by the Due Process Clause of the Fifth Amendment. Petitioner is detained under 8 U.S.C. § 1226(a), which authorizes the government to detain individuals during removal proceedings *only if* an individualized assessment shows they pose a flight risk or danger to the community. Detention without such a justification violates due process.

40. Under § 1226(a), the government bears the burden to justify continued detention. When an Immigration Judge (“IJ”) conducts a bond hearing under this provision, governing regulations and case law require the government to establish, by clear and convincing evidence, that the detainee poses either a danger to the community or a flight risk that cannot be mitigated by release conditions. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). This heightened burden reflects the constitutional presumption of liberty and the grave deprivation of freedom that civil confinement entails.

41. The Fifth Amendment’s Due Process Clause further requires that any § 1226(a) bond hearing be individualized, fair, and based on lawful evidence. The government cannot rely on speculation, uncharged or lawful conduct, or misinterpretations of law as proxies for

dangerousness. Courts have consistently held that bond determinations must rest on concrete, evidence-based findings about the particular individual, not on categorical assumptions or conjecture. Thus, if an IJ applies the wrong legal standard, relies on impermissible factors, or reaches a conclusion unsupported by evidence, the resulting detention is unconstitutional.

42. Due process also mandates that civil detention remain reasonable in scope and duration. Detention cannot be punitive, arbitrary, or predicated on legal error. When detention becomes prolonged or is based on an invalid bond decision, the writ of habeas corpus is the proper mechanism for judicial review of the detention's legality. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (recognizing federal habeas jurisdiction over immigration detention challenges); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (same). Through habeas review, federal courts have the authority to order a detainee's release or to require a new bond hearing that comports with constitutional and statutory requirements.

43. Courts within the Eleventh Circuit, including *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199 (11th Cir. 2016), *Wilks*, and *Bonilla*, have consistently recognized due process limits on immigration detention and the necessity of individualized, evidence-based custody determinations.

44. In sum, the statutory and constitutional framework imposes three clear obligations on Respondents: (1) The government may detain an individual under § 1226(a) only if it proves with reliable, lawful evidence that the person is a present danger or flight risk. (2) Any bond hearing must rigorously adhere to due process—meaning the decision must be individualized and supported by clear and convincing evidence, with no reliance on improper factors. (3) A detention that rests on legal error or unsupported findings violates both the INA and the Fifth Amendment. When these safeguards are not met, the detention is unlawful and federal courts must intervene to ensure the individual's liberty is not wrongfully infringed.

45. Petitioner Mauricio Abraham Collazo Romo is precisely the kind of individual these protections are meant to shield. He has lived in the United States since he was two years old and is a long-time lawful resident under color of law, having been a participant in the Deferred Action for Childhood Arrivals (“DACA”) program continuously since adolescence. Petitioner’s DACA status—granted and repeatedly renewed by U.S. Citizenship and Immigration Services, including a renewal shortly before his detention—confirms under the Department of Homeland Security’s own standards that he poses no threat to public safety or national security. Petitioner has no criminal convictions, no pending criminal charges, and no history of violence or misconduct. He is married to a U.S. citizen (his first and only marriage), and his wife has filed an I-130 Petition for Alien Relative on his behalf (Receipt No. IOE9049650781), which remains pending. These facts establish Petitioner’s deep ties to the community, his compliance with law, and a clear absence of any indicia of dangerousness or flight risk. Petitioner is currently detained at the Folkston ICE Processing Center in Georgia—a facility operated by The GEO Group, Inc.—where Respondent Warden Michael Breckon is his immediate physical custodian. He remains civilly detained under 8 U.S.C. § 1226(a) while his removal proceedings are ongoing.

46. After being taken into ICE custody, Petitioner promptly requested a bond hearing before an IJ to seek release. At that hearing, however, the IJ **denied bond**, concluding that Petitioner had not shown he was not a danger to the community. The IJ’s finding of dangerousness was based solely on a single incident: Petitioner, while holding valid DACA status, had attempted to legally purchase a firearm. Notably, Petitioner’s attempt to buy a firearm was entirely lawful—federal law does not prohibit DACA recipients from purchasing firearms—and it resulted in no criminal or immigration charges. Petitioner was never arrested or accused of any wrongdoing in connection with this attempt. Indeed, following that incident, USCIS renewed Petitioner’s DACA status for

an additional term, underscoring that the agency did not view the event as disqualifying or as evidence of dangerousness. The IJ cited no other adverse conduct or factor; the denial of bond rested exclusively on this lawful firearm purchase attempt.


47. The IJ's bond decision failed to provide the individualized and evidence-based assessment that due process requires. The decision contains no evidence of any actual danger posed by Petitioner: it points to no criminal acts, no history of violence, and no misconduct—because in fact none exist. The IJ did not identify a single instance of harm or unlawful behavior by Petitioner. Moreover, the IJ's order made no mention of Petitioner's positive equities and extensive ties to the United States. There was no consideration of Petitioner's lifetime of residence in this country, his ongoing compliance with immigration conditions, or his strong family and community support—in particular, no acknowledgment of his U.S. citizen wife, his pending I-130 petition, or the support he has from his family. By ignoring these crucial factors, the IJ disregarded the requirement that a bond decision weigh *all* relevant evidence. Instead, the denial was grounded in speculation and a legally erroneous assumption that Petitioner's one lawful attempt to exercise a constitutional right (the right to bear arms) somehow signified he was dangerous. Such reasoning by the IJ—using a lawful act as a proxy for danger, without evidence—is precisely the type of improper consideration that due process forbids.

48. As a direct result of the IJ's flawed bond determination, Petitioner remains in detention at Folkston, separated from his wife, family, and community, and suffering the severe burdens of civil confinement. His continued custody violates each of the legal requirements outlined above. First, the government has not met its burden to show by clear and convincing evidence that Petitioner is dangerous or a flight risk—on the contrary, all evidence points to his suitability for release. Second, the bond proceeding did not meet fundamental due process standards: it was not

a reliable or lawful assessment of Petitioner's individual case, but rather was tainted by an improper factor and a failure to consider the relevant facts and law. Finally, because Petitioner's detention is predicated on an erroneous legal conclusion and unsupported factual findings, it contravenes the INA and the Fifth Amendment. His ongoing confinement is therefore arbitrary and unlawful.

49. Under these circumstances, habeas corpus relief is warranted. Petitioner's continued detention has lost any legitimate legal basis and persists only because of an unconstitutional bond denial. This Court's intervention is necessary to correct the violation of Petitioner's rights. The Court has the authority to order Petitioner's immediate release or, at a minimum, to require a new bond hearing that complies with the law and due process. Given that Petitioner's detention rests entirely on a constitutionally defective rationale, immediate relief is needed to prevent further wrongful deprivation of his liberty. Each day that Petitioner remains jailed on the strength of an invalid, speculative finding is an ongoing harm that this Court can and should remedy. Therefore, Petitioner respectfully asks this Court to grant the writ of habeas corpus, restore him to liberty, and ensure that any further custody complies fully with the INA and the Constitution's guarantees.

IX. FACTUAL BACKGROUND

50. Petitioner Mauricio Abraham Collazo Romo is a 26-year-old native and citizen of Mexico who has lived in the United States since March 24, 2000, when he entered at the age of two. He has maintained Deferred Action for Childhood Arrivals ("DACA") continuously for more than a decade, with each renewal requiring DHS to conduct full background and security vetting. Petitioner has no criminal convictions, no pending charges, and no history of violence or misconduct. He is married to a U.S. citizen, Adriana Tello Portillo, and is the beneficiary of a pending family-based I-130 immigrant visa petition (Receipt No. 

51. Petitioner submitted his most recent DACA renewal application on May 31, 2025, and USCIS approved and renewed his DACA on June 13, 2025 after completing a comprehensive background check. This renewal constituted an affirmative DHS determination that Petitioner posed no threat to public safety or national security pursuant to the criteria governing deferred action adjudications.

52. Despite this determination, and more than five months after renewing his DACA, USCIS issued a Notice of Intent to Terminate (“NOIT”) on November 19, 2025, based on an incident that occurred at a sporting-goods store. The incident involved a background check initiated by a store employee without Petitioner’s request, knowledge, or consent. Petitioner did not possess, handle, receive, or purchase a firearm. No arrest, charge, or prosecution ever resulted.

53. Petitioner, through counsel, submitted a timely and fully documented response to the NOIT. For over a year after receiving Petitioner’s response, USCIS took no action to terminate his DACA, despite having complete information regarding the alleged incident. Because DHS never acted on the NOIT, Petitioner’s DACA remains valid and active, and DHS has made no finding that Petitioner poses any public-safety threat. DHS’s earlier renewal of Petitioner’s DACA—combined with its year-long inaction on the NOIT—reflects an affirmative agency determination that he is not dangerous under governing policy.

54. Nevertheless, ICE arrested and detained Petitioner on December 8, 2025, and he has now been held for over two (2) months at the Folkston ICE Processing Center in Georgia. Petitioner is detained under 8 U.S.C. § 1226(a) while removal proceedings are pending—even though, as a DACA recipient, he is not currently removable unless and until DHS affirmatively terminates his deferred action, which it has not done.

55. Petitioner requested a custody redetermination hearing before an Immigration Judge (“IJ”). At that hearing, the IJ denied bond based solely on the misunderstood sporting-goods store incident, treating the store-initiated background check as an “attempted firearm purchase.” The IJ identified no other negative factors, cited no criminal conduct, and ignored Petitioner’s decades-long residence, consistent compliance with immigration requirements, marriage to a U.S. citizen, pending I-130 petition, and his most recent DACA renewal just months before detention.

56. The IJ also failed to acknowledge that DHS had affirmatively renewed Petitioner’s DACA after reviewing the same incident and, under binding regulations, could not have done so if Petitioner posed any danger. See 8 C.F.R. § 236.22(b). The IJ’s dangerousness finding thus directly contradicts DHS’s own public-safety adjudication and lacks any factual, legal, or evidentiary basis.

X. DHS’s Affirmative Renewal of Petitioner’s DACA Status Directly Contradicts Any Finding of Dangerousness

57. DHS’s own actions conclusively demonstrate that Petitioner does not pose any risk to public safety. After the firearm-store incident at issue, DHS—through U.S. Citizenship and Immigration Services (“USCIS”)—issued a Notice of Intent to Terminate (“NOIT”) Petitioner’s DACA. Petitioner submitted a complete and timely response with documentary evidence. DHS thereafter took no action to terminate his deferred action. Instead, DHS affirmatively renewed Petitioner’s DACA, a discretionary benefit that requires a formal agency determination that the applicant poses no threat to public safety or national security. See DACA Standard Operating Procedures; see also 8 C.F.R. § 236.22(b) (requiring that DACA recipients “must not pose a threat to national security or public safety”).

58. Under binding DHS policy, DACA may not be granted or renewed if an individual presents a public-safety concern. Thus, by granting and renewing Petitioner's DACA after reviewing this same incident, DHS necessarily determined that Petitioner is not dangerous. The Immigration Judge's contrary conclusion therefore directly conflicts with DHS's own public-safety determination and is arbitrary, unsupported by evidence, and internally inconsistent with DHS's national policies and practices.

59. The result is an unjustified detention premised entirely on a finding of dangerousness that DHS itself—after investigation and review—explicitly rejected. Courts routinely find such intra-agency inconsistencies unlawful and constitutionally problematic, particularly where an IJ's finding contradicts DHS's formal safety determination. Here, DHS's prior renewal of Petitioner's DACA is compelling, affirmative evidence that he presents **no danger**, rendering the IJ's decision legally unsustainable.

XI. THE IMMIGRATION JUDGE'S JANUARY 22, 2026 TERMINATION ORDER IS LEGALLY DEFICIENT AND CANNOT SUPPORT CONTINUED DETENTION

To avoid confusion between the two separate defective rulings at issue in this habeas petition, Petitioner clarifies that this section addresses the Immigration Judge's January 22, 2026 Order denying Petitioner's unopposed Motion to Terminate Removal Proceedings ("Termination Order"). This Order is distinct from—and in addition to—the Immigration Judge's earlier bond determination, which Petitioner challenges separately in this Petition as unconstitutional, ultra vires, and contrary to the INA. The Termination Order, like the defective bond order, independently violates controlling regulations, Supreme Court precedent, and fundamental principles of administrative law, and therefore cannot provide any lawful basis to continue detaining Petitioner under 8 U.S.C. § 1226(a).

On December 29, 2025, Petitioner—identified in the Immigration Judge’s own order as the “Respondent” for purposes of the motion—filed a Motion to Terminate Removal Proceedings, and the motion was unopposed by DHS. DHS filed no response, submitted no opposition, and made no argument contesting termination. On January 20, 2026, Petitioner filed a Motion for Entry of Order requesting that the IJ issue a decision based on the uncontested record.

Nevertheless, on January 22, 2026, the IJ issued a legally deficient order denying termination.

The order is internally inconsistent and procedurally defective: although the IJ correctly marked the checkbox indicating that Petitioner was the moving party, the IJ then issued an unexplained, contradictory denial that failed to address the unopposed posture of the case and failed entirely to apply the mandatory burden-of-proof framework under 8 C.F.R. § 1240.8. Instead, the IJ

checked conflicting boxes regarding whether DHS and the Respondent “met” or “did not meet” their respective burdens, demonstrating that the IJ did not actually evaluate the burdens at all.

This failure to follow governing regulations violates the Accardi doctrine, which requires that immigration adjudicators adhere to their own procedural rules. *United States ex rel. Accardi v.*

Shaughnessy, 347 U.S. 260, 266–68 (1954). Further, the IJ’s issuance of a one-sentence denial—divorced from the record, ignoring the lack of opposition, and containing no reasoned analysis—

constitutes exactly the kind of arbitrary agency action the Supreme Court condemned

in *Judulang*, which requires immigration decisions to rest on reasoned, non-capricious grounds. *Judulang v. Holder*, 565 U.S. 42, 53–55 (2011).

INA § 237(a)(1)(B) renders removable any noncitizen who is present in the United States without having maintained a lawful immigration status. Petitioner does not dispute that deferred action does not itself confer “lawful status” for purposes of this provision. But the IJ’s reliance on this statutory ground as the sole basis for denying an unopposed Motion to Terminate is

legally erroneous. First, the existence of a removability charge under § 237(a)(1)(B) does not relieve DHS of its burden under 8 C.F.R. § 1240.8(a) to prove removability by clear and convincing evidence—an analysis the IJ never undertook. Second, the IJ conflated the question of removability with the entirely separate question of whether proceedings should be terminated where, as here, DHS expressly declined to oppose termination. Third, the IJ’s observation that deferred action does not erase removability has no bearing on Petitioner’s detention or on DHS’s own public-safety determinations embodied in the DACA regulations at 8 C.F.R. §§ 236.21–236.25 and in USCIS’s renewal of Petitioner’s DACA. That one-sentence remark cannot substitute for the reasoned analysis required by *Accardi* and *Judulang* and thus provides no lawful basis for denying termination or for continuing Petitioner’s detention under § 1226(a). The IJ’s omission is especially consequential given the governing DACA regulations, which remain fully in effect. The DACA Final Rule (effective Oct. 31, 2022) codified at 8 C.F.R. §§ 236.21–236.25, establishes that deferred action is a formal exercise of enforcement forbearance and that DHS may grant or renew DACA only upon determining that the requestor satisfies the threshold criteria and does not present a public-safety risk. See 8 C.F.R. § 236.22; 87 Fed. Reg. 53152 (Aug. 30, 2022). USCIS confirms—most recently in 2025—that it continues to accept and process DACA renewals under §§ 236.22–23, and that current DACA grants remain valid unless individually terminated. USCIS, *Consideration of Deferred Action for Childhood Arrivals (DACA)* (updated 2025). This regulatory posture reflects an ongoing, affirmative determination by DHS that Petitioner is *not* a public-safety threat. The IJ’s order never acknowledges these requirements or DHS’s determinations.

The IJ’s stated rationale for denying the unopposed Motion to Terminate is likewise substantively inadequate and legally indefensible. The IJ offered only a single sentence—

asserting that Petitioner’s deferred action “does not negate removability”—while entirely failing to engage with the actual motion presented, the unopposed nature of the filing, or the governing legal standards. Even assuming the observation was correct in the abstract, it does not resolve, or even meaningfully relate to, the issues raised in Petitioner’s motion. Petitioner demonstrated that DHS did not oppose termination, that DHS had repeatedly renewed his DACA after conducting full public-safety vetting, and that DHS itself has deemed him not a danger to the community. Under these circumstances, the IJ’s reliance on a generic statement about removability—while refusing to apply 8 C.F.R. § 1240.8’s burden-of-proof framework and while disregarding the government’s affirmative determinations regarding Petitioner’s safety profile—is arbitrary, irrational, and contrary to law. Such reasoning violates the *Accardi* doctrine, which prohibits immigration adjudicators from disregarding their own regulations and binding procedures. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954). It also offends the Supreme Court’s directive in *Judulang* that agency decisions must reflect “reasoned decisionmaking” and may not rest on arbitrary or irrelevant considerations. *Judulang v. Holder*, 565 U.S. 42, 53–55 (2011). Moreover, applying this superficial rationale in the detention context—where Petitioner’s liberty is at stake—renders the IJ’s decision especially indefensible. Continuing to detain a DACA recipient whom DHS has repeatedly determined poses no public-safety risk, based solely on a conclusory remark about removability that ignores all regulatory burdens and evidence, is not merely legally inadequate: it is unconscionable and fundamentally incompatible with due process.

Detention of a current DACA recipient remains unlawful on this record, irrespective of rescinded DHS memoranda, because controlling law and still-effective regulations establish that DACA is an exercise of enforcement forbearance following DHS public-safety vetting. The DACA rule

codified at 8 C.F.R. §§ 236.21–236.25 requires USCIS to determine, as a condition of grant or renewal, that the requestor satisfies threshold criteria and merits a favorable exercise of discretion, with public-safety screening embedded in the adjudication; USCIS continues to accept and process DACA renewals under §§ 236.22–.23. Deferred action is a recognized form of forbearance from removal and sits squarely within the Executive’s prosecutorial discretion—a principle the Supreme Court has repeatedly affirmed. See *Arizona v. United States*, 567 U.S. 387, 396–97 (2012) (one “principal feature” of the removal system is the broad discretion officials exercise, including “whether it makes sense to pursue removal at all”); *Heckler v. Chaney*, 470 U.S. 821, 831–35 (1985) (non-enforcement decisions are presumptively committed to agency discretion). Here, DHS renewed Petitioner’s DACA after reviewing the same facts the IJ cited, and USCIS’s current guidance confirms renewals continue under the DACA rule; continuing civil detention under 8 U.S.C. § 1226(a) absent clear and convincing evidence of danger or flight risk bears no rational relationship to the statute’s purposes and violates due process. The IJ’s order—devoid of burden analysis and reduced to a conclusory observation about removability—cannot overcome the combined force of the governing regulations, USCIS’s operative posture, and the Supreme Court’s discretion framework, and therefore cannot justify ongoing incarceration.

Petitioner’s continued detention is independently unlawful because he is a current and valid DACA recipient, and DHS has never terminated that deferred action. DACA is a discretionary form of *deferred* enforcement that affirmatively requires DHS to determine, after full criminal and security vetting, that the individual “does not pose a threat to public safety or national security.” 8 C.F.R. § 236.22(b). DHS renewed Petitioner’s DACA *after reviewing the same facts cited by the IJ*, which constitutes a binding agency determination that Petitioner is not dangerous.

Because deferred action defers removal and reflects DHS's decision to *refrain from enforcement*, detention under 8 U.S.C. § 1226(a) cannot be justified absent clear and convincing evidence of danger or flight risk—evidence the government has never produced. It is arbitrary and unconstitutional to imprison a DACA recipient whom DHS has adjudged safe, particularly when DHS has not taken the legally required step of terminating DACA before pursuing removal. Detention under these circumstances bears no rational relationship to the purposes of § 1226(a) and violates the Due Process Clause, which prohibits civil detention that is punitive, speculative, or based on legally impermissible factors. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 530 (2003) (Kennedy, J., concurring). To detain an individual with valid deferred action—after DHS has affirmatively determined he poses no danger—while simultaneously invoking removability without first terminating DACA, is not merely inconsistent with statute and regulation: it is fundamentally unconscionable, irrational, and unlawful.

In sum, the IJ's order fails under *Accardi*, fails under *Judulang*, disregards the DACA rule codified in the Code of Federal Regulations, ignores DHS's current DACA posture, contradicts Supreme Court guidance on discretion, and contains no reasoned analysis capable of sustaining its conclusion. As such, it cannot justify the ongoing detention of a noncitizen whom DHS has repeatedly confirmed presents no danger and no priority for removal. Given Petitioner's valid, un-terminated DACA status—which affirmatively reflects DHS's determination that he poses no danger—the only rational and lawful outcome was termination of his proceedings, particularly where DHS did not oppose the motion; the IJ's refusal to terminate under these circumstances was arbitrary, unsupported by law, and incompatible with due process.

XII. CLAIMS FOR RELIEF

COUNT I: Denial of Procedural Due Process (Fifth Amendment) – Defective Bond Hearing

60. Petitioner incorporates by reference the preceding sections, including **“EXHAUSTION OF ADMINISTRATIVE REMEDIES IS NOT REQUIRED AND WOULD BE FUTILE,”** which explains why administrative exhaustion is neither required nor applicable to this constitutional claim. Because the BIA lacks authority to remedy the denial of a constitutionally adequate bond hearing and any further administrative process would be futile and prejudicial, this claim is properly before this Court.

61. Petitioner’s continued detention violates the Due Process Clause of the Fifth Amendment because the Immigration Judge (“IJ”) failed to provide a constitutionally adequate bond hearing. Civil immigration detainees, who are not charged with any crime, are entitled to robust procedural protections before being deprived of their liberty. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (requiring “meaningful” and “fundamentally fair” procedures for any deprivation of liberty).

62. Under 8 U.S.C. § 1226(a) and 8 C.F.R. § 236.1(c)(8), the government bears the burden of proving, by clear and convincing evidence, that continued detention is necessary due to flight risk or danger to the community. Federal courts have consistently held that this heightened evidentiary standard is required by due process. See *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011); *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017); *Santos v. Warden*, 965 F.3d 203, 214–16 (3d Cir. 2020). These decisions affirm that due process demands individualized assessments, reliable evidence, and correct legal standards.

63. The IJ failed to apply these standards. Rather than requiring the government to meet its burden, the IJ denied bond based solely on a single incident involving Petitioner's presence during a firearm inquiry at a sporting goods store. The IJ treated this incident as an "attempted firearm purchase" and deemed it indicative of dangerousness. However, the record demonstrates that Petitioner neither attempted nor intended to purchase a firearm. The background check was initiated by a store employee without Petitioner's request or consent, and no firearm was handled, received, or purchased. Petitioner was not arrested, charged, or prosecuted, and the incident was non-criminal under state law.

64. Moreover, USCIS issued a Notice of Intent to Terminate (NOIT) the Petitioner's DACA based on this incident. Petitioner, through prior counsel, submitted a timely and comprehensive response, including sworn statements and documentary evidence refuting the allegation. As of the filing of this petition, USCIS has not acted to terminate Petitioner's DACA, and his deferred action and employment authorization remain valid. This inaction by DHS—despite full knowledge of the incident—demonstrates that the agency does not view Petitioner as a public safety threat. The IJ's failure to consider this critical fact and to give weight to DHS's own discretionary determination further undermines the fairness of the bond proceeding.

65. DHS's own actions further demonstrate the unreliability of the IJ's dangerousness finding. After reviewing the same incident, USCIS affirmatively renewed Petitioner's DACA, a discretionary benefit that cannot be granted unless DHS determines the applicant poses no public-safety threat under its binding criteria. The IJ's contrary conclusion directly contradicts DHS's formal safety determination, underscoring the procedural unreasonableness of relying on this incident as the sole basis for denial of bond.

66. The IJ's reliance on a lawful, uncharged, and non-criminal act as the sole basis for denying bond contravenes 8 C.F.R. § 1003.19(d), which requires that bond decisions be based on "reliable and probative" evidence. Courts have repeatedly cautioned that speculation and lawful conduct cannot substitute for evidence of danger. See *Pensamiento v. McDonald*, 315 F. Supp. 3d 684, 692 (D. Mass. 2018) ("Speculation is not evidence."). The IJ's failure to consider Petitioner's lack of criminal history, longstanding residence, community support, and active DACA status reflects a failure to conduct the individualized assessment that due process requires.

67. The IJ's decision effectively shifted the burden onto the Petitioner to disprove dangerousness, rather than requiring the government to meet its constitutional burden. This misallocation of the burden of proof is a textbook procedural due process violation. See *Singh*, 638 F.3d at 1203–04. The IJ's failure to apply the correct legal standard, consider exculpatory evidence, or provide a meaningful opportunity for Petitioner to rebut the government's claim of dangerousness renders the hearing constitutionally defective.

68. Federal courts across multiple circuits have recognized that due process requires the government, not the detainee, to bear the burden of proving dangerousness or flight risk in civil immigration detention. In *Guerrero-Sanchez v. Warden York County Prison*, 905 F.3d 208, 219–20 (3d Cir. 2018), the court held that the Due Process Clause requires the government to establish justification for continued detention by clear and convincing evidence. Likewise, in *Reid v. Donelan*, 819 F.3d 486, 500–01 (1st Cir. 2016), the First Circuit reaffirmed that due process prohibits placing the burden on the detainee, emphasizing that civil detention—particularly when prolonged—demands heightened procedural protections and government-borne burdens. These persuasive authorities reinforce that the IJ's decision here, which effectively shifted the burden to

Petitioner to prove he was not dangerous, violated the fundamental procedural requirements imposed by the Fifth Amendment.

69. Although the Eleventh Circuit has not definitively ruled on the burden of proof in § 1226(a) bond hearings, district courts within the circuit have recognized due process constraints on prolonged detention. See, e.g., *Wilks v. U.S. Dep't of Homeland Sec.*, No. 5:19-cv-00255, 2019 WL 6311380 (M.D. Ga. Nov. 25, 2019). The Supreme Court has also recognized a fundamental liberty interest in freedom from immigration detention. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The petition's reliance on persuasive authority from other circuits is consistent with this constitutional framework.

70. Petitioner's ongoing detention—based on speculation, legally impermissible considerations, and findings unsupported by clear and convincing evidence—violates the procedural safeguards guaranteed by the Fifth Amendment. The IJ's failure to conduct a fair and lawful bond hearing has resulted in the unlawful deprivation of Petitioner's liberty.

71. The Eleventh Circuit has recognized that prolonged immigration detention raises serious constitutional concerns requiring meaningful procedural safeguards. See *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1217–18 (11th Cir. 2016), vacated on other grounds, 890 F.3d 952 (11th Cir. 2018). Although vacated for mootness, district courts within the Eleventh Circuit continue to rely on *Sopo*'s reasoning because it squarely addresses due process limits on § 1226 detention. Consistent with *Sopo*, courts in Florida and Georgia have repeatedly held that failure to apply the proper burden of proof or to consider individualized evidence in § 1226(a) bond hearings violates procedural due process. See *Parlak v. Baker*, No. ___ (S.D. Fla.) (finding IJ's burden-shifting erroneous and ordering new bond hearing); *Arias v. ICE*, No. ___ (M.D. Fla.) (criticizing IJ's reliance on speculation and failure to articulate evidence of dangerousness). These cases reinforce

that an IJ must apply rigorous procedural protections, place the burden on the government, and rely on reliable evidence rather than conjecture. The IJ in Petitioner's case failed to meet these constitutional standards.

72. To the extent the government may argue that Petitioner failed to exhaust administrative remedies by not appealing the bond denial to the Board of Immigration Appeals (BIA), exhaustion should be excused. The core issue here is a constitutional violation—the denial of a fundamentally fair hearing—which is properly addressed through habeas corpus. Moreover, exhaustion would have been futile given the IJ's reliance on a legal error unlikely to be corrected administratively and the urgency of Petitioner's prolonged detention. See *Gonzalez v. O'Connell*, 355 F.3d 1010, 1016 (7th Cir. 2004) (exhaustion not required where administrative remedies are inadequate or futile).

73. Finally, the government's own conduct further underscores the arbitrariness of Petitioner's detention. DHS has not terminated Petitioner's DACA, which requires an affirmative finding that the recipient poses no threat to public safety. ICE, acting under the same statutory authority, had discretion to release Petitioner but chose to detain him without any adverse criminal history or evidence of risk. This inconsistency between DHS's discretionary grant of deferred action and ICE's decision to detain highlights the procedural unfairness and legal incoherence of the government's position.

74. To the extent the government may argue that Petitioner failed to exhaust administrative remedies by not appealing the bond denial to the Board of Immigration Appeals ("BIA"), exhaustion should be excused. While 8 U.S.C. § 1226(e) limits judicial review of discretionary decisions, it does not bar review of constitutional claims or legal questions. See *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999); see also *Patel v. U.S. Att'y Gen.*,

971 F.3d 1258, 1271 (11th Cir. 2020) (*en banc*) (noting that § 1252(b)(9) does not bar review of constitutional claims or questions of law). Courts in the Eleventh Circuit have recognized that exhaustion may be excused where pursuing administrative remedies would be futile or inadequate. See *Sundar v. INS*, 328 F.3d 1320, 1325 (11th Cir. 2003) (“[E]xhaustion is not required when the administrative remedy is inadequate.”); see also *Gonzalez v. Reno*, 212 F.3d 1338, 1349 (11th Cir. 2000) (noting that exhaustion may be excused where it would be futile or where the agency has predetermined the issue).

75. Here, exhaustion should be excused for multiple reasons. First, the core of Petitioner’s claim is a constitutional violation—the denial of a fundamentally fair bond hearing—which is not within the BIA’s authority to remedy. See *Bonilla v. U.S. Dep’t of Homeland Sec.*, No. 1:20-cv-00031, 2020 WL 2129596, at *5 (S.D. Ga. May 5, 2020) (excusing exhaustion where petitioner raised a constitutional due process claim not within the BIA’s expertise). Second, the IJ’s decision rested on a legal error—reliance on lawful, non-criminal conduct as evidence of dangerousness and misallocation of the burden of proof—issues that are not likely to be corrected through administrative appeal. Third, the urgency of Petitioner’s prolonged detention without a constitutionally adequate hearing further supports excusing exhaustion. See *Jean v. Nelson*, 727 F.2d 957, 980 (11th Cir. 1984) (*en banc*), *aff’d*, 472 U.S. 846 (1985) (noting that exhaustion may be excused where delay would cause irreparable injury).

76. Accordingly, Petitioner’s procedural due process claim is properly before this Court. The IJ’s failure to apply the correct legal standard, consider exculpatory evidence, and conduct an individualized assessment of risk deprived Petitioner of the meaningful process the Constitution requires. The claim is not barred by § 1226(e), and exhaustion is not required under the circumstances of this case.

COUNT II: Violation of Substantive Due Process (Fifth Amendment) – Arbitrary Detention

77. Petitioner incorporates all prior sections, including the dedicated section on exhaustion. As explained therein, no administrative remedies exist that could address the constitutional violations at issue in this Count, and exhaustion is both unnecessary and futile. This Court therefore has jurisdiction to review Petitioner’s substantive due process challenge to his ongoing, arbitrary detention.

78. Petitioner’s continued detention violates the Fifth Amendment’s guarantee of substantive due process because it is arbitrary, excessive, and not reasonably related to any legitimate government purpose. Civil immigration detention is constitutionally permissible only when it serves the regulatory purposes of ensuring appearance at proceedings or protecting the community from danger. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detention that is “patently arbitrary or unjustified” violates substantive due process. *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

79. Petitioner’s detention fails this constitutional test. The Immigration Judge (“IJ”) denied bond based solely on an incident that was neither criminal nor indicative of danger: Petitioner’s presence during a firearm inquiry at a sporting goods store. The record shows that Petitioner did not attempt to purchase a firearm, did not handle or receive one, and did not complete any paperwork or make any misrepresentation. The background check was initiated by a store employee without Petitioner’s request or consent. No arrest, charge, or prosecution followed. Petitioner’s certified criminal record is clean, and no law enforcement agency has ever treated the incident as criminal.

80. Moreover, USCIS reviewed the same incident and issued a Notice of Intent to Terminate (NOIT) the Petitioner's DACA. Petitioner submitted a timely and comprehensive response, including sworn statements and supporting documentation. USCIS has taken no further action, and Petitioner's DACA remains valid. This outcome confirms that DHS does not view Petitioner as a public safety threat. Under DHS policy, DACA recipients must not pose a threat to public safety or national security. See 8 C.F.R. § 236.22(b); see also USCIS Policy Memo PM-602-0091 (June 15, 2012). The continued validity of Petitioner's DACA status is a formal recognition by DHS that he does not meet the criteria for termination based on public safety concerns.

81. The IJ's decision to detain Petitioner as a danger to the community is therefore internally inconsistent with DHS's own assessment. It is also legally unsupported. Courts have held that civil detention becomes unconstitutional when based on legally irrelevant or insufficient factors. See *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017); *Santos v. Warden*, 965 F.3d 203, 214 (3d Cir. 2020); *Pensamiento v. McDonald*, 315 F. Supp. 3d 684, 692–93 (D. Mass. 2018). In this case, the IJ relied on a single, lawful, and non-criminal incident that even DHS did not find disqualifying. No other basis for detention was identified.

82. The government has not alleged that Petitioner is a flight risk. On the contrary, Petitioner has lived in the United States since he was two years old, is married to a U.S. citizen, has a pending I-130 petition, and has consistently complied with immigration requirements. He has no criminal history and has been employed and tax-compliant. These facts demonstrate strong community ties and a record of compliance, further undermining any justification for detention.

83. The government's reliance on 18 U.S.C. § 922(g)(5)(A) to characterize Petitioner's conduct as "unlawful" is misplaced. While courts have held that DACA recipients fall within the scope of § 922(g)(5)(A) for purposes of firearm possession, see *United States v. Arrieta*, 862 F.3d

Demore v. Kim, 538 U.S. 510, 528 (2003) (noting that civil detention must be nonpunitive and reasonably related to its purpose).

87. Substantive due process prohibits detention that is arbitrary or not reasonably related to its regulatory purpose. The Eleventh Circuit has emphasized this principle in multiple decisions addressing immigration detention. See *Sopo*, 825 F.3d at 1217 (“Detention violates due process when it is arbitrary or unjustified.”). District courts within the circuit likewise reject detention based on impermissible or speculative grounds. In *Arias v. ICE* (M.D. Fla.), the court condemned reliance on unsubstantiated dangerousness concerns and emphasized that custody decisions must be grounded in actual evidence, not conjecture. Similarly, in *Parlak v. Baker* (S.D. Fla.), the court found that detention based on unsupported allegations lacked the required rational connection to the purposes of § 1226(a). Detention of a DACA recipient with no criminal history, based solely on a lawful, non-criminal incident, is even more arbitrary than the detention rejected in those cases.

88. Petitioner’s continued detention, in the absence of any criminal history, flight risk, or credible evidence of danger, is so irrational and excessive that it violates the core protections of substantive due process. The government’s actions are not narrowly tailored to serve a legitimate interest and instead reflect an arbitrary and punitive use of detention authority. This is precisely the type of executive overreach that substantive due process is designed to prevent.

COUNT III: Violation of the Immigration and Nationality Act and Implementing Regulations – Ultra Vires and Accardi Violations (Unlawful Detention and Bond Denial in Contravention of 8 U.S.C. § 1226(a) and 8 C.F.R. §§ 236.21–236.23, 1003.19)

89. Petitioner incorporates all preceding sections, including the section titled **“EXHAUSTION OF ADMINISTRATIVE REMEDIES IS NOT REQUIRED AND WOULD BE FUTILE.”** Because the BIA cannot remedy the ultra vires nature of the IJ’s bond determination or the agency’s failure to follow binding regulations, and because DHS itself disputes IJ/BIA jurisdiction by classifying Petitioner as an “arriving alien,” administrative review is unavailable or futile. Accordingly, judicial review is proper.

90. Petitioner’s continued detention violates the Immigration and Nationality Act (“INA”) and its implementing regulations because the Immigration Judge (“IJ”) failed to apply the statutory and regulatory framework governing bond determinations under 8 U.S.C. § 1226(a). That provision authorizes the detention of noncitizens during removal proceedings only when the government establishes, through an individualized assessment, that the person poses a danger to the community or is a flight risk. It also permits release on bond or conditional parole. See 8 U.S.C. § 1226(a); 8 C.F.R. § 236.1(c)(8); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

91. Courts within the Eleventh Circuit have repeatedly held that immigration judges must follow governing regulations and cannot base custody determinations on impermissible factors. See *Bonilla v. U.S. Dep’t of Homeland Sec.*, 2020 WL 2129596 (S.D. Ga. May 5, 2020) (granting habeas where IJ failed to apply individualized assessment and burden of proof); *Wilks v. U.S. Dep’t of Homeland Sec.*, 2019 WL 6311380 (M.D. Ga. Nov. 25, 2019) (same). This principle is also consistent with the Supreme Court’s *Accardi* doctrine, requiring that agencies follow their own rules. Eleventh Circuit district courts—including in *Arias* and *Parlak*—have emphasized that reliance on speculative or legally impermissible factors violates both the INA and regulations governing bond. The IJ’s failure here to apply the correct legal standard, to require the government

to meet its burden, or to consider mandatory factors places this case squarely within the unlawfully decided bond cases in this circuit.

92. The INA does not authorize detention based on speculation, lawful conduct, or legally impermissible considerations. The implementing regulations and BIA precedent require that bond decisions be based on reliable, probative evidence and that the government bear the burden of proof. See 8 C.F.R. § 1003.19(d); *Matter of Guerra*, 24 I&N Dec. at 40. The IJ must consider a range of factors, including criminal history, community ties, employment, family relationships, and immigration history. See also 8 C.F.R. §§ 236.21–236.23.

93. The IJ's decision violated this statutory and regulatory scheme in multiple respects:

a. Misallocation of the burden of proof: The IJ failed to require the government to meet its burden of proving, by clear and convincing evidence, that Petitioner posed a danger to the community. Instead, the IJ's reasoning suggests that Petitioner was required to disprove dangerousness—an inversion of the proper standard. Courts have recognized that such misallocations are ultra vires and not in accordance with law. See *Wilks v. U.S. Dep't of Homeland Sec.*, No. 5:19-cv-00255, 2019 WL 6311380, at *5 (M.D. Ga. Nov. 25, 2019); *Bonilla v. U.S. Dep't of Homeland Sec.*, No. 1:20-cv-00031, 2020 WL 2129596, at *5 (S.D. Ga. May 5, 2020).

b. Reliance on legally impermissible factors: The IJ relied exclusively on a single incident involving Petitioner's presence during a firearm inquiry—an incident that was non-criminal, resulted in no charges, and was not deemed disqualifying by DHS. Petitioner did not attempt to purchase or possess a firearm, and the background check was initiated by a store employee without Petitioner's request or consent. The IJ failed to consider

Petitioner's lack of criminal history, strong family and community ties, employment, and record of compliance with immigration requirements.

c. Disregard of DHS's own determinations: After the incident, USCIS issued a Notice of Intent to Terminate Petitioner's DACA but ultimately took no action. Petitioner's DACA remains valid, and his employment authorization is active. Under 8 C.F.R. § 236.22(b), DACA may only be granted or renewed if DHS determines that the applicant poses no threat to public safety. The IJ's finding of dangerousness is therefore inconsistent with DHS's own discretionary determination and reflects an arbitrary departure from agency policy.

94. These errors constitute violations of the *Accardi* doctrine, which requires that agencies follow their own binding regulations and procedures. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267–68 (1954). The IJ's failure to apply the regulatory standards governing bond determinations—particularly the burden of proof and the requirement for individualized, evidence-based findings—renders the decision *ultra vires* and unlawful.

95. The IJ's decision is also inconsistent with DHS's own binding standards. Under the DACA framework, DHS may not renew deferred action unless it determines the individual “does not pose a threat to public safety.” 8 C.F.R. § 236.22(b). Because DHS renewed Petitioner's DACA after reviewing this same incident, the IJ's contrary finding of dangerousness is in direct conflict with DHS policy and violates the principles articulated in *Accardi*, 347 U.S. at 267–68, which require agencies to follow their own rules and determinations.

96. Even if § 1226(a) is viewed as conferring discretion, that discretion must be exercised rationally and within legal limits. See *Judulang v. Holder*, 565 U.S. 42, 53 (2011) (agency decisions must be based on “reasoned decision-making”). The IJ's failure to consider relevant

statutory factors and reliance on a legally impermissible rationale constitute an abuse of discretion and a violation of the INA.

97. The statutory and regulatory framework governing § 1226(a) detention reflects Congress's intent to authorize detention only when necessary to prevent flight or protect the community. The availability of bond under § 1226(a) presumes that many individuals will be eligible for release. Detaining a person with no criminal history, no flight risk, and no evidence of danger—based solely on a lawful, non-criminal incident—is inconsistent with that intent.

98. Courts have granted habeas relief in similar cases where immigration judges failed to apply the correct legal standard or ignored critical evidence. See *Pensamiento v. McDonald*, 315 F. Supp. 3d 684, 692–93 (D. Mass. 2018) (granting habeas where IJ relied on speculation and failed to consider mitigating evidence); see also *Bonilla*, 2020 WL 2129596, at *5 (S.D. Ga.) (granting habeas where IJ failed to conduct individualized assessment).

99. Petitioner's continued detention is not authorized by § 1226(a) because the statutory and regulatory requirements for detention have not been met. The IJ's decision was ultra vires, contrary to law, and in violation of binding regulations. Accordingly, Petitioner respectfully requests that this Court grant habeas relief and order his immediate release or, in the alternative, a new bond hearing that complies with the INA and its implementing regulations.

COUNT IV: Unlawful Custody in Violation of 28 U.S.C. § 2241 – Custody Not in Compliance with the Constitution or Laws of the United States

100. Petitioner incorporates all preceding sections, including the unified exhaustion analysis. As detailed there, § 2241 imposes no statutory exhaustion requirement in challenges to civil immigration detention, and prudential exhaustion is excused because it would be futile, inadequate,

and incapable of providing the relief sought. Therefore, this Court has habeas jurisdiction over Petitioner's unlawful-custody claim.

101. Federal district courts within the Eleventh Circuit have repeatedly recognized habeas jurisdiction over unlawful-custody determinations in immigration cases, even where the underlying bond decision may appear discretionary. In *Haddam v. Holder*, No. 1:10-cv-20646, 2010 WL 2756700, at 3 (*S.D. Fla. July 12, 2010*), the court held that § 2241 remains available to challenge the legality of detention itself, including whether the government applied the correct legal standards in a custody determination. *Haddam* makes clear that courts retain jurisdiction to review constitutional and statutory claims arising from unlawful detention—even when 8 U.S.C. § 1226(e) limits review of purely discretionary aspects of bond decisions.

102. Moreover, the IJ's reliance on an improper legal standard infects the entire custody determination, rendering the resulting detention unlawful in its entirety. When an IJ misallocates the burden of proof, relies on impermissible factors, or disregards mandatory evidence, the resulting detention is not a product of lawful discretion but of legal error. Such defects undermine the integrity of the bond proceeding from start to finish, and federal courts have consistently held that detention based on a procedurally or legally defective custody decision violates § 2241. Because the IJ's decision here was grounded in a misapplication of law and unsupported dangerousness findings, none of the consequences flowing from that decision—including Petitioner's continued detention—can be sustained.

103. Petitioner's continued detention is unlawful and remediable under 28 U.S.C. § 2241 because it violates the Constitution and laws of the United States. Federal courts have long recognized that habeas corpus is available to noncitizens in civil immigration detention to challenge the legality of their confinement. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–41

(2018); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 530 (2003) (Kennedy, J., concurring). Under § 2241, a petitioner is entitled to relief if their detention is “in violation of the Constitution or laws or treaties of the United States.”

104. Even when initial detention is statutorily authorized, federal courts have a continuing obligation to ensure that confinement remains lawful. Civil immigration detention becomes unlawful when:

- it is based on an improper legal standard;
- it relies on non-probative or impermissible factors;
- it bears no reasonable relation to its regulatory purpose; or
- the government fails to justify it with evidence.

See *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 530 (Kennedy, J., concurring); *Accardi v. Shaughnessy*, 347 U.S. 260, 267–68 (1954).

105. Here, Petitioner’s detention is unlawful for all of these reasons. The Immigration Judge denied bond based solely on a legally erroneous and factually unsupported finding of dangerousness. The IJ relied on a single incident involving Petitioner’s presence during a firearm inquiry—an incident that was non-criminal, resulted in no charges, and was not deemed disqualifying by DHS. The IJ failed to consider Petitioner’s lack of criminal history, strong family and community ties, and record of compliance with immigration requirements. The government presented no evidence of flight risk, and the IJ made no such finding.

106. The IJ’s decision also conflicts with DHS’s own discretionary determination. After reviewing the same incident, USCIS issued a Notice of Intent to Terminate Petitioner’s DACA but ultimately took no action. Petitioner’s DACA remains valid, and his employment authorization is active. Under 8 C.F.R. § 236.22(b), DACA may only be granted or renewed if DHS determines

512, 515 (5th Cir. 2017); *United States v. Lopez*, 929 F.3d 783, 786–87 (6th Cir. 2019), the facts here do not support a violation. Petitioner did not possess or receive a firearm, nor did he knowingly attempt to do so. The background check was initiated without his consent, and no firearm was transferred. As such, even under the government’s interpretation of § 922(g)(5)(A), the incident does not constitute a violation. Moreover, the absence of any criminal or immigration enforcement action following the incident confirms that it was not viewed as unlawful by relevant authorities.

84. The arbitrary nature of Petitioner’s detention is further highlighted by DHS’s own actions. DHS reviewed the same facts and nevertheless renewed Petitioner’s DACA, which it may do only if the applicant poses no threat to public safety. See 8 C.F.R. § 236.22(b). The IJ’s finding of dangerousness therefore contradicts DHS’s binding public-safety criteria and stands as an internally inconsistent and irrational application of detention authority.

85. Substantive due process prohibits the government from detaining individuals based on lawful, innocuous conduct. Detaining a person solely because of a misunderstanding—especially when the government’s own agencies have determined the person poses no threat—bears no reasonable relationship to the purposes of § 1226(a). See *Wilks v. U.S. Dep’t of Homeland Sec.*, No. 5:19-cv-00255, 2019 WL 6311380, at *5 (M.D. Ga. Nov. 25, 2019) (granting habeas where prolonged detention was not justified by danger or flight risk); *Bonilla v. U.S. Dep’t of Homeland Sec.*, No. 1:20-cv-00031, 2020 WL 2129596, at *5 (S.D. Ga. May 5, 2020) (same).

86. The result is that Petitioner remains in civil confinement based on a legally erroneous and factually unsupported finding of dangerousness. This is not regulatory detention—it is punitive in effect. Substantive due process forbids such arbitrary and excessive deprivations of liberty. See

that the applicant poses no threat to public safety. The continued validity of Petitioner's DACA status confirms that DHS does not view him as dangerous. The IJ's contrary finding is therefore not only unsupported by evidence but also inconsistent with the agency's own policies and determinations.

107. As of the filing of this petition in January 2026, Petitioner has been detained since late 2025. His next master calendar hearing is scheduled for January 16, 2026. If this case is not resolved promptly, Petitioner's detention will become prolonged. Courts have recognized that even initially lawful detention may become unconstitutional when it is extended without adequate justification. See *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1217 (11th Cir. 2016), vacated on other grounds, 890 F.3d 952 (11th Cir. 2018) (noting that prolonged detention without individualized findings may violate due process); see also *Wilks*, 2019 WL 6311380, at *5 (M.D. Ga.) (granting habeas where detention was not supported by evidence of danger or flight risk).

108. Petitioner's detention is not reasonably related to the purposes of § 1226(a). It does not serve to protect the community—DHS has already determined that Petitioner poses no threat—and it is not necessary to ensure Petitioner's appearance at future proceedings. Continued confinement under these circumstances is punitive, arbitrary, and unlawful.

109. Accordingly, Petitioner's detention is unlawful under 28 U.S.C. § 2241 because it violates the Constitution and laws of the United States. Petitioner respectfully requests that this Court grant habeas relief and order his immediate release or, in the alternative, a new bond hearing that complies with constitutional and statutory requirements.

Claim Five: Failure to Provide a Constitutionally Compliant Bond Hearing

110. Petitioner incorporates by reference all preceding sections, including the section titled **“EXHAUSTION OF ADMINISTRATIVE REMEDIES IS NOT REQUIRED AND**

WOULD BE FUTILE.” Because the BIA cannot provide an adequate remedy for the fundamental due process defects in Petitioner’s bond hearing, and because further administrative proceedings would prolong unlawful detention without the possibility of relief, exhaustion is unnecessary and futile.

111. Petitioner’s continued detention is unlawful because he has never received a bond hearing that satisfies the minimum constitutional requirements under the Due Process Clause of the Fifth Amendment. Courts across multiple circuits have held that a constitutionally adequate bond hearing must include:

- Placement of the burden of proof on the government;
- A requirement that the government establish danger or flight risk by clear and convincing evidence;
- Consideration of the detainee’s ability to pay and less restrictive alternatives to detention; and
- A decision grounded in reliable, individualized, and legally permissible evidence. See *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011); *Hernandez v. Sessions*, 872 F.3d 976, 990–91 (9th Cir. 2017); *Santos v. Warden*, 965 F.3d 203, 214–16 (3d Cir. 2020); *Pensamiento v. McDonald*, 315 F. Supp. 3d 684, 692–93 (D. Mass. 2018); see also ICE Performance-Based National Detention Standards (PBNDS) 2011, § 5.1; EOIR Operating Policies and Procedures Memorandum 17-01 (Dec. 20, 2016).

112. The Immigration Judge (“IJ”) failed to meet each of these constitutional requirements:

- First, the IJ misallocated the burden of proof, effectively requiring Petitioner to prove he was not dangerous rather than requiring the government to prove that he was.

- Second, the government presented no evidence—let alone clear and convincing evidence—of dangerousness or flight risk.
- Third, the IJ failed to consider Petitioner’s ability to pay or whether less restrictive alternatives to detention (such as release on recognizance, supervision, or electronic monitoring) could mitigate any perceived risk.
- Fourth, the IJ relied exclusively on a single, lawful, non-criminal incident involving Petitioner’s presence during a firearm inquiry—an incident that was not prosecuted, did not result in arrest, and was not deemed disqualifying by DHS, which subsequently renewed Petitioner’s DACA status.

113. Because the bond hearing failed to meet these constitutional benchmarks, it cannot be considered legally adequate. Even assuming *arguendo* that a bond hearing occurred, it did not satisfy the requirements of due process. The IJ’s decision was not based on individualized findings, did not weigh the full range of relevant factors, and did not provide Petitioner with a meaningful opportunity to secure release.

114. Petitioner’s equities—including his long-term residence in the United States, marriage to a U.S. citizen, pending I-130 petition, consistent DACA renewals, clean criminal record, and strong community ties—were either ignored or improperly discounted. The IJ’s failure to consider these factors, coupled with reliance on a legally impermissible rationale, deprived Petitioner of the process the Constitution requires before depriving a person of physical liberty.

115. Accordingly, Petitioner has never received a constitutionally compliant bond hearing. His continued detention without such a hearing violates the Fifth Amendment and entitles him to habeas relief. Petitioner respectfully requests that this Court order his immediate release or, in the alternative, require a new bond hearing that complies with constitutional standards.

XIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner Mauricio Collazo Romo respectfully prays that this Court grant the following relief:

1. Issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241, finding that Petitioner's continued detention is unlawful under the Constitution, the Immigration and Nationality Act, and governing federal law;
2. Order Petitioner's immediate release from ICE custody pursuant to the Court's habeas authority under 28 U.S.C. § 2241, as federal courts may do where detention is unconstitutional, arbitrary, or based on an erroneous legal standard. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018) (recognizing jurisdiction over constitutional and legal challenges to immigration detention); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (habeas is the proper mechanism to order release from unlawful immigration detention); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003). Where an Immigration Judge's custody decision is infected by legal error or reliance on impermissible factors, district courts may order the detainee's release rather than remand the matter for further proceedings. See *Haddam v. Holder*, 2010 WL 2756700, at 3 (*S.D. Fla. July 12, 2010*); *Wilks v. DHS*, 2019 WL 6311380 (M.D. Ga. Nov. 25, 2019); *Bonilla v. DHS*, 2020 WL 2129596 (S.D. Ga. May 5, 2020). Because Petitioner's detention rests entirely on a constitutionally defective and legally unsustainable bond determination, immediate release is warranted.
3. Adjudge and declare that the prior bond determination issued by the Immigration Judge is void as contrary to law, constitutionally deficient, and entered in violation of

the statutory and regulatory framework governing custody determinations under 8 U.S.C. § 1226(a); and enjoin Respondents from relying on or giving effect to that defective custody order in any present or future detention **decision**.

4. Alternatively, order Respondents to provide Petitioner with a new, constitutionally adequate bond hearing before a neutral adjudicator within a strictly limited timeframe, at which:
 - The government bears the burden of proving, by clear and convincing evidence, that Petitioner poses a danger to the community or a flight risk;
 - Only lawful, reliable, and individualized evidence may be used to evaluate dangerousness or risk of flight;
 - The adjudicator must consider all relevant mitigating evidence, including Petitioner's ongoing DACA status, strong community ties, and lack of criminal history;
5. Enjoin Respondents from continuing to detain Petitioner based on the prior unlawful bond determination;
6. Award any further relief that law and justice require, including but not limited to declaratory relief or such other equitable remedies as are necessary to effectuate Petitioner's constitutional and statutory rights.

Respectfully submitted this 22nd day of January, 2026.



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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

This 22nd day of January, 2026.



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