UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

MELVI ALEXANDER MATA GUEVARA

Petitioner,

v.

DAVID EASTERWOOD, Field Office Director of Enforcement and Removal Operations, St. Paul Field Office, Immigration and Customs Enforcement;

KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security;

TODD LYONS, in his official capacity as acting director of U.S. Immigration and Customs Enforcement;

PAM BONDI, in her official capacity as Attorney General of the United States.

Respondents.

Case No. 26-789

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Melvi Alexander Mata Guevara, is in the physical custody of Respondents at Fort Snelling, Minnesota. He now faces unlawful detention because of the Department of Homeland Security (DHS) decision to arrest him without articulating a reason.

2. Petitioner entered the United States in June 2009 without inspection.

3. On August 14, 2010, Petitioner was placed in removal proceedings with the issuance of a Notice to Appear dated August 4, 2010 and charged as having entered without admission or inspection under INA §212 (a)(6)(A)(i). Since the notice was served, the Petitioner has not been detained.

4. On January 28, 2026, Petitioner was arrested and taken into Immigration and Customs Enforcement ("ICE") custody while he was checking in with the Intensive Supervision Program ("ISAP").

5. DHS has denied similarly situated non-citizens release from immigration custody, consistent with a new DHS policy formalized by the BIA decision *Matter of Yajure Hurtado*, under which all ICE employees are to consider anyone inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i)—i.e., those currently present in the United States without being admitted or paroled —to be an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore

subject to mandatory detention. This decision means it would be futile to pursue a hearing before an IJ to seek reinstatement of the prior order of bond.

6. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows for release on conditional parole or bond. As a pre-requisite to arrest and detention, 8 U.S.C. § 1226(a) requires the issuance of a warrant by the Attorney General. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

7. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner. Respondents also failed to serve a warrant on Petitioner prior to his arrest per the requirements of § 1226(a).

8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released immediately.

9. In the alternative, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within fourteen days.

JURISDICTION

10. Petitioner is in the physical custody of Respondents. Petitioner is detained at Fort Snelling, Minnesota.

11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (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 District of Minnesota, 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 District of Minnesota.

REQUIREMENTS OF 28 U.S.C. § 2243 TO SHOW CAUSE

15. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not

entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

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

PARTIES

17. Petitioner Melvi Alexander Mata Guevara is a citizen of El Salvador who has resided in the United States since 2009. Petitioner was detained on January 28, 2026.

18. Respondent David Easterwood is the Director of the MSP Field Office of ICE's Enforcement and Removal Operations division. As such, David Easterwood is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

19. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE,

which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

20. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement (ICE). He is responsible for overseeing the federal agency responsible for Petitioner's detention. Mr. Lyons has custodial authority over Petitioner and is sued in his official capacity.

21. Respondent Pam Bondi is the Attorney General of the United States and the senior official of the U.S. Department of Justice. She has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals (BIA). Ms. Bondi has custodial authority over Petitioner and is sued in her official capacity.

LEGAL FRAMEWORK

Discretionary Detention and Release on Bond

22. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

23. Due Process requires that there be "adequate procedural protections" to ensure that the government's asserted justification for a noncitizen's physical confinement "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. A noncitizen may only be detained based on these two justifications if they are otherwise statutorily eligible for bond. *Zadvydas*, 533 U.S. at 690.

24. "The fundamental requirement of due process is the opportunity be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). To determine what process Petitioner is due, this Court should consider (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of that private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures, including the governmental function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Id.* at 335.

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

26. 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).

27. 8 U.S.C. § 1226(a) provides that "On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States."

28. Pursuant to 8 C.F.R. § 236.1(d), after an initial custody determination by DHS, a non-citizen subject to 8 U.S.C. §1226 may request release on bond before an IJ. The IJ is authorized to determine whether the non-citizen should be released from custody, and if so, to determine the amount of bond.

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. 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," claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

37. On September 5, 2025, the Board of Immigration Appeals (BIA) adopted this same position in the case of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision holds that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bond hearings.

38. Under the Supreme Court's recent decision in *Loper Bright v. Raimondo*, this Court should independently interpret the statute and give

the BIA's expansive interpretation of § 1225(b)(2) no weight, as it conflicts with the statute, regulations, and precedent. 603 U.S. 369 (2024).

39. ICE and EOIR have adopted this position even though federal courts have rejected this exact conclusion. For example, after IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez v. Bostock,* 779 F. Supp. 3d 1239 (W.D. Wash. 2025)*; see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion).

40. "The idea that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission into the country,' is consonant with the core logic of our immigration system." *Martinez v. Hyde*, CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018)).

41. The interpretation endorsed by DOJ and DHS is contrary to the INA. As the *Rodriguez Vazquez* court explained, the plain text of the

statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

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 v. Bostock,* 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

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) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

FACTS

47. Petitioner has resided in the United States for nearly seventeen years and has lived in Rosemont, Minnesota prior to his detention.

48. On January 28, 2026, Petitioner was arrested and sought a custody redetermination hearing.

49. The Petitioner is now detained at Fort Snelling, Minnesota.

50. Petitioner's criminal history involves no offenses subjecting him to mandatory detention.

51. Petitioner is the father of three United States Children: J[redacted], DOB: [redacted]; S[redacted], DOB: [redacted]; and A[redacted], DOB: [redacted]

52. Petitioner was previously in removal proceedings before the Fort Snelling Immigration Court since August 4, 2010, pursuant to 8 U.S.C. § 1229a. During these proceedings, Petitioner properly filed an application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Resident.

53. On April 24, 2024, the IJ denied Petitioner's application for Cancellation of Removal.

54. On May 21, 2024, Petitioner timely filed an appeal to the IJ's denial at the Board of Immigration Appeals ("BIA").

55. Petitioner's appeal remains pending at the BIA.

56. Petitioner is neither a flight risk nor a danger to the community.

57. As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

58. Any pursuit of a bond hearing before an IJ or, in the event of denial, appeal to the BIA, while available, is futile for his release. IJ's are currently bound the recent BIA decision in *Yajure Hurtado*, which would subject the Petitioner to detention without discretionary bond, likely in contravention of federal law. Moreover, in the *Rodriguez Vazquez* litigation, where EOIR and the Attorney General were defendants, DOJ affirmed its position that individuals like Petitioner are applicants for admission and

subject to detention under § 1225(b)(2)(A). *See* Mot. to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31.

CLAIMS FOR RELIEF

COUNT I

Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Release on Bond

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

60. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

61. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

62. Petitioner was previously placed in removal proceeding and has not attended all of his hearings, complying with the Immigration Judge's orders.

63. Petitioner's arrest and continuing detention are therefore unlawful.

COUNT II

Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19 Unlawful Denial of Release on Bond

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

65. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service ("INS") issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323. The agencies thus made clear that individuals who were present without admission were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

66. The unlawful application of § 1225(b)(2) to Petitioner to mandate his continued detention would violate 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III

Violation of the INA By Erroneously Categorizing Petitioner's detention as being pursuant to 8 U.S.C. § 1225(b)(2)

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

68. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

69. Upon information and belief, Petitioner has resided in the U.S. June 2009. He is therefore neither an arriving alien nor an alien who is now seeking admission to the United States.

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

COUNT IV

Violation of 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, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

73. The government's detention of Petitioner is unjustified. Respondents detained the Petitioner despite his demonstration to a neutral magistrate he need not be detained. See *Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community).

74. Respondents' continued immigration detention of the Petitioner is disconnected from a "reasonable relationship" to any legitimate nonpunitive purpose. *Zadvydas*, 533 U.S. at 690. Petitioner has a fundamental interest in liberty and being free from official restraint.

75. The government's detention of Petitioner despite being eligible for a discretionary to determine whether he is a flight risk or danger to others violates his right to due process. The court should issue a writ of habeas corpus directing Respondents to release Petitioner to safeguard his Fifth Amendment liberties.

COUNT V

Respondents' Custody Determination is Contrary to Law

76. Petitioner incorporates by reference the preceding paragraphs.

77. The Administrative Procedure Act (APA) provides that courts "shall ... hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" or is "unsupported by substantial evidence." 5 U.S.C. §§ 706(2)(A), (E).

78. The APA claim is properly raised in the habeas petition because it concerns a regulation that impacts the fact and duration of confinement. "Challenges to the validity of any confinement or to particulars affecting its duration are the province of habeas corpus[.]" *Muhammad v. Close*, 540 U.S. 749, 750 (2004); *see also Otey v. Hopkins*, 5 F.3d 1125, 1130 (8th Cir. 1993).

79. Here, Petitioner's APA challenge concerns the *Yajure Hurtado* decision that affected the duration of Petitioner's confinement by unlawfully categorizing him as subject to mandatory detention.

80. Under *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), the Supreme Court held that "[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority, as the APA requires." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 410 (2024).

81. In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the BIA held that all noncitizens who entered the United States without

admission or parole are now considered applicants for admission under 8 U.S.C. § 1225 and thus are ineligible for immigration judge bond hearings. This precedential decision applies to those in Petitioner's circumstances and was decided after the IJ ordered him to be released on bond. As such, it will be applied to any appeal with the BIA.

82. Because the BIA's precedential decision *Matter of Yajure Hurtado,* categorizes Petitioner as detained under § 1225(b), *a statute which does not apply to him*, the BIA decision is arbitrary, capricious, and unlawful and should be set aside. Instead, Petitioner should be categorized as detained under § 1226(a), as recognized in the prior IJ decision granting him release on bond.

83. For this reason, this Court should enter a declaratory judgment finding that Petitioner is detained under 8 U.S.C. § 1226(a) and order him immediately released on conditions of bond issued by the IJ.

COUNT VI

Matter of Yajure Hurtado and *Matter of Q. Li* Violate Procedural Due Process as Applied

84. Petitioner incorporates by reference the preceding paragraphs.

85. When the government interferes with a liberty interest, "the procedures attendant upon that deprivation [must be] constitutionally sufficient." *Ky. Dept. of Corrections v. Thompson,* 490 U.S. at 460. The

constitutional sufficiency of procedures is determined by weighing three factors: (1) the private interest that will be affected by the official action, (2) the risk of erroneous deprivation of that interest through the available procedures, and (3) the government's interest, including the function involved and the fiscal and administrative burdens that additional or substitute procedures would entail. *Mathews*, 424 U.S. at 335.

86. Petitioner has a weighty liberty interest as his freedom "from government . . . detention . . . lies at the heart of the liberty that [the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 693.

87. The risk of erroneous deprivation of Petitioner's liberty is extremely high, given that the government, pursuant to *Matter of Yajure Hurtado*, is detaining Petitioner under a statute that does not apply to him and denying him his statutory right to a bond hearing on the erroneous assertion that he is subject to mandatory detention.

88. Finally, the government's interest in preserving its unilateral authority to prevent the release of noncitizens who have already shown they are neither a flight risk nor a danger is minimal. Providing additional procedural protections here introduces no additional

administrative burdens as Petitioner is statutorily entitled to a bond hearing under 8 U.S.C. § 1226(a).

89. Because Respondents have custody of Petitioner in violation of his Fifth Amendment rights, the Court should issue a writ of habeas corpus directing Respondents to release Petitioner to safeguard his constitutional liberties. 28 U.S.C. § 2241. Numerous courts throughout the country have found that the use of the mandatory detention provision, as affirmed in *Matter of Yajure-Hurtado*, violates an individual's right to meaningful procedural due process. *See*, e.g., *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *12 (W.D. Tex. Sept. 22, 2025); *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278, at *5 (W.D. La. Sept. 11, 2025); *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025). As such, this Court should likewise find that Petitioner's detention represents a violation of his right to procedural due process and order him released according to the bond conditions set by the IJ.

COUNT VII

Respondents Are Enjoined From Detaining Petitioner as a *Maldonado Bautista* Class Member

90. Petitioner incorporates by reference the preceding paragraphs.

91. On November 25, 2025, a 9th Circuit Court granted class certification for certain unlawfully detained non-citizens under Rules 23(a) and 23(b)(2) *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.).

92. *Maldonado Bautista v. Santacruz* certified the Bond Eligible Class as "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination." *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 *(C.D. Cal. Nov. 25, 2025).*

93. On December 18, 2025, the *Maldonado Bautista* U.S. District Court entered a final judgment as to Counts I, II, and III of the Amended Class Complaint where the court held that noncitizens who (1) entered without inspection, (2) were not apprehended at the border, (3) have been present for several years in the U.S., and (4) are not subject to §§ 236(c), 235(b)(1) or 241 are detained under INA § 236, not § 235(b). *Maldonado Bautista v. Noem*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025).

94. Petitioner is a non-citizen who (1) entered the United States without inspection; (2) was not apprehended upon arrival; (3) has been present for over a decade in the U.S., and (4) was not subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time of initial custody determination according the charging documents in the record.

95. For this reason, this Court should enter a declaratory judgment finding that Petitioner cannot be lawfully detained as a Bond Eligible Class member and order him immediately released.

COUNT VIII

Violation of 8 U.S.C. § 1226(a) Unlawful Warrantless Arrest Detention Under This Provision

96. Petitioner incorporates by reference the preceding paragraphs.

97. 8 U.S.C. § 1226(a) provides that "On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States."

98. The issuance of a warrant is a necessary pre-requiste to arrest and detention under § 1226(a). *Roseline K. N., Petitioner, v. Pam Bondi, et al., Respondents.*, No. 26-CV-540 (KMM/SGE), 2026 WL 185069, at *2 (D. Minn. Jan. 25, 2026); *Ahmed M. v. Bondi*, No. 25-CV-4711 (ECT/SGE), 2026 WL 25627, at *3 (D. Minn. Jan. 5, 2026) (citing to District courts reaching the same conclusion across the 1st, 9th, and 11th

Circuits.) Petitioner's detention is only proper under § 1226(a) and is owed immediate release as Respondents have failed to comply with the procedural requirements for arrest and detention under the statute.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that Respondents release Petitioner immediately;

c. In the alternative, issue a writ of habeas corpus requiring Respondents provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 14 days;

d. Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243, directing Respondents to show cause why the petition for writ of habeas corpus filed by Petitioner pursuant to 28 U.S.C. § 2241 should not be granted within three days;

e. Issue a writ of habeas corpus requiring that upon release, Respondents return to Petitioner his government-issued identification documents, such as work permit, driver's license, as well as any and all other lawfully issued documents or property

seized from him to ensure his liberty is not restrained upon release;

f. 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;

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

DATED this 28th day of January 2026.

/s/ Gloria Contreras Edin
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