UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ALBA MARIA GUAMAN CAIZAGUANO,

Petitioner,

v.

PAMELA BONDI, in her official capacity as U.S. Attorney General; KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; TODD M. LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; DAVID EASTERWOOD, in his official capacity as Field Office Director, Director of Enforcement and Removal Operations, St. Paul Field Office, U.S. Immigration and Customs Enforcement; and DORA CASTRO, in his official capacity as Warden, Otero County Processing Center,

Respondents.

Civil File No. _____

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

INTRODUCTION

1. Petitioner, Mrs. Alba Maria Guaman Caizaguano ("Mrs. Caizaguano" or "Petitioner"), born [redacted], by and through her undersigned counsel, hereby files this petition for a writ of habeas corpus and complaint for declaratory and injunctive relief to compel her immediate release from immigration jail where she has been held by the U.S. Department of Homeland Security ("DHS") since being unlawfully detained on January 7, 2026, in Minneapolis, Minnesota without first being provided a due process hearing to determine whether her incarceration is

justified. In the alternative, this petition seeks the transfer of Petitioner back to a facility in Minnesota, where she was originally detained and from which she was transferred to New Mexico without legal process, and to provide a bond hearing.

2. Petitioner must be released from custody unless and until DHS proves to a neutral adjudicator, by clear and convincing evidence, changed circumstances that Petitioner is a flight risk or a danger to the community. DHS will not be able to do so. Due process requires the government to provide noncitizens with notice and a hearing prior to re-detention, and that re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment.

JURISDICTION

3. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1361 (federal employee mandamus action), 28 U.S.C. § 1331 (federal question), and the Art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

5. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, the Declaratory Judgments Act, 28 U.S.C. § 2201 *et seq.*, the All Writs Act, 28 U.S.C. § 1651, the Suspension Clause, and the Court's inherent equitable powers.

VENUE

6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(2), (e)(1) and 2241 because habeas jurisdiction attached at the time of Petitioner's apprehension in this District, when Respondents took custody and control of Petitioner. *Sue H. v. Trump*, Civ. No. 0:26-CV-00416 (MJD/ECW), Doc. No. 6 at 2 (D. Minn. Jan. 20, 2026).

7. Venue is also equitable in this Court because the Petitioner resides in this District, the decision to arrest and detain Petitioner "was directed to personnel within this District, and therefore witnesses and information about the manner of h[er] arrest would also be found in this District," the custodian can be reached by service of process, transferring venue would prolong Petitioner's detention and the adjudication of her claims, and divesting this Court of jurisdiction through the transfer of detainees to out-of-state facilities without their consent would encourage forum shopping. *Jose A. v. Noem*, Civ. No. 0:26-CV-00480 (JMB/ECW), 2026 WL 172524 at *2 (D. Minn. Jan. 22, 2026) (citing *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493 (1973)).

PARTIES

8. Petitioner is an asylum seeker currently detained at Otero County Processing Center ("Otero"), Otero County, New Mexico. She is in the custody, and under the direct control, of Respondents and their agents.

9. Respondent Dora Castro is the Warden of the Otero County Processing Center, where Petitioner is presently detained. Warden Castro has immediate day-to-

day control over and is a legal custodian of Petitioner. He is sued in his official capacity.

10. Respondent David Easterwood is the Acting Field Office Director for U.S. Immigration and Customs Enforcement for the St. Paul Field Office, which has administrative jurisdiction over Petitioner's detention. Field Office Director Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner and is a legal custodian of Petitioner. He is sued in his official capacity.

11. Respondent Todd M. Lyons is the Acting Director for U.S. Immigration and Customs Enforcement. In that position, he is responsible for ICE's policies, practices, and procedures, including those relating to the detention of immigrants. Acting Director Lyons is a legal custodian of Petitioner. He is sued in his official capacity.

12. Respondent Kristi Noem is the United States Secretary of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the St. Paul ICE Field Office, and is legally responsible for pursuing Petitioner's detention and removal. As such, Respondent Noem is a legal custodian of Petitioner. She is sued in her official capacity.

13. Respondent Pamela Bondi is the Attorney General of the United States and the head of the Department of Justice. She is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely does and transacts business in the District of Minnesota, supervises the St. Paul ICE Field Office, and is

legally responsible for pursuing Petitioner's detention and removal. Attorney General Bondi is a legal custodian of Petitioner. She is sued in her official capacity.

REQUIREMENTS OF 28 U.S.C. § 2243

14. 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. 28 U.S.C. § 2243. If an order to show cause 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.*

15. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, 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); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025).

EXHAUSTION OF REMEDIES

16. Detained immigrants petitioning under 28 U.S.C. § 2241 face no statutory exhaustion requirements. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Nor is a judicially imposed prudential exhaustion requirement appropriate where, as here: time is of the essence, facts are largely undisputed, and the parties' disagreement is based on a legal conclusion. *Id.* at 967–68.

17. Other courts in the Eighth Circuit have similarly declined to require prudential exhaustion when evaluating a detained immigrant's habeas corpus petition

under similar circumstances–to address a question of statutory interpretation that does not require developing a factual record, and where the agency is demonstrably unlikely to reverse its course. *Giron Reyes v. Lyons*, 2025 WL 2712427 at *3 (N.D. Iowa Sept. 23, 2025).

LEGAL FRAMEWORK

18. "[T]he Due Process Clause applies to all 'persons' within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

19. A petitioner may seek a writ of habeas corpus when their custody violates the U.S. Constitution or a Federal law. 28 U.S.C. § 2241(c)(3), which should be granted if the petitioner meets their burden of proof—a preponderance of evidence. *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), 2025 WL 2466670, at *5 (D. Minn. Aug. 27, 2025) (citing *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025)).

20. In July of 2025, Respondent DHS began ignoring the decades-long consensus of how 8 U.S.C. § 1225(b)(2) should be interpreted, which the Board of Immigration Appeals ("BIA") articulated in a subsequent ruling. *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA Sept. 5, 2025). Respondents suddenly claim that individuals who have been residing within the United States for more than two years are somehow metaphorically "seeking admission," simply because they may have pending claims for asylum or other forms of status.

21. However, this Court and the majority around the country have made clear that 8 U.S.C. § 1225(b)(2) only authorizes detention for noncitizens who are at the border seeking physical entry at the time of detention, not those whose detention is discretionary and governed by 8 U.S.C. § 1226(a). *Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025); *Khalid B.Q. v. Bondi*, Civ. No. 25-4584 (JWB/DJF), Doc. No. 10 (D. Minn. Dec. 18, 2025); *Xuseen A. v. Bondi*, Civ. No. 25-4514 (JWB/DJF), Doc. No. 16 (D. Minn. Dec. 19, 2025); *Vedat C. v. Bondi*, Civ. No. 25-4642 (JWB/DJF), Doc. No. 9 (D. Minn. Dec. 19, 2025).

22. Indeed, 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). 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)

23. Here, Petitioner was apprehended within the United States, not at a border while seeking entry; nothing in the alleged facts indicate there is any basis for a redetermination of custody or for detaining Petitioner.

24. Accordingly, the mandatory detention provision of § 1225(b)(2) cannot apply to people like Petitioner. At the time of her most recent detention on January 7. 2026, she had already entered the United States and had been residing in the country

for over two years as she awaits the outcome of her asylum case. She was not actively seeking admission.

25. Under these circumstance it would be absurd to consider Petitioner to be "seeking admission" at the time of her most recent apprehension. *See, e.g., Contreras Maldonado v. Cabezas*, No. 25– 13004, 2025 WL 2985256 (D.N.J. Oct. 23, 2025) (finding the "invocation of 1225(b) as applied to Petitioner," a former UC who had resided in the United States for years, to be "inconsistent with the statutory framework distinguishing between entry-based and interior detention authority").

26. Respondents wrongly assert 8 U.S.C. § 1225(b)(2) as a basis for detaining Petitioner without a hearing, when instead any detention could only be pursuant to 8 U.S.C. § 1226(a), which would also require a warrant and which here the Respondents are not purporting to invoke.

27. 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. *Zadvydas*, 533 U.S. at 690.

28. The Immigration and Nationality Act ("INA") establishes various procedures through which individuals may be detained pending a decision on whether the noncitizen is to be removed, 8 U.S.C. § 1226(a).

29. Removal proceedings described in section 240 of the INA are used to determine whether individuals, such as Petitioner, should be removed from the United States. *See* 8 U.S.C. § 1229a.

30. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to apply for asylum to individuals seeking safe haven in the United States. The purpose of the Refugee Act is to enforce the "historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands." Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

31. The "motivation for the enactment of the Refugee Act" was the United Nations Protocol Relating to the Status of Refugees, "to which the United States had been bound since 1968." *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a legislative purpose "to give 'statutory meaning to our national commitment to human rights and humanitarian concerns.'" *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

32. The Refugee Act established the right to apply for asylum in the United States and defines the standards for granting asylum. It is codified in various sections of the INA.

33. The INA gives the Attorney General or the Secretary of Homeland Security discretion to grant asylum to noncitizens who satisfy the definition of "refugee." Under that definition, individuals generally are eligible for asylum if they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion and if they are unable or unwilling to return to and avail themselves of the protection of their homeland because of that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).

34. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen "who is physically present in the United States or who arrives in the United States[.]" 8 U.S.C. § 1158(a)(1).

35. 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, 4253 (1979).

36. Custody determinations for individuals in 1229a removal proceedings are governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not present a danger to persons or property and is not a flight risk. *Zadvydas*, 533 U.S. at 690; *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

37. Custody determinations under § 1226(a) are individualized and based on the facts presented in those cases. Unlike § 1226(c), which can provide for categorical determinations for detention regardless of flight risk or safety risks, § 1226(a) requires a case-by-case review of the facts and circumstances.

38. Once a determination to release an individual from custody is made, the release order may be revisited when the facts or circumstances warrant revocation or reconsideration. 8 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may take that individual back into custody by revoking the individual's release when the facts and circumstances warrant it. Revocation and return to custody is authorized only based on the individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are

limited in nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9).

FACTUAL ALLEGATIONS

39. Petitioner is a 43-year-old resident of Minnesota, and a citizen of Ecuador. Petitioner is a mother, wife, and active member of her school community.

40. Upon information and belief, Petitioner came to the United States in late 2023 and has been here for over two years. Petitioner applied for asylum upon entry to the United States.

41. Petitioner's asylum claim is based on physical and psychological violence at the hands of both her father and a local Ecuadorean gang called "[redacted]" whom physically threatened and harassed Petitioner and her family.

42. On information and belief, Petitioner was subsequently released on her own recognizance upon her entry to the United States.

43. On information and belief, Petitioner was not detained from the period from her entry into the United States until her unlawful detainment on January 7, 2026.

44. Petitioner has a pending asylum application docketed on December 6, 2023, and does not have a final order of removal. Petitioner has an Individual hearing on her pending asylum application scheduled for August 17, 2026, at 10:30 am before Judge M. Audrey Carr in Fort Snelling, Minnesota. *See* Ex. 1.

45. Petitioner also has a valid employment authorization from the Department of Homeland Security, issued April 11, 2025, and has been working at a factory in

Minnesota under that authorization. *See* Ex. 2. She is the primary earner for her household, and her children are at-risk while Petitioner remains unlawfully detained.

46. On information and belief, Respondent ICE took Petitioner into custody on January 7, 2026, at approximately 5:30 AM, in Minneapolis, Minnesota. Petitioner was detained approximately one block from her home when the motor vehicle in which she was riding was aggressively surrounded and stopped by ICE. She was on her way to work. Six ICE agents approached the vehicle. The agents had guns and were masked so that their faces could not be seen. The agents were wearing vests labeled "ICE." They were acting aggressively, shouting at Petitioner, and Petitioner was scared.

47. On information and belief, the ICE agents forcibly removed Petitioner, the driver, and the other passengers from the vehicle and handcuffed them. One ICE agent broke the window of the vehicle near Petitioner. ICE demanded Petitioner's identification.

48. On information and belief, no ICE agent at any time showed Petitioner a warrant or authorization for her arrest. Respondents to date have not provided Petitioner with a valid warrant justifying Petitioner's arrest and indefinite detention.

49. On information and belief, Petitioner has followed all immigration court instructions, attended all required appearances, and has no criminal history.

50. On information and belief, Respondents did not make an individualized finding of Petitioner's flight risk.

51. Petitioner is neither a danger to others nor a flight risk.

52. This arrest is part of an operation in Hennepin and Ramsey counties called "Operation Metro Surge." This operation has involved hundreds of masked, unidentified individuals in unmarked vehicles (many with illegally covered or mismatched license plates) holding themselves out as ICE agents but largely refusing to identify themselves by name or to present warrants, physically assaulting pedestrians, pepper spraying and arresting citizen observers, hitting passersby with vehicles, and generally attempting to take as many immigrants as possible into custody regardless of the constitutionality of their actions. *See*, e.g., Compl., *Tincher et. al. v. Noem*, No. 0:25-cv-04669. (D. Minn. Dec. 17, 2025).

53. Since the operation began on December 1, 2025, the number of immigration officials in Minneapolis and St. Paul, or the Twin Cities Metro Area, has increased fourfold, and with them these new agents have brought a similarly massive increase in unconstitutional, unlawful, and downright violent behavior towards citizens and non-citizens alike. The people of Minnesota—of all races, nationalities, and citizenship status—are united in their shock and fear at the events of the past six weeks and are begging for the attacks on their community to stop.

54. Given the massive volume of perceived non-citizens being taken off the streets, Respondents are running out of physical space to continue detaining people. Detainees are being held in cramped quarters at the federal building, before being quickly sent to remote locations across Minnesota or to facilities as far away as El Paso, Texas.

55. Petitioner is one of such detainees—she was initially detained at the at the Bishop Henry Whipple Federal Building ("Whipple") and subsequently transferred to Otero County Processing Center in New Mexico, far away from her family, community, legal resources, and place of residence.

56. On information and belief, Respondents are detaining Petitioner regardless of the individual facts and circumstances of his case.

57. On information and belief, Respondents are using the immigration detention system, including extra-territorial transfer and detention, as a means to punish individuals for asserting rights under the Refugee Act.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Due Process Under the Fifth Amendment and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2

58. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

59. Petitioner has due process rights as a resident of the United States. *Zadvydas*, 533 U.S. at 693.

60. Federal courts use the three-part test in *Matthews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures,

both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

61. Here, all three factors favor the petitioner.

62. First, Petitioner has a significant private interest at stake. A person's interest in freedom from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas*, 533 U.S. at 690 ("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."). Petitioner is wrongfully confined, a direct attack on Petitioner's liberty interests.

63. Second, Petitioner will continue to be deprived of this interest if the current procedure (detaining Petitioner without a legal basis) is followed. There is no rational explanation for detaining Petitioner. Respondents' purported basis for detaining Petitioner under 8 U.S.C. § 1225(b)(2) has been rejected time and time again in this court. *Ahmed A. v. Bondi*, Civ. No. 25-4776 (JWB/DJF), Doc. No. 12 at 6 (D. Minn. January 6, 2026); *Maldonado v. Olson*, 795 F. Supp. 3d 1134, 1142–48, 1150–52 (D. Minn. 2025); *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d at 968–970; *Mayamu K.*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819, at *7–8; *R.E. v. Bondi*, No. 0:25-cv-3946-NEB, 2025 WL 3146312 (D. Minn. Nov. 4, 2025); *Herrera Avila v. Bondi*, No. 0:25-cv-3741 (JRT), 2025 WL 2976539 (D. Minn. Oct. 21, 2025). Furthermore, the transfer of Petitioner to a facility across the country impedes Petitioner's access to legal resources and thereby her due process rights. *See Orantes Hernandezs v.*

Thornburgh, 919 F.2d 549, 566 (9th Cir. 1990) (emphasizing constitutional importance of asylee's ability to communicate with legal counsel).

64. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Petitioner poses no safety threats to the community. Releasing Petitioner, or at a minimum holding a bond hearing, would in fact *save* the government the resources and expense of continued imprisonment.

65. The placement of Petitioner in detention pending the resolution of ongoing immigration proceedings violates Petitioner's constitutional rights to due process guaranteed in the Fifth Amendment.

COUNT TWO

Violation of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)

Petitioner's Ongoing Detention Pursuant to 8 U.S.C. § 1225(b)(2) is Unlawful because Petitioner is not Seeking Admission and therefore cannot be held under that Authority

66. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

67. Respondents violate the Immigration and Nationality Act by attempting to apply mandatory detention through 8 U.S.C. § 1225(b)(2), to Petitioner. Petitioner was nowhere near the border and was not "seeking admission."

COUNT THREE

Violation of the Administrative Procedure Act, 5 U.S.C. § 706

Detaining Petitioner Pursuant to an Unlawful Interpretation of 8 U.S.C. § 1225(b)(2) violates the Administrative Procedure Act

68. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

69. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

70. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law." 5 U.S.C. § 706(2)(D).

71. 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 could properly be detained under § 1226(a), but would then be eligible for release on bond unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

72. Nonetheless, the Board has adopted a policy and practice of applying § 1225(b)(2) to Petitioner and others in the same position.

73. Respondents through its recent administrative decision failed to articulate any reasoned explanations for new interpretation of the Act. The Board's decision represents a change in the agencies' policies and positions that negates the plain language of the Act, the will of Congress, and decades of administrative precedent.

74. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

REMEDY

75. An available remedy for Respondents' unlawful conduct as outlined in this complaint is for Petitioner to be released.

76. Immigration detention is civil in nature, and as a result Congress must have expressly authorized it by statute, and the detention must be reasonably related to its statutory purpose. *Zadvydas*, 533 U.S. at 687, 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Detention here serves no statutory purpose, there is no indication that Petitioner's detention was based on any facts that might indicate that Petitioner should be in custody for some reason.

77. Since Section 1225 does not apply to noncitizens who are in Petitioner's situation–who have been detained while residing within the United States for more than two years, as opposed to those who are detained while in the process of physically entering the United States, the law that Respondents are using to detain Petitioner simply does not apply so as to authorize Petitioner's detention. *See Eliseo A.A. v. Olson*, Civ. No. 25-3381 (JWB/DJF), 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819 (D. Minn. Oct. 20, 2025); *Khalid B.Q. v. Bondi*, Civ. No. 25-4584 (JWB/DJF), Doc. No. 10 (D. Minn. Dec. 18, 2025); *Xuseen A. v. Bondi*, Civ. No. 25-4514 (JWB/DJF), Doc. No. 16 (D. Minn. Dec. 19, 2025); *Vedat C. v. Bondi*, Civ. No. 25-4642 (JWB/DJF), Doc. No. 9 (D. Minn. Dec. 19, 2025).

78. When a habeas petitioner's detention is without legal basis, the typical remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) (describing release as the "typical remedy" for "unlawful executive detention").

79. Respondents will no doubt argue, as they have in similar cases before this Court, that if the Court rules that Petitioner should have been detained pursuant to § 1226, instead of § 1225, then the remedy is a bond hearing as opposed to outright release. *See, e.g., Ahmed A.*, Civ. No. 25-4776, Doc. No. 9. at 9–10. However, this Court rejected this argument, saying that:

> [A] bond hearing presupposes lawful detention authority under § 1226. Where that authority has not been invoked or established, ordering a bond hearing would treat the absence of statutory authority as a mere procedural irregularity rather than a substantive defect . . . Where the record shows Respondents have not identified a valid statutory basis for detention in the first place, the remedy is not to supply one through further proceedings.

Id., Doc. No. 10 at 6.

80. Nor here would § 1226(a) have supported a lawful detention in the first instance. Detention under § 1226(a) would require a warrant issued by the Attorney General. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d at 961. To put this plainly: "absent a warrant a noncitizen may not be arrested and detained under section 1226(a)." *See also Ahmed M. v. Bondi et al.*, 2026 WL 25627, *3 (D. Minn. Jan. 5, 2026) (quoting *Chogllo Chafla v. Scott*, --- F. Supp. 3d ---, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at *11 (D. Me. Sept. 21, 2025)). Upon information and belief, Respondents had no such warrant.

81. Here, where detention is unlawfully based on 8 U.S.C. § 1225(b)(2), which does not apply to Petitioner, release is an appropriate remedy.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Issue a writ of habeas corpus and an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

(3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, and the Suspension Clause (U.S. Const. art. I, § 9, cl. 2), and the Separation of Powers;

(4) Enjoin Respondents from removing Petitioner from the United States without the procedures for removal identified in the Immigration and Nationality Act;

(5) Order the immediate transfer to Minnesota then humane release of Petitioner;

(6) Award reasonable attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law; and

(7) Grant any other and further relief that this Court deems just and proper.

Dated: January 30, 2026

DORSEY & WHITNEY LLP

By *s/ Jack Huerter*

Sonja Smerud (#0504709)
smerud.sonja@dorsey.com
Jack Huerter (#0399277)
huerter.jack@dorsey.com
Sam Audley (#0401766)
audley.samuel@dorsey.com
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402
Telephone: (612) 340-2600

Attorneys for Petitioner

Verification by Someone Acting on Petitioner's Behalf
Pursuant to 28 U.S.C. 2242

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I, or I and others working under my supervision, have discussed with Petitioner the events described in this Petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

s/ Jack Huerter Date: January 30, 2026

CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant, the undersigned certifies and states that the true and correct copies of this Petition for Writ of Habeas Corpus, with Exhibits will be served upon all counsels of record via the online CM/ECF system, on or before January 30, 2026.

s/ Jack Huerter
Jack Huerter