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6 **UNITED STATES DISTRICT COURT**
7 **FOR THE WESTERN DISTRICT OF OKLAHOMA**
8 **OKLAHOMA CITY DIVISION**

9 Kairat Kudusov

10 Petitioner

11 v.

12 Scarlet Grant, WARDEN OF THE
13 CIMARRON CORRECTIONAL
14 FACILITY; Joshua Johnson,
15 DIRECTOR, ICE DALLAS FIELD
16 OFFICE; Todd M. Lyons, ACTING
17 DIRECTOR, IMMIGRATION AND
18 CUSTOMS ENFORCEMENT, Kristi
19 Noem, SECRETARY OF THE
20 DEPARTMENT OF HOMELAND
21 SECURITY; Pam Bondi,
22 ATTORNEY GENERAL OF THE
23 UNITED STATES

24 Respondents.

CASE NO.

Honorable Judge:

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

Petitioner Kairat Kudusov ("Petitioner"), by and through undersigned counsel, hereby challenges his unlawful detention based on a legal fiction. Petitioner is not an individual seeking admission at the border today; he is an individual who was inspected and

1 paroled into the United States for a period of one year on March [REDACTED] 2023. Yet,
2 Respondents have detained him under 8 U.S.C. § 1225(b) as if he were an "arriving
3 alien," ignoring his established residence in California and his compliance with the
4 terms of his parole.

5 **I. INTRODUCTION**

- 6 1. Petitioner Kairat Kudusov sought safety in the United States through lawful channels
7 rather than evading detection. On March [REDACTED] 2023, he presented himself for inspection
8 at the port of entry pursuant to a scheduled CBP One humanitarian parole appointment.
9 2. Upon arrival, Petitioner was inspected by U.S. Customs and Border Protection and
10 lawfully paroled into the United States under INA § 212(d)(5), with a Form I-94
11 authorizing his stay through March [REDACTED] 2024.
12 3. Since his lawful entry, Petitioner has established significant ties to the United States.
13 Until his detention, he obtained employment authorization, lawfully worked, and paid
14 taxes, demonstrating his compliance with U.S. law and his integration into the
15 community.
16 4. Petitioner diligently complied with all legal requirements while awaiting his day in
17 court. On [REDACTED] 2024, he timely filed [REDACTED] with the
18 Immigration Court and was granted employment authorization. With a valid work
19 permit, he obtained a commercial driver's license and worked lawfully as a truck
20 driver, paid taxes, and maintained a fixed residence in California.
21 5. Petitioner's removal proceedings were properly docketed with the San Francisco
22 Immigration Court under EOIR Case No. [REDACTED]. He appeared as required at his
23 Master Calendar Hearing on October 10, 2024. At that hearing, the Immigration Court
24

1 confirmed that Petitioner had complied with all court orders and had submitted the
2 required documentation, and the Court therefore scheduled his Individual Hearing for
3 November [REDACTED] 2026. Petitioner has no history of failing to appear [REDACTED]
4 [REDACTED] before the Immigration Judge.

5 6. Despite his full compliance with all court requirements and while he was lawfully
6 residing and working in the community pending his Individual Hearing, Petitioner was
7 prevented from continuing his lawful life in the community. On November [REDACTED] 2025,
8 Petitioner was detained by ICE while working as a truck driver. During a routine
9 regulatory inspection while operating a commercial truck in the course of his
10 employment, he was taken into custody. This arrest occurred in the interior of the
11 United States, hundreds of miles from the border, yet Respondents have detained him
12 as if he were an “arriving alien.”

13 7. Following his arrest, Petitioner was transported across state lines, removed from his
14 community in the San Francisco area, and ultimately transferred to the Cimarron
15 Correctional Facility in Oklahoma. Consequently, venue for his removal proceedings
16 was transferred to the Aurora Immigration Court. It is further evident that jurisdiction
17 was subsequently transferred to the Cushing Immigration Court, as Petitioner received
18 a Notice from that court dated January [REDACTED] 2026.

19 8. As a result of these transfers and the resulting procedural confusion, Petitioner is not
20 currently scheduled for an Individual Hearing before the San Francisco Immigration
21 Court. After venue was transferred, the Aurora Immigration Court scheduled an
22 Individual Calendar Hearing for February [REDACTED] 2026. On January [REDACTED] 2026, however,
23 Petitioner was informed that the hearing had been cancelled. He therefore remains

24 detained without bond and without any presently scheduled hearing at which his

1 custody  may be adjudicated.

2 9. The basis for this continued detention is a misapplication of the statute. Although
3 Petitioner was inspected, paroled, and released into the interior years ago, ICE is
4 detaining him under 8 U.S.C. § 1225(b). By classifying a resident paroled noncitizen
5 as an "applicant for admission" seeking entry at the border, Respondents have
6 categorically denied him the opportunity for a bond hearing. This detention does not
7 stem from a border encounter; it stems from the arrest of an individual living and
8 working in the United States while awaiting his scheduled day in court.

9 10. Respondents' invocation of 8 U.S.C. § 1225(b) rests on a fundamental legal error. That
10 statute is textually and structurally limited to noncitizens seeking admission at the
11 border or apprehended immediately upon entry. It does not grant DHS the authority to
12 reach into the interior of the country and retroactively apply mandatory detention to an
13 individual who was inspected, paroled, and released years earlier. Petitioner's arrest
14 did not occur at the border; it occurred in the heart of the United States, while he was
15 residing and working lawfully. By treating a long-time resident parolee as an "arriving
16 alien" standing at the threshold of entry, Respondents are relying on a legal fiction to
17 deny Petitioner his statutory right to a bond hearing.

18 11. In *Matter of Q. Li*, 28 I. & N. Dec. 396 (BIA 2022), the Board of Immigration Appeals
19 held that Immigration Judges lack bond jurisdiction where the Department of
20 Homeland Security classifies a noncitizen's detention as arising under 8 U.S.C. §
21 1225(b). Nothing in *Matter of Q. Li* purports to resolve whether § 1225(b) lawfully
22 applies to noncitizens who were inspected, paroled into the United States, released into
23 the interior, and later arrested by ICE. Nevertheless, as applied in practice, *Matter of*

24 *Q. Li* has resulted in Immigration Judges declining to exercise bond jurisdiction once

1 DHS invokes § 1225(b), without adjudicating whether that detention provision
2 properly governs the circumstances of such interior arrests. As a result, the application
3 of Matter of Q. Li in this context operates to foreclose any meaningful administrative
4 forum for Petitioner to challenge the statutory basis of his detention.

5 12. Respondents' new legal interpretation is plainly contrary to the statutory framework
6 and contrary to decades of agency practice of instead applying 8 U.S.C. 1226(a), which
7 allows for release on conditional parole or allows for an IJ to consider bond requests
8 or make bond redeterminations.

9 13. Because Petitioner was paroled into the United States and was awaiting immigration
10 court proceedings at the time of his arrest, his detention is governed, if at all, by 8
11 U.S.C. § 1226(a), which authorizes release on bond or conditional parole and requires
12 an individualized custody determination. ICE's refusal to provide such process violates
13 the Immigration and Nationality Act and the Due Process Clause of the Fifth
14 Amendment.

15 14. Petitioner has not been afforded an individualized custody determination or the
16 opportunity to seek release on bond. Because DHS's asserted detention framework
17 forecloses bond jurisdiction as a matter of nationwide administrative practice,
18 Petitioner lacks any meaningful administrative forum in which to challenge the legality
19 of his detention.

20 15. Petitioner respectfully requests that this Court find his detention unlawful under 8
21 U.S.C. § 1225(b) and order his release, or in the alternative, direct that he be placed
22 into standard removal proceedings under 8 U.S.C. § 1229a, consistent with the due
23 process principles established in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Landon*
24 *v. Plasencia*, 459 U.S. 21 (1982), and require that Petitioner be released unless
PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR RELEASE FROM DETENTION - 5

1 Respondents provide Petitioner an immigration bond hearing under 8 U.S.C. 1226(a)
2 within seven days.

3 **II. PARTIES**

4 16. Petitioner is a native and citizen of [REDACTED] who resided at [REDACTED]
5 [REDACTED] prior to his detention. He was issued a Form I-94
6 documenting his grant of parole and authorizing his presence in the United States for a
7 period of one year, from March [REDACTED] 2023 through March [REDACTED] 2024.

8 17. Respondents are the federal officials responsible for Petitioner's custody and the
9 enforcement of the immigration detention laws, including: Scarlet Grant, Warden of
10 the Cimarron Correctional Facility; Joshua Johnson, Dallas Field Office Director; Todd
11 M. Lyons, Acting Director of U.S. Immigration and Customs Enforcement; Kristi
12 Noem, Secretary of the Department of Homeland Security; and Pam Bondi, Attorney
13 General of the United States.

14 **III. JURISDICTION**

15
16 18. This Court has jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, which
17 authorizes federal courts to grant habeas relief to individuals who are "in custody in
18 violation of the Constitution or laws or treaties of the United States."

19 19. Petitioner is currently detained within this District at 3200 S Kings Hwy, Cushing, OK
20 74023, and therefore, jurisdiction is proper in this Court. See *Rumsfeld v. Padilla*, 542
21 U.S. 426, 443 (2004) (a habeas petition must be filed in the district of confinement and
22 name the immediate custodian).

23 20. This action arises under the Constitution of the United States and the Immigration and
24 Nationality Act (INA), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration
PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR RELEASE FROM DETENTION - 6

Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No 104-208, 110 Stat. 1570. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition, and under 28 U.S.C. § 1331 because this action arises under federal law, including the INA, 8 U.S.C. § 1101, et seq., and the Administrative Procedure Act, 5 U.S.C. § 551, et seq. In sum, this Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

21. 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.

22. Congress has stripped district courts of habeas jurisdiction in certain immigration-related contexts, including through provisions such as 8 U.S.C. § 1252. Those jurisdiction-stripping provisions, however, are inapplicable here. Although Congress possesses the authority to limit habeas jurisdiction, that authority is subject to strict construction. See *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 482–83 (1999) (explaining that jurisdiction-stripping provisions should not be read expansively to encompass claims beyond those expressly identified). See also *Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018) (noting that courts have historically declined to apply overly literal readings to broad statutory language when construing the scope of immigration statutes). Because the vast majority of jurisdiction-stripping provisions do not expressly reference challenges to immigration detention, they do not deprive this Court of habeas jurisdiction over Petitioner’s detention-based claims.

23. Consistent with that principle, the Supreme Court has made clear that habeas

PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR RELEASE FROM DETENTION - 7

1 jurisdiction under 28 U.S.C. § 2241 remains available for statutory and constitutional
2 challenges to immigration detention unless Congress has spoken with unmistakable
3 clarity to eliminate such review. See *INS v. St. Cyr*, 533 U.S. 289, 305–14 (2001). The
4 jurisdiction-stripping provisions set forth in 8 U.S.C. § 1252(a)(2) are limited in scope
5 and address discrete categories of review, such as challenges to expedited removal
6 orders or certain forms of discretionary relief. Those provisions do not purport to
7 eliminate habeas jurisdiction over claims challenging the legality of immigration
8 detention itself. Accordingly, where a petitioner challenges the statutory and
9 constitutional basis of his continued detention—rather than the merits of a removal
10 order—§ 1252(a)(2) does not deprive this Court of jurisdiction to entertain a petition
11 for habeas corpus.

12 24. Section 1226(e) limits judicial review of discretionary judgments regarding the
13 detention or release of noncitizens. That provision, however, does not bar habeas
14 review of statutory or constitutional challenges to the legality of detention itself. See
15 *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018) (explaining that § 1226(e) does not
16 preclude challenges to the statutory framework governing detention). Accordingly,
17 where a petitioner contests whether the government is detaining him under a lawful
18 statutory authority, § 1226(e) does not deprive this Court of habeas jurisdiction.

19 25. The inapplicability of 8 U.S.C. § 1226(e) to habeas challenges is confirmed by the
20 statutory history of the INA. Prior to the Supreme Court’s decision in *INS v. St. Cyr*,
21 the INA’s jurisdiction-stripping provisions did not specifically reference habeas
22 corpus. See, e.g., 8 U.S.C. § 1252(a)(2)(A) (no express reference to habeas corpus).
23 The Supreme Court explained that, absent a clear statement from Congress, statutory
24 and constitutional challenges remained cognizable in habeas corpus proceedings. See
PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR RELEASE FROM DETENTION - 8

1 INS v. St. Cyr, 533 U.S. 289, 312–13 (2001).

2 26. At that time, Congress did not amend 8 U.S.C. § 1226(e) to include any reference to
3 habeas corpus, and it has not done so since. Compare, for example, 8 U.S.C. §
4 1252(a)(2)(A) (2005), which expressly references habeas corpus, with 8 U.S.C. §
5 1226(e) (2005) and 8 U.S.C. § 1226(e) (2020), both of which contain no reference to
6 habeas corpus. This statutory contrast supports the conclusion that Congress did not
7 intend § 1226(e) to eliminate habeas review. See also H.R. Rep. No. 109-72, at 175
8 (2005) (explaining that the amendments were designed to eliminate habeas review over
9 challenges to removal orders, while preserving habeas review over challenges to
10 detention independent of removal orders).

11 27. Canons of statutory construction support that conclusion. Courts presume that when
12 Congress amends a statute, the amendment is intended to have meaningful effect. See
13 *Stone v. INS*, 514 U.S. 386, 397 (1995) (citing *Reiter v. Sonotone Corp.*, 442 U.S. 330,
14 339 (1979), and *Moskal v. United States*, 498 U.S. 103, 109–11 (1990)). By contrast,
15 where Congress elects not to amend a statutory provision while amending related
16 provisions, that choice supports the inference that no change was intended.
17 Accordingly, Congress’s decision to leave 8 U.S.C. § 1226(e) unchanged supports the
18 conclusion that habeas corpus jurisdiction over challenges to detention was preserved.

19 28. Furthermore, even if 8 U.S.C. § 1226(e) were construed to apply to petitions for habeas
20 corpus generally, it would not extend to Petitioner’s specific claims. Section 1226(e)
21 limits judicial review only with respect to discretionary judgments regarding detention
22 or release. Administrative agencies lack discretion to act in violation of the
23 Constitution, and constitutional challenges therefore fall outside the scope of
24 discretionary determinations. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018).

PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR RELEASE FROM DETENTION - 9

1 Accordingly, as a matter of statutory interpretation, § 1226(e) does not preclude habeas
2 review of constitutional challenges to the legality of detention.

3 29. Therefore, this Court has jurisdiction to review this habeas petition on behalf of
4 Petitioner.

5 IV. VENUE

6 30. The Western District of Oklahoma has exercised habeas jurisdiction over similar
7 claims challenging statutory detention authority, rejecting arguments that such review
8 is precluded. See *Maldonado v. Noem*, Case No. CIV-25-1379-J (W.D. Okla. Jan. 21,
9 2026)

10 31. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
11 Respondents are employees, officers, and agencies of the United States, and because a
12 substantial part of the events or omissions giving rise to the claims occurred in the
13 Western District of Oklahoma.

14 32. The venue is therefore proper in this District, as the Petitioner is detained here, and the
15 immediate custodian responsible for his detention is located within this District.

17 V. REQUIREMENTS OF 28 U.S.C. § 2243

18 33. The Court must grant the petition for writ of habeas corpus or issue an order to show
19 cause (OSC) to the respondents “forthwith,” unless Petitioner is not entitled to relief.
20 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require
21 Respondents to file a return “within *three days* unless for good cause additional time,
22 not exceeding twenty days, is allowed.” *Id.* (emphasis added).

23 34. Courts have long recognized the significance of the habeas statute in protecting
24 PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR RELEASE FROM DETENTION - 10

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

8 VI. LEGAL FRAMEWORK

9
10 35. The Immigration and Nationality Act (“INA”) prescribes three basic detention
11 frameworks applicable to noncitizens encountered by the Department of Homeland
12 Security during the removal process.

13 36. First, 8 U.S.C. § 1226 governs the detention of noncitizens placed in standard removal
14 proceedings before an Immigration Judge (“IJ”) under 8 U.S.C. § 1229a. Noncitizens
15 detained pursuant to § 1226(a) are entitled to an individualized custody determination,
16 including the opportunity for release on bond or conditional parole. See 8 C.F.R. §§
17 1003.19(a), 1236.1(d). Mandatory detention under § 1226(c) applies only to a narrow
18 category of individuals with specified criminal histories.

19 37. Second, the INA provides for mandatory detention under 8 U.S.C. § 1225(b), which
20 applies exclusively to noncitizens seeking admission at a port of entry or apprehended
21 at or shortly after entry, before they have been admitted or paroled into the United
22 States.

23 38. Third, the INA authorizes detention under 8 U.S.C. § 1231(a) for noncitizens subject
24 to a final order of removal, including individuals in withholding-only proceedings.

1 39. This case concerns the misapplication of § 1225(b) to a noncitizen who was lawfully
2 paroled into the United States, placed into standard removal proceedings, and detained
3 while awaiting adjudication before an Immigration Judge, such that § 1226(a) governs
4 Petitioner's custody.

5 40. Petitioner was inspected and paroled into the United States pursuant to INA § 212(d)(5)
6 through the CBP One humanitarian parole process, and was issued a Form I-94
7 documenting parole. Parole under § 212(d)(5) constitutes lawful authorization to be
8 physically present in the United States pending further proceedings.

9 41. Following his parole, Petitioner was placed into removal proceedings under § 1229a,
10 and jurisdiction vested with the Immigration Court. At the time of his arrest by ICE,
11 Petitioner was awaiting a scheduled Individual Calendar Hearing and had not been
12 ordered removed.

13 42. Noncitizens who have been paroled into the United States and placed into § 1229a
14 removal proceedings are, by statute, governed by the detention framework set forth in
15 § 1226(a). Nothing in the INA authorizes DHS to treat such individuals as subject to
16 mandatory detention under § 1225(b).

17 43. Nevertheless, ICE has recently asserted detention authority inconsistent with the
18 statutory framework by detaining paroled noncitizens as though they were applicants
19 for admission subject to § 1225(b), even when those individuals have long since entered
20 the United States and are residing in the interior pending Immigration Court
21 proceedings.

22 44. That interpretation conflicts with the text, structure, and purpose of the INA. Section
23 1225(b) applies only to individuals "seeking admission" and is premised on inspections
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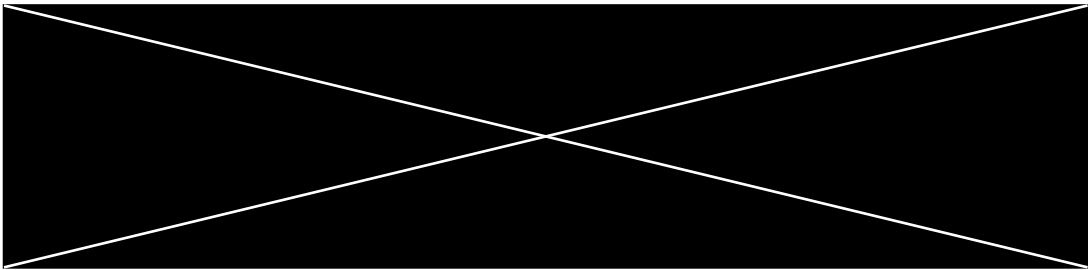
1 conducted at the border or immediately upon entry. See 8 U.S.C. § 1225(b)(2)(A).

2 45. The Supreme Court has confirmed that § 1225(b)'s mandatory detention regime applies
3 at the Nation's borders and ports of entry, where the government determines
4 admissibility in the first instance. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

5 46. By contrast, § 1226(a) applies broadly to noncitizens "pending a decision on whether
6 the alien is to be removed from the United States", including individuals charged as
7 inadmissible and placed into § 1229a proceedings.

8 47. Federal courts have repeatedly held that DHS may not detain paroled noncitizens
9 awaiting Immigration Court proceedings under § 1225(b). Rather, such individuals fall
10 squarely within § 1226(a) and are entitled to an individualized custody determination.
11 See, e.g., *Hyppolite v. Noem* (E.D.N.Y. 2025).

12 48.



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16 49. The same reasoning applies here. Petitioner was paroled into the United States, released
17 into the interior, authorized to work, and placed into standard removal proceedings.
18 ICE therefore lacks statutory authority to detain him under § 1225(b).

19 50. ICE's detention of Petitioner cannot be justified by reference to any independent
20 ground once Petitioner was paroled into the United States and placed into removal
21 proceedings under 8 U.S.C. § 1229a. At that point, and in the absence of any criminal
22 conduct, Petitioner's custody could only be governed by 8 U.S.C. § 1226(a).

23 51. Section 1226(a) requires that detention be discretionary, subject to individualized
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1 review, and accompanied by the opportunity for release on bond or conditional parole.

2 52. ICE's refusal to provide Petitioner with a bond hearing or other individualized custody
3 determination violates the INA, implementing regulations, and the Due Process Clause
4 of the Fifth Amendment.

5 53. Because Petitioner is neither an arriving alien seeking admission nor subject to a final
6 order of removal, his continued detention under any framework other than § 1226(a) is
7 ultra vires.

8 54. Accordingly, Petitioner's detention is not authorized by statute, and habeas relief is
9 warranted.

10 **VII. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11 55. Exhaustion of administrative remedies is not required in this case. 28 U.S.C. § 2241
12 contains no statutory exhaustion requirement, and courts apply only a prudential
13 exhaustion doctrine in immigration habeas matters. See *McCarthy v. Madigan*, 503
14 U.S. 140, 144 (1992) (exhaustion not required where not mandated by statute);
15 *Hernandez v. Gonzales*, 424 F.3d 42, 49 (1st Cir. 2005) (no exhaustion required for
16 challenges to detention authority). Where, as here, a petitioner challenges the statutory
17 and constitutional authority for detention, exhaustion is not required because
18 administrative agencies cannot adjudicate constitutional claims and lack the power to
19 grant habeas relief. See *Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006) (BIA
20 lacks authority to decide constitutional issues).

21 56. Moreover, exhaustion would be futile because neither the IJ nor the Board of
22 Immigration Appeals can review DHS's claim that Petitioner is subject to mandatory
23 detention under 8 U.S.C. § 1225(b), nor can they order release where DHS invokes that
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1 statute. Administrative procedures, therefore, cannot provide the relief sought, release
2 from unlawful detention. See *McCarthy*, 503 U.S. at 146–49 (exhaustion excused
3 where agency remedies are inadequate or would cause irreparable injury).

4 57. The United States District Court for the Western District of Oklahoma has likewise
5 rejected DHS’s attempt to reclassify interior noncitizens as subject to mandatory
6 detention under 8 U.S.C. § 1225(b). In *Rodriguez Hernandez v. Grant*, Case No. CIV-
7 25-1525-SLP (W.D. Okla. Jan. 23, 2026), the court held that DHS had unlawfully
8 applied § 1225(b)(2)(A) to a noncitizen who was already present in the United States
9 and not seeking admission. The court rejected the government’s argument that 8 U.S.C.
10 § 1252(g) stripped it of jurisdiction and concluded that challenges to the statutory basis
11 of detention are properly brought through habeas corpus. The court further held that
12 detention of noncitizens apprehended in the interior is governed by 8 U.S.C. § 1226(a)
13 rather than § 1225(b) and ordered DHS to provide an individualized bond hearing or
14 release the petitioner. Accordingly, § 1225(b) is limited to individuals at the border or
15 seeking admission and cannot be extended to noncitizens who, like Petitioner, have
16 already entered the country and are residing in the interior.

17 58. The government’s reliance on *Matter of Yajure Hurtado* and *Matter of Q. Li* to justify
18 mandatory detention under 8 U.S.C. § 1225(b) is legally unsustainable. As the United
19 States District Court for the Western District of Oklahoma recently held, 8 U.S.C. §
20 1225(b)(2)(A) applies only when a noncitizen “applicant for admission” is actively
21 “seeking admission” into the United States. The court rejected DHS’s attempt to apply
22 § 1225(b) to noncitizens apprehended in the interior, concluding that such individuals
23 fall outside the scope of § 1225(b) and are instead governed by 8 U.S.C. § 1226(a),
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1 which entitles them to an individualized custody determination, including the
2 opportunity for a bond hearing. Because Petitioner was arrested in the interior of the
3 United States after being inspected and paroled and while awaiting Immigration Court
4 proceedings, § 1225(b) does not apply to his detention, and Respondents lack statutory
5 authority to deny him access to a bond hearing.

6 59. Federal courts have recognized that noncitizens who have been inspected and paroled
7 into the United States and who are awaiting adjudication in removal proceedings are
8 not subject to mandatory detention under 8 U.S.C. § 1225(b). In *Castañon-Nava v.*
9 *Department of Homeland Security*, No. 18-cv-3757 (N.D. Ill. Nov. 13, 2025), the
10 district court squarely rejected DHS's position that individuals apprehended in the
11 interior may be subjected to § 1225(b)(2) mandatory detention, holding instead that
12 such individuals fall under the discretionary detention framework of 8 U.S.C. §
13 1226(a). The court emphasized that § 1225(b) is limited to individuals seeking
14 admission at the border or apprehended upon or shortly after entry and does not extend
15 to noncitizens who have already entered the United States and are residing in the
16 interior pending Immigration Court proceedings.

17 60. The court reaffirmed this conclusion days later in denying the government's emergency
18 motion to stay pending appeal. *Castañon-Nava v. DHS*, No. 18-cv-3757 (N.D. Ill. Nov.
19 18, 2025). There, the court again held that DHS lacks authority to detain paroled
20 noncitizens under § 1225(b), explaining that ICE may not arrest an individual under §
21 1226(a) authority and then retroactively "convert" that detention into mandatory
22 detention under § 1225(b)(2). Although the decision is currently on appeal and arises
23 from a different jurisdiction, its reasoning is directly applicable here and provides

1 persuasive authority confirming that paroled noncitizens awaiting Immigration Judge
2 proceedings are governed by § 1226(a) and entitled to an individualized custody
3 determination.

4 61. Courts across multiple jurisdictions have reached the same conclusion as the Northern
5 District of Illinois, holding that 8 U.S.C. § 1225(b) does not authorize mandatory
6 detention of noncitizens who have already entered the United States and are
7 apprehended in the interior while awaiting removal proceedings. In *Rodriguez-*
8 *Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025), the court held that §
9 1226(a), not § 1225(b), governs detention where a noncitizen was not apprehended at
10 the border or immediately upon entry. The court emphasized that § 1225(b) is limited
11 to individuals “seeking admission” and does not extend to those who are already
12 present in the United States pending adjudication before an Immigration Judge.

13 62. Similarly, the District of Massachusetts has repeatedly rejected DHS’s attempt to
14 expand § 1225(b) beyond its statutory limits. In *Gomes v. Hyde*, No. 1:25-cv-11571,
15 2025 WL 1869299, at 6–8 (D. Mass. July 7, 2025), the court held that § 1225(b)(2)
16 applies only at the border or shortly after entry and does not authorize mandatory
17 detention of individuals apprehended in the interior months or years later. The court
18 explained that the phrase “seeking admission” is written in the present tense,
19 confirming that Congress intended § 1225(b) to apply only at the point of entry, not
20 after a noncitizen has been released into the country.

21 63. The court applied the same reasoning in *Martinez v. Hyde*, 792 F. Supp. 3d 211 (D.
22 Mass. July 24, 2025), rejecting DHS’s interpretation of 8 U.S.C. § 1225(b) as overly
23 expansive and inconsistent with the statute’s text, structure, and historical application.

1 The court explained that once a noncitizen is physically present in the United States
2 and placed into removal proceedings under 8 U.S.C. § 1229a, any detention authority
3 must arise under 8 U.S.C. § 1226(a), which requires an individualized custody
4 determination rather than mandatory detention.

5 64. Courts have likewise applied this reasoning to paroled noncitizens. In *Santiago v.*
6 *Noem* (W.D. Tex. 2025), the court held that a noncitizen who had been inspected,
7 paroled, issued a Form I-94, and released into the interior could not be subjected to
8 mandatory detention under § 1225(b). The court reasoned that parole under INA §
9 212(d)(5) removes the individual from the category of persons “seeking admission,”
10 placing them instead within the discretionary detention framework of § 1226(a).

11 65. Taken together, these decisions reflect a growing and consistent consensus among
12 district courts that DHS lacks statutory authority to impose mandatory detention under
13 § 1225(b) on noncitizens who have been paroled into the United States, apprehended
14 in the interior, and are awaiting adjudication before an Immigration Judge. While these
15 decisions arise from different jurisdictions, their reasoning is uniform and directly
16 applicable here, confirming that Petitioner’s detention must be governed by § 1226(a)
17 and accompanied by an individualized custody determination.

18 66. In light of the foregoing authority, further administrative proceedings cannot remedy
19 Petitioner’s unlawful and unconstitutional detention. Immigration Judges lack
20 authority to resolve the purely statutory and constitutional questions presented here,
21 including whether DHS is detaining Petitioner under an inapplicable detention
22 provision. As a practical matter, following the Board of Immigration Appeals’
23 precedential decision in *Matter of Q. Li*, 28 I. & N. Dec. 396 (BIA 2022), Immigration

Judges have routinely concluded that they lack jurisdiction to consider bond requests once DHS asserts detention authority under 8 U.S.C. § 1225(b), even where the noncitizen affirmatively disputes the applicability of that statute as a matter of statutory interpretation. Consequently, bond applications by individuals in Petitioner's posture are denied as a matter of course based solely on DHS's asserted detention framework, without any forum for adjudicating whether § 1225(b) lawfully applies to detention occurring in the interior of the United States after parole and release. Under these circumstances, administrative remedies are not merely inadequate, but functionally unavailable, rendering habeas corpus relief the only viable mechanism to challenge Petitioner's continued detention. Requiring prudential exhaustion would therefore be futile and would serve only to prolong unlawful custody and irreparable harm.

VIII. CLAIMS FOR RELIEF

CLAIM ONE

Detention Violates the Immigration and Nationality Act (INA)

67. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

68. The government is unlawfully detaining Petitioner pursuant to 8 U.S.C. § 1225(b), despite the fact that § 1225(b) is directed to detention arising in connection with the inspection and admission process. Petitioner is not such an individual; rather, he entered the United States pursuant to humanitarian parole on March 12, 2023 and has remained continuously present in the United States for approximately three (3) years.

The statutory framework and decades of established agency practice make clear that

1 individuals who entered long ago and were not apprehended at or near the border are
2 detained, if at all, under 8 U.S.C. § 1226, which allows for discretionary custody and
3 provides the right to a bond hearing.

4 69. The government's effort to classify Petitioner as an "applicant for admission" subject
5 to mandatory detention under 8 U.S.C. § 1225(b) rests entirely on a legal label that no
6 longer corresponds to Petitioner's procedural posture. Petitioner was inspected and
7 paroled into the United States pursuant to INA § 212(d)(5), released into the interior,
8 and placed into standard removal proceedings under 8 U.S.C. § 1229a. Once parole
9 was granted and jurisdiction vested with the Immigration Court, Petitioner ceased to be
10 a noncitizen "seeking admission" within the meaning of § 1225(b).

11 70. The Board of Immigration Appeals' decision in *Matter of Q. Li*, 28 I. & N. Dec. 396
12 (BIA 2022), confirms that detention authority turns on the statutory framework invoked
13 by DHS and that Immigration Judges lack jurisdiction to reclassify detention once DHS
14 asserts § 1225(b). That jurisdictional rule, however, does not expand DHS's underlying
15 statutory authority. Nothing in the INA permits DHS to invoke § 1225(b) to
16 mandatorily detain a noncitizen who has already been inspected, paroled, released into
17 the interior, and placed into § 1229a removal proceedings. To the contrary, detention
18 in such circumstances—if authorized at all—arises under 8 U.S.C. § 1226(a), which
19 requires an individualized custody determination.

20 71. Federal courts have repeatedly rejected DHS's attempt to bootstrap mandatory
21 detention authority by continuing to label paroled, interior detainees as "applicants for
22 admission," holding that 8 U.S.C. § 1226(a)—not § 1225(b)—governs detention once
23 a noncitizen is no longer at the border or in the immediate entry context. In the Southern
24

District of Texas, the court recently recognized this statutory limit in *Trujillo Rivas v. Bondi*, Civil Action No. 4:25-cv-04974 (S.D. Tex. Nov. 3, 2025), holding that DHS’s attempt to apply § 1225(b) to noncitizens already present in the United States represents a departure from its longstanding interpretation of the INA and exceeds the scope of its detention authority. Although *Trujillo Rivas* is not binding outside its specific procedural posture, its reasoning confirms that DHS may not lawfully eliminate custody review by misclassifying interior detainees as subject to mandatory detention. District courts across the country have reached the same conclusion, holding that § 1225(b) does not apply to paroled noncitizens apprehended in the interior. See, e.g., *Rodriguez-Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025).

72. Because Petitioner is not subject to detention under § 1225(b), his continued detention without access to a custody redetermination hearing violates the INA, exceeds DHS’s statutory authority, and is unlawful. Petitioner is entitled to habeas relief, including immediate release, or in the alternative, a constitutionally compliant bond hearing under 8 U.S.C. § 1226(a).

CLAIM TWO

Violation of the Due Process Clause of the Fifth Amendment

73. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

74. Petitioner’s continued detention without a bond hearing or individualized determination of flight risk or danger violates the Due Process Clause of the Fifth Amendment. The government asserts that Petitioner is subject to mandatory detention

1 under 8 U.S.C. § 1225(b), even though he has resided in the United States for
2 approximately three (3) years, is deeply embedded in his community, and has not been
3 apprehended at or near the border.

4 75. Treating Petitioner as an “applicant for admission” and subjecting him to indefinite,
5 mandatory detention without procedural safeguards is arbitrary, punitive, and contrary
6 to the basic guarantees of due process.

7 76. Freedom from bodily restraint lies at the core of the liberty protected by the Due
8 Process Clause. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Even where the
9 government possesses authority to detain individuals for immigration purposes, such
10 detention must bear a reasonable relation to its asserted purpose and be accompanied
11 by adequate procedural protections. See *Demore v. Kim*, 538 U.S. 510, 531 (2003).
12 Here, Petitioner’s detention is not reasonably related to any legitimate immigration
13 purpose because he is not a recent entrant, has longstanding ties to the United States,
14 and DHS cannot justify treating him as if he had just arrived under an expedited
15 removal framework.

16 77. The Western District of Oklahoma has likewise rejected DHS’s attempt to apply 8
17 U.S.C. § 1225(b) to noncitizens apprehended in the interior, holding that §
18 1225(b)(2)(A) applies only when a noncitizen is actively “seeking admission,” and that
19 detention of interior-arrested individuals is governed by 8 U.S.C. § 1226(a), which
20 entitles them to a bond hearing or release. *Maldonado v. Noem*, Case No. CIV-25-
21 1379-J (W.D. Okla. Jan. 21, 2026).

22 78. Moreover, the Western District of Michigan has recently held that continued detention
23 without constitutionally sufficient procedural protections constitutes a due process
24

1 violation, requiring the government to either justify the detention or release the
2 individual. The court emphasized that the Constitution prohibits the government from
3 detaining an individual “while exceeding its statutory authority and without
4 constitutionally sufficient procedures.” (Order, W.D. Mich., 2025). That rationale
5 applies squarely here. The government provides no mechanism for Petitioner to contest
6 his detention or seek release, resulting in effectively indefinite detention without
7 process, which the Supreme Court has repeatedly condemned. See *Zadvydas*, 533 U.S.
8 at 690–92; *Clark v. Martinez*, 543 U.S. 371, 386–87 (2005).

9 79. Accordingly, Petitioner’s continued detention violates the Fifth Amendment, and this
10 Court should grant habeas relief and order Petitioner’s immediate release, or, at a
11 minimum, a prompt bond hearing with the government bearing the burden to justify
12 continued detention by clear and convincing evidence.

13 CLAIM THREE

14 Violation of the Suspension Clause of the U.S. Constitution

15 80. Petitioner incorporates by reference all preceding paragraphs. The Suspension Clause,
16 U.S. Const. art. I, § 9, cl. 2, guarantees that “[t]he Privilege of the Writ of Habeas
17 Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the
18 public Safety may require it.” Petitioner’s continued detention, without access to
19 judicial review or a mechanism to challenge the legality of custody, violates this
20 constitutional guarantee. By asserting mandatory detention authority under 8 U.S.C. §
21 1225(b) and denying Petitioner any opportunity to seek release or a bond hearing, the
22 government has effectively extinguished the core function of the writ, to test the
23 legality of restraint on personal liberty.

1 81. The Supreme Court has long held that habeas relief remains available to noncitizens
2 seeking to challenge unlawful executive detention. See *INS v. St. Cyr*, 533 U.S. 289,
3 301 (2001) (“At the absolute minimum, the Suspension Clause protects the writ as it
4 existed in 1789.”). The writ cannot be withdrawn where, as here, the Executive detains
5 an individual without statutory authority and without due process safeguards. See
6 *Boumediene v. Bush*, 553 U.S. 723, 797 (2008) (inadequate substitutes cannot replace
7 habeas; detainees must have a meaningful opportunity to challenge detention).

8 82. The government’s position—that Petitioner is subject to mandatory detention and
9 categorically barred from seeking release—deprives him of any meaningful forum to
10 challenge the legality of his detention and effectively suspends his right to judicial
11 review. As the United States District Court for the Western District of Oklahoma
12 recently held in *Maldonado v. Noem*, Case No. CIV-25-1379-J (W.D. Okla. Jan. 21,
13 2026), DHS’s attempt to apply 8 U.S.C. § 1225(b) to noncitizens apprehended in the
14 interior exceeds the limits of the INA. The court made clear that § 1225(b)(2)(A)
15 applies only when a noncitizen is actively “seeking admission,” and that detention of
16 noncitizens already present in the United States while awaiting Immigration Court
17 proceedings is governed by 8 U.S.C. § 1226(a), which entitles them to a bond hearing
18 or release. Absent habeas review, DHS’s unlawful detention scheme would leave
19 Petitioner confined without any lawful mechanism to challenge the statutory basis of
20 his custody, in direct violation of the Constitution’s guarantee of meaningful judicial
21 review.

22 83. Because Petitioner’s detention without access to meaningful judicial review of his
23 custody constitutes an effective suspension of the writ of habeas corpus, this Court must

1 exercise jurisdiction and grant relief. Petitioner respectfully requests an order directing
2 his immediate release, or, in the alternative, a prompt individualized custody hearing at
3 which the government must justify continued detention by clear and convincing
4 evidence.

5 CLAIM FOUR

6 Entitlement to Attorneys' Fees and Costs

7 84. Petitioner incorporates all preceding paragraphs as if fully set forth herein.

8 85. Petitioner respectfully asserts his entitlement to attorneys' fees and costs incurred in
9 litigating this action. Under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412,
10 a prevailing party in litigation against the United States may recover fees and costs
11 unless the government's position was substantially justified. Petitioner brings this
12 habeas action to remedy unlawful detention, enforce constitutional protections, and
13 vindicate fundamental statutory rights. The government's detention of Petitioner under
14 8 U.S.C. § 1225(b), despite his longstanding residence and eligibility for custody
15 review under § 1226(a), is contrary to established law, lacks a reasonable legal basis,
16 and has been rejected by federal courts, including within this District.

17 86. Given that Petitioner has been forced to seek judicial relief solely due to the
18 government's unlawful and unconstitutional conduct, and because the government
19 lacks a substantial justification for its position, Petitioner is entitled to reasonable
20 attorneys' fees and costs pursuant to EAJA, as well as any other applicable authority.
21 Additionally, equitable principles support an award of fees in order to ensure that
22 Petitioner is made whole and that no barriers deter similarly situated individuals from
23 asserting their constitutional and statutory rights.

87. Petitioner therefore respectfully requests that, should he prevail in this action, this Court award attorneys' fees and costs as permitted by law.

IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter pursuant to 28 U.S.C. § 2241;
2. Issue an order prohibiting Respondents from transferring Petitioner outside this judicial district during the pendency of these proceedings;
3. Issue a Writ of Habeas Corpus directing Respondents to immediately release Petitioner Kairat Kudusov from immigration detention;
4. In the alternative, order that Petitioner be provided a prompt, individualized custody hearing before a neutral adjudicator, at which the government bears the burden of establishing by clear and convincing evidence that continued detention is necessary to ensure his appearance or protect the community;
5. Enjoin Respondents from re-detaining Petitioner absent lawful statutory authority and constitutionally sufficient procedures;
6. Declare that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b) and is entitled to custody review under 8 U.S.C. § 1226(a);
7. Award reasonable attorneys' fees and costs as permitted by law; and
8. Grant such other and further relief as the Court deems just and proper in equity and under the circumstances.

Respectfully submitted on January 26, 2026.

1 /s/ Harun Taskin

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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 reviewed the relevant documentation of the events described in this Petition that was reasonably available to me prior to and at the time of filing. Based on those documents and on discussions with individuals whom the Petitioner authorized to speak on his behalf, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Respectfully submitted on January 26, 2026.

/s/ Harun Taskin

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