UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

Edwin Jacob IXCHOP-AJTUN, Petitioner, v. 1. Kristi NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; 2. Pamela BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; 3. Robert CERNA, Field Office Director of Enforcement and Removal Operations, ICE Dallas Field Office, Immigration and Customs Enforcement; 4. Scarlett GRANT, Warden of Cimarron Correctional Facility, Respondents.	Case No.

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

PRELIMINARY STATEMENT

1. This case challenges the unlawful re-detention of an asylum seeker who was previously paroled into the United States pursuant to INA § 212(d)(5) after establishing a credible fear of persecution or torture and who fully complied with all conditions of release for more than a decade.

2. Petitioner was apprehended at or near the border on or about February 20, 2015, placed into expedited removal proceedings, established a credible fear of persecution or torture, and was thereafter released by Immigration and Customs Enforcement ("ICE") on or about March 10, 2015, pursuant to INA § 212(d)(5) parole. At that time, ICE issued Petitioner a Notice to Appear and placed him into removal proceedings under INA § 240 (8 U.S.C. § 1229a).

3. For more than ten years, Petitioner complied with every condition imposed by the Department of Homeland Security ("DHS") and the Immigration Court. He appeared at all scheduled hearings, has no criminal history, maintained lawful employment authorization, obtained a valid driver's license, and never absconded, violated release conditions, or posed any danger to the community.

4. Despite this extraordinary compliance history, Petitioner was taken into ICE custody on October 27, 2025—not because of any violation, criminal conduct, or changed circumstance—but solely because he responded

to a request from ICE to retrieve his employer's work truck after ICE apprehended several undocumented co-workers during a traffic stop. Petitioner was contacted precisely because he possessed a valid driver's license and a valid employment authorization document.

5. ICE's decision to revoke Petitioner's parole and re-detain him—without any individualized custody determination, bond hearing, or changed factual basis—violates the Immigration and Nationality Act ("INA"), governing regulations, the Administrative Procedure Act ("APA"), and the Due Process Clause of the Fifth Amendment.

INTRODUCTION

3. Petitioner Edwin Jacob Ixchop Ajtun is in the physical custody of Respondents at the Cimarron Correctional Facility in Cushing, Oklahoma, pursuant to an unlawful assertion of mandatory detention authority that expired more than a decade ago.

4. Petitioner is charged in removal proceedings under INA § 212(a)(7)(A)(i)(I) as an applicant for admission allegedly lacking valid immigrant entry documents.

5. The Notice to Appear simultaneously alleges that Petitioner is "an alien present in the United States who has not been admitted or paroled," despite DHS having released Petitioner from expedited removal custody in

2015—an internal inconsistency that underscores the unlawfulness of DHS's detention theory.

6. Petitioner was apprehended at the border in 2015, placed in expedited removal proceedings, established a credible fear of persecution or torture, and was thereafter released into the United States and placed into removal proceedings under INA § 240. As a matter of law, that release could only have occurred pursuant to parole under INA § 212(d)(5). DHS has never alleged otherwise.

7. Having released Petitioner from border custody in 2015, DHS extinguished any detention authority under INA § 235(b). For more than ten years, Petitioner lived openly in the United States, complied with every condition imposed by DHS and the Immigration Court, maintained lawful employment authorization, and posed no flight risk or danger.

8. Despite this extraordinary compliance history—and without alleging any violation, criminal conduct, or changed circumstance—DHS re-detained Petitioner in October 2025 and now claims he is subject to mandatory detention as an "applicant for admission." That position is legally indefensible. DHS cannot resurrect border detention authority a decade after granting parole and releasing Petitioner into § 240 proceedings.

9. Petitioner's detention is governed exclusively by INA § 236(a), which requires an individualized custody determination and provides for

release on bond. DHS's refusal to provide such a hearing violates the Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment.

JURISDICTION

10. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Cimarron Correctional Facility in Cushing, Oklahoma.

11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

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

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

claims occurred in the United States District Court for Western District of Oklahoma.

REQUIREMENTS OF 28 U.S.C. § 2243

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

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

PARTIES

17. Petitioner, Edwin Jacob Ixchop Ajtun, is an asylum seeker currently in removal proceedings under INA § 240 (8 U.S.C. § 1229a) and detained by Immigration and Customs Enforcement at the Cimarron Correctional Facility in Cushing, Oklahoma.

18. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

19. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

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

21. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

22. Respondent Robert Cerna is the Acting Field Office Director of the Dallas Field Office of ICE's Enforcement and Removal Operations division. As such, Acting Field Office Director Robert Cerna is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

23. Respondent Scarlett Grant is employed by Core Civic as Warden of the Cimarron Correctional Facility, where Petitioner is detained. She has immediate physical custody of Petitioner. She is sued in her official capacity.

LEGAL FRAMEWORK

24. Immigration detention is civil, not punitive, and may be imposed only when justified by individualized findings of flight risk or danger. *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001).

25. Detention of noncitizens in standard removal proceedings is governed by 8 U.S.C. § 1226(a), which authorizes release on bond or conditional parole following an individualized custody determination.

26. Once DHS grants release under § 1226(a), that release may be revoked only where the facts and circumstances warrant revocation, and only through authorized officials exercising individualized discretion. 8 U.S.C. § 1226(b); 8 C.F.R. § 1236.1(c)(9).

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

28. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who

have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

29. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

30. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

31. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

32. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

33. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal

of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

34. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

35. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

36. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of

[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

37. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. Even if *Matter of Yajure Hurtado* were correctly decided—which Petitioner does not concede—it has no application here. That decision concerns individuals who were never released from border custody. Petitioner, by contrast, was affirmatively released into the United States in 2015 after establishing credible fear and placed into § 240 proceedings. DHS cannot retroactively reclassify a long-paroled individual as continuously subject to § 235(b) detention.

38. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

39. Even in cases involving noncitizens who were never paroled and whose entry occurred without inspection, courts have rejected ICE's attempt to apply INA § 1225(b)(2) to individuals apprehended in the interior and residing in the United States. For example, before ICE or the BIA introduced

their nationwide policies, immigration judges in the Tacoma, Washington immigration court ceased providing bond hearings based on § 1225(b) for such individuals. The U.S. District Court for the Western District of Washington held that this reading of the INA was likely unlawful and that **§ 1226(a), not § 1225(b), governs detention of noncitizens who are not apprehended upon arrival.** *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

40. Petitioner's case presents an even stronger posture, because DHS affirmatively released him from expedited removal custody pursuant to INA § 212(d)(5), thereby extinguishing any detention authority under § 235(b). Nevertheless, court after court has adopted the same reading of the INA's detention framework and rejected ICE's and EOIR's new interpretation, including decisions from our sister courts in the Tenth Circuit. *See, Garcia Cortes v. Noem,* No, 1:25-cv-02677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Salazar v. Dedos,* No. 1:25-cv-00835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Gamez Lira v. Noem,* No. 1:25-cv-00855 (D.N.M. Sept. 24, 2025); *Garcia Domingo v. Castro*, 2025 WL 2941217 (D.N.M. Oct. 15, 2025); *Mendoza Gutierrez v. Baltasar*, 2025 WL 2962908 (D. Colo. Oct. 17, 2025); *Moya Pineda v. Baltasar*, No. 1:25-cv-2966 (D. Colo. Oct. 20, 2025); *Loa Caballero v. Baltazar*, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *Hernandez Vazquez v. Baltasar*, 1:25-cv-3049 (D. Colo. Oct. 23, 2025); and *Nava Hernandez v. Baltazar*, 2025 WL 2996643 (D. Colo. Oct. 24, 2025). Other District Courts across the country

have also rejected ICE's erroneous interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025

WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g.*, *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

41. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), governs detention of noncitizens who are not apprehended upon arrival and who are residing in the United States—a category that necessarily includes individuals, like Petitioner, who were affirmatively released from expedited removal custody.

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

43. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

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

45. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

46. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who were affirmatively released from expedited removal custody pursuant to INA § 212(d)(5), had any § 235(b) authority extinguished as a matter of law, and were residing in the United States at the time of re-apprehension.

FACTS

47. Petitioner was apprehended at or near the border on or about February 20, 2015 and placed into expedited removal proceedings.

48. Following apprehension by immigration authorities, Petitioner expressed a fear of return and established a credible fear of persecution or torture.

49. On or about March 10, 2015, DHS exercised its discretionary authority to parole Petitioner into the United States pursuant to INA § 212(d)(5) and issued Petitioner a Notice to Appear, placing him into removal proceedings under INA § 240 (8 U.S.C. § 1229a).

50. Since his release on parole, Petitioner has resided continuously in Oklahoma City, Oklahoma, and has complied with every condition imposed by DHS and the Immigration Court.

51. Petitioner has been married since 2014, has worked for the same employer since 2020, and is a stable, long-term member of the Oklahoma City community.

52. Petitioner has never been arrested, charged with, or convicted of any crime, has no prior immigration violations, has consistently filed his federal tax returns each year, and has maintained valid employment authorization and a valid Oklahoma driver's license.

53. On October 27, 2025, ICE apprehended several of Petitioner's coworkers during a traffic stop. ICE agents contacted Petitioner and requested that he retrieve his employer's work truck because he was the only employee with a valid driver's license and work permit.

54. When Petitioner arrived in response to ICE's request, ICE agents arrested him and placed him into immigration detention.

55. ICE did not allege any violation of parole conditions, any criminal conduct, or any change in circumstances that would justify revocation of Petitioner's parole or re-detention.

56. Petitioner remains detained without a bond hearing, custody redetermination, or any individualized finding that he poses a flight risk or danger to the community.

NO CHANGED CIRCUMSTANCES – UNLAWFUL REVOCATION OF PAROLE

57. DHS's decision to revoke Petitioner's parole and re-detain him rests entirely on a change in agency policy—not on any change in Petitioner's conduct, circumstances, or risk profile.

58. Respondents' decision to revoke Petitioner's parole and re-detain him was not based on any change in facts or circumstances since DHS granted parole and released him from custody on or about March 10, 2015. To the contrary, Petitioner's circumstances over the ensuing decade overwhelmingly confirm the correctness of DHS's original custody determination: Petitioner appeared at all required hearings, maintained continuous residence in Oklahoma City, remained steadily employed, obtained and renewed employment authorization and a valid driver's license, filed his tax returns annually, and was never arrested, charged, or accused of any criminal or immigration violation.

59. The absence of any changed circumstances renders Respondents' actions unlawful under the Immigration and Nationality Act, governing regulations, and the Administrative Procedure Act. Under 8 U.S.C. § 1226(b) and 8 C.F.R. § 1236.1(c)(9), DHS may revoke parole or conditional release only where the facts and circumstances warrant such revocation, following an individualized exercise of discretion by an authorized official. Here, Respondents identified no new facts, no alleged violations, and no individualized risk assessment to justify re-detention. Instead, Petitioner was arrested solely due to his proximity to an enforcement action against others—an impermissible and arbitrary basis for revoking parole. Agency action taken without consideration of relevant factors, and without any rational connection

between the facts found and the choice made, is arbitrary and capricious and must be set aside under 5 U.S.C. § 706(2)(A).

CLAIMS FOR RELIEF

COUNT I

Violation of the Immigration and Nationality Act

A. § 235(b) Authority Was Extinguished Upon Parole

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

61. Once DHS released Petitioner from expedited removal custody and placed him into § 240 proceedings, detention authority under § 235(b) was extinguished as a matter of law. From that point forward, any detention or release authority could arise only under INA § 236(a). Section 235 governs inspection and detention at the border. It does not authorize DHS to re-detain a person years later after parole, release, and long-term residence in the interior. Allowing DHS to resurrect § 235(b) authority a decade later would render parole meaningless and convert temporary border detention into indefinite civil confinement without statutory authorization.

62. Respondents' detention of Petitioner is governed by 8 U.S.C. § 1226(a), which requires an individualized custody determination and permits release on bond or conditional parole.

63. Petitioner was previously released under § 1226(a) and complied with all conditions for more than ten years.

64. Respondents lacked statutory authority to revoke Petitioner's release absent changed facts or circumstances warranting re-detention.

65. Continued detention without a bond hearing violates the INA and implementing regulations.

COUNT II

Violation of the Administrative Procedures Act 5 U.S.C. § 706(2)(A)

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

67. Respondents' actions are arbitrary, capricious, and an abuse of discretion.

68. ICE failed to consider Petitioner's individualized circumstances and extraordinary compliance history.

69. A change in agency policy, standing alone, does not constitute a change in 'facts or circumstances' sufficient to justify revocation of parole under 8 U.S.C. § 1226(b) or 8 C.F.R. § 1236.1(c)(9).

70. The categorical re-detention of Petitioner, without explanation or lawful authority, is not in accordance with law and exceeds statutory authority.

COUNT III

Violation of the Fifth Amendment – Due Process

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

72. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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

74. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

75. The government will likely attempt to argue that this Fifth Amendment claim is premature because the detention time period has not yet reached six months. However, *Zadvydas*'s six-month benchmark applies to post-order removal detention under § 1231, not pre-removal custody under § 1225 or § 1226. Pre-removal detention implicates distinct liberty interests (*Demore*, 538 U.S. at 530–31). Further, this claim isn't about length alone but the absence of any individualized bond hearing—a procedural due-process violation that exists from day one, as recognized in *Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015), and numerous district-court rulings post-*Jennings*.

"Mandatory" detention cannot mean indefinite detention without neutral review, particularly for a long-term resident with U.S. ties. If the government cannot clearly articulate the exact date and time at which Petitioner will be released from detention, the detention is indefinite and in violation of Petitioner's due process rights.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Western District of Oklahoma while this habeas petition is pending;

c. Order that Respondent produce all documents related to Petitioner's detention, including but not limited to, the I-213 - Record of Deportable/Inadmissible Alien, Form I-862 - Notice to Appear (NTA), I-200 – Warrant for Arrest of Alien, and I-286 – Notice of Custody Determination;

d. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three (3) days;

e. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven (7) days;

f. Declare that Petitioner's detention is unlawful;

g. Order that Respondents are enjoined from re-detaining Petitioner under INA § 235(b);

h. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

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

DATED this 26th of January, 2026.

Respectfully submitted,

/s/ Michelle L. Edstrom
Michelle L. Edstrom, OBA #22555
Edstrom Law Center
1708 N. Broadway Ave.
Oklahoma City, OK 73103
T: 405.401.1213
medstrom@edstromlaw.com
Attorney for Petitioner

VERIFICATION OF COUNSEL

I, Michelle L. Edstrom, hereby certify that I am familiar with the case of the named Petitioner and that the facts as stated above are true and correct to the best of my knowledge and belief.

/s/ Michelle L. Edstrom
Michelle L. Edstrom, OBA #22555

CERTIFICATE OF SERVICE

This is to certify that on January 21, 2026, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a notice of electronic filing to counsel of record. In addition, the document was emailed to the U.S. Attorney's Office to attorneys assigned to the civil division and appellate division.

/s/ Michelle L. Edstrom
Michelle L. Edstrom, OBA #22555