UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

Mate SALDADZE,

Petitioner,

v.

WARDEN of Folkston ICE Processing Center; GEORGE STERLING, Director of the Atlanta Field Office, U.S. Immigration and Customs Enforcement; TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as U.S. Secretary of Homeland Security; PAMELA BONDI, in her official capacity as U.S. Attorney General;

Respondents.

Civil Action No.: CV 526-126

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Mate Saldadze, by and through his undersigned counsel, respectfully petitions for a writ of habeas corpus and brings this complaint for declaratory and injunctive relief to compel his release from unlawful detention by the U.S. Department of Homeland Security since being unlawfully re-detained without first being provided a due process hearing to determine whether his incarceration is justified. Respondents are detaining him in violation of the Constitution and laws of the United States.

INTRODUCTION

1. This case challenges the unlawful and indefinite re-detention under a new and erroneous interpretation of the Immigration and Nationality Act (INA). Petitioner Mate Saldadze is detained without the possibility of bond solely because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have chosen to treat him as if he were an "arriving" alien and present at the border, even though they had already processed him pursuant to 8 U.S.C. § 1226(a) at his initial encounter and released him on his own recognizance. Immigration and Customs Enforcement (ICE)'s misapplication of 8 U.S.C. § 1225(b)(2)(A) and the Board of Immigration Appeals' (BIA's) recent decision in *Matter of Yajure Hurtado* have stripped Petitioner — and thousands of similarly situated individuals — of the bond hearings guaranteed by § 1226(a).

INTRODUCTION

2. Petitioner Mate Saldadze is in the physical custody of Respondents at the Folkston D. Ray ICE Processing Center. He now faces unlawful detention because the DHS and the EOIR have concluded Petitioner is subject to mandatory detention.

JURISDICTION AND VENUE

3. Petitioner is presently in custody under or by color of the authority of the United States, and he challenges his custody as in violation of the Constitution, laws, or treaties of the United States.

4. This Court has original subject matter 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 (Suspension Clause).

5. 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.

6. Petitioner is detained at the Folkston ICE Processing Center in Folkston, Georgia, at the time of filing. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue therefore lies in the Southern District of Georgia, Waycross Division, the judicial

district in which Petitioner currently is detained.

7. 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 this District, where Petitioner is now in Respondents' custody. *See* 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

8. 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.*

9. 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. INS.,* 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

10. Petitioner Mate Saldadze is alleged to be a citizen of Georgia. He is currently detained by Respondents at the Folkston ICE Processing Center. After arresting Petitioner on December 29, 2025, ICE did not set bond and Petitioner is unable to obtain review of his custody by an immigration judge, pursuant to the Board's decision in *Matter of Yajure Hurtado,* 29 I. & N. Dec. 216 (BIA 2025).

11. Respondent Warden of Folkston ICE Processing Center has immediate physical custody of Petitioner. Respondent Warden is responsible for the operations of the Folkston ICE Processing Center, where Petitioner is detained. He is sued in his official capacity.

12. Respondent George Sterling is the Director of the Atlanta Field Office for ICE. He is responsible for ICE's operations in the area of the Petitioner's detention. He is a legal custodian of Petitioner. He is sued in his official capacity.

13. Respondent Todd Lyons is the Acting Director of ICE. He is responsible for the administration of ICE and the implementation and enforcement of immigration laws, including detention. He is a legal custodian of Petitioner. He is sued in his official capacity.

14. Respondent Kristi Noem is the U.S. Secretary of the Department of Homeland Security and is responsible for the administration of DHS. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner. She is sued in her official capacity.

15. Respondent Pamela Bondi is the U.S. Attorney General of the United States. She is responsible for the Department of Justice (DOJ), of which the EOIR is a component agency. She is sued in her official capacity.

LEGAL FRAMEWORK

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

17. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge (IJ). *See* 8 U.S.C. § 1226(a). 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.l(d). However, noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).

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

19. 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).

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

21. 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).

22. 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).

23. 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)).

24. On July 8, 2025, ICE, "in coordination with" the DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. 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 under § 1225(b)(2)(A). The policy applies regardless of when a

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

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

25. On September 5, 2025, the BIA adopted the 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.

26. 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.

27. Court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation, including 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); and *Gamez Lira v. Noem,* No. 1:25-cv-00855 (D.N.M. Sept. 24, 2025).

28. 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. 26 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson,* No. Q: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. s: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).

29. 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 8 U.S.C. § 1229(a), to "decid[e] the inadmissibility or deportability of a [noncitizen]."

30. 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)(l)(E). Section 1226 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.

31. 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.

32. 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 U.S. 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).

33. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

STATEMENT OF FACTS

34. Petitioner Mate Saldadze is a 26-year-old alleged citizen of Georgia. He entered the United States on or about March 26, 2024, at or near Tecate, California.

35. At entry, DHS processed Petitioner and issued a Notice to Appear ("NTA") dated March 26, 2024, commencing removal proceedings pursuant to INA § 240 (8 U.S.C. § 1229a). *See* Exhibit B, NTA Mate. The NTA charged Petitioner as a noncitizen who was not admitted or paroled pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) and ordered Petitioner to appear before the Immigration Court at 26 Federal Plaza, 12th Floor, Room 1237, New York, NY 10278 on May 22, 2025, at 8:30 a.m. *See* Exhibit B, NTA Mate.

36. Following his entry, Petitioner was detained for several days. On April 1, 2024, DHS conducted a danger and flight risk assessment pursuant to 8 U.S.C. § 1226(a). DHS released Petitioner on his own recognizance by issuing Form I-220A, necessarily determining that he did not pose a danger to the community or a flight risk. *See* Exhibit B, NTA Mate.

37. After his release, Petitioner relocated to Brooklyn, NY and complied with DHS supervision. He reported as required and remained under ICE supervision.

38. On or around October 7, 2024, Petitioner filed an Application for Asylum, Withholding of Removal, and Protection under the Convention Against Torture based on political opinion and sexual orientation, including his identity as a gay man and [redacted] *See* Exhibit C, I-589 Mate.

39. On December 29, 2025, Petitioner was re-detained by DHS at an ICE check-in, despite having no criminal convictions and despite his substantial history of compliance with DHS supervision. Petitioner remains in ICE custody at the Folkston D. Ray ICE Processing Center, located at 3262 Highway 252 East, Folkston, Georgia 31537. *See* Exhibit A, ICE Locator Mate.

40. ICE re-detained Petitioner without providing notice, a hearing, or an individualized determination justifying the revocation of his release. Upon entry, Petitioner was released on recognizance under 8 U.S.C. § 1226(a). If Respondents classify Petitioner's initial release under 8 U.S.C. § 1226(a), his re-detention violates 8 U.S.C. § 1226(b), which permits revocation of bond or parole only through a reasoned exercise of discretion. *See* 8 C.F.R. § 236.1(c)(9) (authorizing revocation by designated ICE officials in their discretion).

41. In *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals stripped immigration judges of jurisdiction to conduct custody redeterminations for noncitizens who entered without inspection,

as in Petitioner's case, leaving habeas corpus as his only avenue for relief. To the extent *Yajure-Hurtado* eliminates all review mechanisms, it violates due process under *Zadvydas v. Davis*, 533 U.S. 677 (2001).

42. Even if Respondents reclassify Petitioner as an "arriving alien" under 8 U.S.C. § 1225(b)(2)(A), his detention remains unlawful. Under § 1225(b)(2)(A), custody redetermination is unavailable (8 C.F.R. § 1003.19(h)(2)(i)), leaving DHS's discretionary parole authority as the sole mechanism for release (8 C.F.R. § 235.3(b)(5)). DHS's failure to provide notice, a hearing, or a reasoned explanation for re-detention, particularly after nearly two years of compliance with ICE supervision and reporting, renders its action arbitrary and capricious, violating the Fifth Amendment to the U.S. Constitution and 5 U.S.C. § 706(2)(A). *See Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1913 (2020) (requiring reasoned agency action).

43. Petitioner was re-detained by DHS despite having violated no condition of his prior release and despite his consistent compliance with DHS and Immigration Court requirements.

44. ICE detained Petitioner without bond, asserting that he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) based on the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, notwithstanding Petitioner's initial custody determination under §

1226(a), his compliance with ATD, and his placement in standard removal proceedings under § 1229a, where § 1226(a) is the default detention rule.

45. Without intervention from this Court, Petitioner faces the prospect of indefinite detention lasting months or even years, separated from his family and community.

WRIT OF HABEAS CORPUS

46. The Constitution guarantees the right of writ of habeas corpus to every individual detained within the United States, including immigration-related detention. *See Zadvydas v. Davis*, 533 U.S. 677 (2001), at 687. A writ of habeas corpus must be granted if the person is in custody in violation of the Constitution or federal law. *See* 28 U.S.C. § 2241(c)(3).

47. The Court must grant the petition for writ of habeas corpus or issue an Order to Show Cause (OSC) to the Respondents forthwith, unless the petitioner is not entitled to relief. *See* 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

48. Petitioner is "in custody" for the purpose of 28 U.S.C. § 2241 because Petitioner is arrested and detained by Respondents.

49. Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 425 (1979). Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *See Reno v. Flores*, 507 U.S. 292 (1993). Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *See Zadvydas*, 533 U.S. at 690.

50. Respondents' position that Petitioner is subject to mandatory detention by recategorizing him as an arriving alien or an applicant for admission deprives him of the opportunity to challenge his detention through any other avenue outside of habeas corpus proceedings.

a. Violation of Fifth Amendment Right to Due Process

51. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693; *accord Flores*, 507 U.S. 292. Due process requires that government

action be rational and non-arbitrary. See *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018).

52. Petitioner's detention violates his substantial due process rights under the Fifth Amendment of the U.S. Constitution, which guarantees that no person shall be deprived of liberty without due process of law. Arbitrary civil detention is categorically unconstitutional. The Due Process Clause requires that any deprivation of Petitioner's liberty serve, at minimum, a legitimate purpose. *See Flores*, 507 U.S. at 302 (explaining that infringements on fundamental liberty rights violate due process unless they are "narrowly tailored to serve a compelling state interest").

53. Petitioner's detention violates his procedural and substantive due process rights under the three-part test set forth in *Matthews b. Eldridge*, 424 U.S. 319 (1976), at 335, to wit:

(1) the private interest that will be affected by the official action;

(2) the risk of an erroneous deprivation of such interest through the procedures used, and probably value, if any, of additional procedural safeguards; and

(3) the Government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail.

54. First, Petitioner's liberty interest is substantial. His year and 10 months

of compliance with ICE supervision and removal proceedings, valid Employment Authorization Document (EAD), and lack of criminal history demonstrate a protected interest in remaining free from detention. *See Zadvydas*, 533 U.S. at 690.

55. Second, the risk of erroneous deprivation is high due to DHS's failure to provide notice, a hearing, or an individualized determination of flight risk or danger before re-detaining him.

56. Third, the government's interest in detaining Petitioner is minimal compared to his substantial liberty interest. The goal of ensuring compliance with removal proceedings is satisfied by Petitioner's consistent appearance at ICE supervision and adherence to all requirements over the one year and 10 months. *See Jennings v. Rodriguez*, 583 U.S. 281 (2018) (detention must serve a legitimate purpose). Alternatives such as electronic monitoring could address any enforcement concerns at minimal cost, rendering detention unnecessary.

57. Here, Respondents have chosen to revoke Petitioner's release in an arbitrary manner and not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process. Because no individualized custody revocation has been made and no circumstances have changed to make Petitioner a flight risk or a danger to the community, Respondents' revocation of Petitioner's release violates his right to procedural due process.

58. If Petitioner's initial release was pursuant to 8 U.S.C. § 1226(a), which authorizes release on bond or conditional parole pending removal proceedings, his re-detention violates due process. Section 1226(b) provides that

> "(t)he Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien." 8 U.S.C. § 1226(b).

This authority, implemented by 8 C.F.R. § 236.1(c)(9), requires a reasoned exercise of discretion by designated ICE officials. DHS's failure to provide notice of revocation or an individualized determination of flight risk or danger to the community renders the re-detention arbitrary and unconstitutional. *See Matthews*, 424 U.S. 319 (requiring procedural safeguards to protect liberty interests); *see also Zadvydas*, 533 U.S. at 690 (prohibiting arbitrary detention).

59. Even if classified as an arriving alien, the petitioner is entitled to due process under *Clark v. Martinez,* 543 U.S. 371, 380-81 (2005) (extending due process protections to all noncitizens). Re-detaining a compliant individual with a valid EAD after almost two years without notice or a hearing is arbitrary and violates the Fifth Amendment. *See Jennings*, 583 U.S. 281 (acknowledging due process limits on immigration detention).

60. 8 U.S.C. § 1226(b) and 8 C.F.R. § 236.1(c)(9) grant ICE discretion to revoke release. Petitioner is subject to § 1226(a), not 1226(b). However, even were Petitioner subject to 1226(b), the discretion it grants to revoke release is not unfettered and must comport with due process. *See Zadvydas*, 533 U.S. at 690. Re-detaining a compliant individual without notice or a hearing is arbitrary, particularly given Petitioner's one year and 10 months liberty interest. *See Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942, 95r1 (9th Cir. 2008) (due process requires and individualized determination of flight risk or danger to the community).

61. Under the APA, the Court must set aside DHS's decision to re-detain Petitioner as "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). An action is arbitrary if it fails to consider relevant factors or lacks a rational connection to the facts. *See Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983).

62. DHS's decision to re-detain Petitioner lacks a rational basis, as DHS provided no evidence of changed circumstances or individualized findings of flight risk or danger. Petitioner's one year and 10 months of compliance with ICE supervision, valid EAD (expiring April 29, 2030, *see* Exhibit D Work Permit Mate), and lack of criminal history establish a liberty

interest that DHS failed to consider. *See Zadvydas*, 533 U.S. at 690. Alternatives to detention, such as electronic monitoring, could achieve enforcement goals without depriving Petitioner of liberty, underscoring DHS's abuse of discretion. *See Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007). Respondents may argue that Petitioner is subject to 8 U.S.C. 1226(b) or § 1225(b)(2)A) and per these Sections ICE discretion is unreviewable. However, under *Zadvydas*, agency action must be rational and comport with due process. *See Zadvydas*, 533 U.S. at 690.

CLAIMS FOR RELIEF

FIRST COUNT

Violation of the INA

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

64. 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, have been residing in the United States, and were apprehended in the interior. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(l), § 1226(c), or § 1231. DHS has treated Petitioner as detained pursuant to § 1226(a).

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

SECOND COUNT

Violation of Due Process

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

67. The government may not deprive a person of life, liberty, or property without due process of law. *See* 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).

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

69. 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.

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 Southern District of Georgia while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days, per 28 U.S.C. § 2243;

d. Declare that Petitioner's one year 10 months compliance with ICE supervision and removal proceedings, valid EAD, and lack of criminal history establish a substantial liberty interest protected by the Fifth Amendment to the U.S. Constitution;

e. Declare that Petitioner's re-detention without notice, a hearing, or individualized findings violates the Fifth Amendment and 5 U.S.C. § 706(2)(A);

f. 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) whereby the government bears the burden of proving flight risk and danger by clear and convincing evidence;

g. Declare that Petitioner's detention is unlawful;

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 30th day of January, 2026.

Respectfully Submitted,

/s/ *Alexis Ruiz*
Alexis Ruiz
Ruiz Immigration Law
2100 RiverEdge Pkwy, Suite 725
Atlanta, GA 30328
Email: aruiz@ruizimmigrationlaw.com
Phone: (770) 769-5822

/s/ *Veronica Cardenas*
Veronica Cardenas, Esq. (*pro hac vice forthcoming*)
Cardenas Immigration Law, LLC
2 Arnot St.,
Ste 6, Unit 122
Lodi, NJ 07644
Veronica.cardenas@cardenasimmigrationlaw.com

Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I hereby submit this verification on behalf of Petitioner, Mate Saldadze as his attorney. I have discussed with Mr. Saldadze the events described in this Petition. On the basis of those discussions and upon my review of those documents, on information and belief, I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: January 30, 2026

/s/*Veronica Cardenas*
Veronica Cardenas