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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

YUNUS ALPTEKIN,

Petitioner,

vs.

JEREMY CASEY, WARDEN, IMPERIAL REGIONAL DETENTION FACILITY,

DANIEL A. BRIGHTMAN, SAN DIEGO FIELD OFFICE DIRECTOR, IMMIGRATION AND CUSTOMS ENFORCEMENT AND REMOVAL OPERATIONS ("ICE/ERO"),

TOD M. LYONS, ACTING DIRECTOR OF IMMIGRATION AND CUSTOMS ENFORCEMENT ("ICE"),

KRISTI NOEM, SECRETARY OF THE U.S. DEPARTMENT OF HOMELAND SECURITY; AND,

PAM BONDI, ATTORNEY GENERAL OF THE UNITED STATES,

IN THEIR OFFICIAL CAPACITIES

Respondents.

Case No. '26CV0714 DMS SBC

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Mr. Yunus Alptekin ("Mr. Alptekin" or "Petitioner") by and through undersigned counsel, hereby files this petition for writ of habeas corpus to compel his immediate release from the custody of the Department of Homeland Security ("DHS") or, in the alternative, order Respondents to provide Mr. Alptekin with a prompt and constitutionally adequate bond hearing before a neutral decisionmaker at which the Government bears the burden to justify continued detention by clear and convincing evidence.

2. Mr. Alptekin was unlawfully re-detained without first being provided with a due process hearing to determine whether his incarceration meets any purpose. Mr. Alptekin must be released from custody unless and until the DHS proves to a neutral adjudicator by clear and convincing evidence that he presents a current danger and flight risk.

3. It is well-established that people released from custody have a protected liberty interest in their freedom. *Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972). A chorus of district courts across California have recognized that noncitizens released from Immigration and Customs Enforcement ("ICE") custody share this strong liberty interest. See, e.g., *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025 WL 691664 (ED. Cal. Mar. 3, 2025); *Garcia v. Andrews*, No. 2:25-CV-01884-TLN-SCR, 2025 WL 1927596) (E.D. Cal. July 14, 2025); *Galindo Arzate, v. Andrews*, No. 1:25-CV-00942-KES-SKO (HC), 2230521 (E.D. Cal. Aug. 4, 2025); *Ortega v. Kaiser*, No. 25-cv-05259-JST, 2025 WL 1771438, at *3 (N.D. Cal. June 26, 2025).

4. The re-detention of an individual after release and without legal cause, justification, or a hearing by a neutral arbiter, violates fundamental due process rights and lacks a legitimate basis.

FACTUAL HISTORY

5. Mr. Yunus Alptekin is an ethnic Kurd and citizen and national of Turkey who arrived at the US on or about February 26, 2022. He presented himself for inspection at the El Paso, Texas border crossing to request asylum due to threats and physical harm that he sustained in his home country by elements of the Turkish government. He was detained by immigration officials, spent four days in El Paso followed by his transfer to Dallas, Texas where he spent eighteen days in DHS custody before he was released.

6. On or about March 20, 2022, ICE released Mr. Alptekin on his own recognizance.[1] He was issued a Notice to Appear ("NTA") dated April 13, 2022, ordering him to appear on September 21, 2023, at the Newark Immigration court at 970 Broad Street, Room 1200, Newark, New Jersey 07102 before an Immigration Judge ("IJ") for his removal proceedings. The portion of the NTA that describes the nature of the proceedings has the box checked that states, "you are an alien present in the United States who has not been admitted or paroled" and subject to removal pursuant to Immigration and Nationality Act ("INA") § 212(a)(6)(A)(i). *See* Notice to Appear at Exhibit ("Exh") A.

7. After he was released by ICE, Mr. Alptekin secured an attorney to represent him in his removal proceedings with the Newark Immigration Court where he filed Form I-589 application

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[1] Petitioner's immigration file available to undersigned counsel does not contain Form I-220A, used by ICE to document the release of a detainee on their own recognizance, or Form I-286 Notice of Custody Determination used to document when a detainee is either detained under the custody of DHS, released under a bond, or released on their own recognizance. In lieu of said forms, the exhibits attached to this motion demonstrate that Petitioner was released by DHS including the Notice to Appear, immigration court hearing notices, order changing venue, and change of address Form EOIR 33.

for asylum and withholding of removal. *See* Form I-589 Filing (partial) Exh. B. He secured an employment authorization document and established a life in the United States. *See* Letters from Friends at Exh. C. At all times Mr. Alptekin complied with the terms of his release, and he has no criminal history in his home country or the US.

8. Mr. Alptekin attended his first master calendar removal hearings at the Newark Immigration Court before moving to Los Angeles, California and filing a request for a change of venue in his case to the Los Angeles Immigration Court. *See* Order, Change of Venue and Change of Address Form EOIR 33 Exh. D. Mr. Alptekin promptly attended his four master calendar hearings at the Newark Immigration Court and his two removal hearings at the Los Angeles Immigration Court. *See* Immigration Court Hearing Notices at Exh. E.

9. On January 15, 2026, Mr. Alptekin parked his truck at a Flying J Travel Center in Fontana, California around 6:50 a.m. While he was sitting in his truck talking on his cell phone to his family in Turkey, border patrol agents appeared and blocked his vehicle. The agents motioned for him to exit his vehicle and requested his identification. Mr. Alptekin complied. The agents surrounded him, took his picture, handcuffed him, placed him in an unmarked vehicle and transported him to the Imperial Regional Adult Detention Facility in Calexico, California where he is currently being detained. Mr. Alptekin was not provided with any showing of changed circumstances warranting his detention and was not given any notice or an opportunity to be heard at the time of his detainment. His immigration court proceedings were and continue to be pending before the Imperial Immigration Court in Imperial, California with his individual hearing scheduled for February 19, 2026, at 8:30 am. *See* Immigration Court Hearing Notice at Exh. F.

10. Mr. Alptekin was re-detained by DHS, not because there was a material change in his circumstances, but in furtherance of its new policy arrogating to itself the unilateral authority to detain individuals without respect to whether anything has happened that has converted the individual into a flight risk or danger to the community and without involving a neutral arbitrator.

11. DHS's release of Mr. Alptekin's on his own recognizance on or about March 20, 2022, and the agency's issuance of the NTA ordering Mr. Alptekin to appear for non-detained removal proceedings demonstrates that the government does not believe that he is a danger to the community or a flight risk.

12. It is well established that the Fifth Amendment provides that citizens and noncitizens like Mr. Alptekin have a profound interest in freedom from physical confinement. Under binding Ninth Circuit precedent, the Due Process Clause requires that Respondents must bear the burden of proof to justify Mr. Alptekin's continued detention without bond by clear and convincing evidence of flight risk or danger to the community.

JURISDICTION & VENUE

13. This Court has jurisdiction under 28 U.S.C. § 2241 to hear this petition for a writ of habeas corpus because Petitioner is presently detained within this judicial district under color of federal authority, and the petition challenges the legality of that custody.

14. Jurisdiction is also proper under 28 U.S.C. § 1331, which confers federal question jurisdiction over claims arising under the Constitution, the Immigration and Nationality Act (INA), and the Administrative Procedure Act (APA), 5 U.S.C. § 701 et seq.

15. The APA authorizes this Court to hold unlawful and set aside agency action that is "not in accordance with law" or "in excess of statutory jurisdiction." 5 U.S.C. § 706(2)(A), (C). Petitioner's continued detention under § 1225(b)(2)(A) constitutes such unlawful agency action.

16. Venue lies properly in this District under 28 U.S.C. § 1391(e) and § 2241(d) because Petitioner is detained at an immigration detention facility within this District and Respondents are officers or employees of the United States acting in their official capacities within this District.

PARTIES

17. Petitioner YUNUS ALPTEKIN is a noncitizen who has resided in the United States for almost four years. He is currently detained by ICE at the Imperial Regional Adult Detention Facility located at 1572 Gateway Road, Calexico CA 92231 and within the jurisdiction of this Court.

18. Respondent JEREMY CASEY is the acting Warden of the Imperial Regional Adult Detention Facility located in Calexico, California. Jeremy Casey is the proper respondent because he is the warden of the facility at which Mr. Alptekin is detained.

19. Respondent DANIEL A. BRIGHTMAN is the Field Office Director of U.S. Immigration and Customs Enforcement's Enforcement and Removal Operations (ERO), San Diego Field Office, which exercises supervisory authority over Petitioner's detention and removal proceedings.

20. Respondent TOD M. LYONS is acting director of Immigration and Customs Enforcement.

21. Respondent KRISTI NOEM is the Secretary of the U.S. Department of Homeland Security, responsible for the administration and enforcement of federal immigration laws.

22. Respondent PAM BONDI is the Attorney General of the United States and has ultimate supervisory authority over the Department of Justice and the immigration courts.

REQUIREMENTS OF 28 U.S.C. § 2243

23. The habeas statute requires courts to act swiftly in reviewing unlawful detention. Under 28 U.S.C. § 2243, the court must "forthwith" grant the writ or issue an order to show cause unless it appears from the petition that the petitioner is not entitled to relief.

24. If an order to show cause is issued, the statute directs that the respondent must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* This statutory framework underscores the urgency of habeas relief, reflecting the historic role of the Great Writ 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).

EXHUASTION OF REMEDIES

I. Governing Authority

25. There is no statutory exhaustion requirement applicable to this habeas petition. *McKart v. United States*, 395 U.S. 185, 193 (1969); *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Accordingly, any exhaustion requirement is prudential, not jurisdictional.

26. In *Laing v. Ashcroft*, the Ninth Circuit held "Section 2241 … 'does not specifically require petitioners to exhaust direct appeals before filing petitions for habeas corpus.'" *Laing v. Ashcroft*, 370 F.3d 994, 997 (9th Cir. 2004) (citing *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001)). The same court has also stated that, "as a prudential matter, that habeas petitioners exhaust available judicial and administrative remedies before seeking relief under § 2241." *Castro-Cortez*, 239 F.3d at 1047 (citing *United States v. Pirro*, 104 F.3d 297, 299 (9th

Cir. 1997)). "Under the doctrine of exhaustion, 'no one is entitled to judicial relief for a supposed or threatened injury until the prescribed ... remedy has been exhausted.'" *Laing*, 370 F.3d at 997-98 (citing *McKart v. United States*, 395 U.S. 185, 193 (1969)). "Exhaustion can be either statutorily or judicially required. If exhaustion is required by statute, it may be mandatory and jurisdictional, but courts have discretion to waive a prudential requirement." *Id.* at 998 (citing *El Rescate Legal Servs., Inc. v. Executive Office of Immigration Review,* 959 F.2d 742, 746 (9th Cir. 1991); *Stratman v. Watt,* 656 F.2d 1321, 1325-26 (9th Cir. 1981)). "Although courts have discretion to waive the exhaustion requirement when it is prudentially required, this discretion is not unfettered.... Lower courts ... [must] first determin[e whether] the exhaustion requirement has been satisfied or properly waived." *Id.*: *see Murillo v. Mathews*, 588 F.2d 759, 762, n.8 (9th Cir. 1978) ("Although the application of the rule requiring exhaustion is not jurisdictional, but calls for the sound exercise of judicial discretion, it is not lightly to be disregarded.").

II. Prudential Exhaustion Should be Excused

27. Prudential exhaustion is excused where (1) agency expertise is unnecessary, (2) administrative review would be futile, or (3) the petitioner would suffer irreparable harm. *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007). Each of these factors supports waiver here.

(i) Agency expertise is unnecessary

28. Agency expertise is not necessary to resolve the question presented because there are no disputed facts. The issue is a pure question of statutory interpretation—whether Mr. Alptekin's detention is governed by § 1225(b)(2)(A) or § 1226(a). The Board of Immigration Appeals ("BIA") has no special competence in resolving questions of habeas jurisdiction or the statutory reach of these provisions. See *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024)

(ii) Administrative review would be futile

29. Courts regularly excuse exhaustion where the agency's precedent forecloses the argument or renders review meaningless. See *Singh v. Holder*, 638 F.3d 1196, 1203 n.3 (9th Cir. 2011); *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011).

30. The BIA has already adopted DHS's position in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), concluding that noncitizens like Mr. Alptekin are subject to mandatory detention under § 1225(b)(2)(A). Because the BIA has spoken definitively on this issue, it lacks authority to grant the relief Mr. Alptekin seeks. A request for a bond redetermination hearing before and IJ in this case would therefore be futile as the request would be summarily denied based on the government's current interpretation of the Board of Immigration Appeal's ("BIA") recent decisions in *Matter of Q. Li*, 19 I&N Dec. 66 (B.I.A. 2025) and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025).

31. On Jan. 13, 2026, the American Immigration Lawyers Association circulated guidance from EOIR's Chief Immigration Judge regarding the Central District of California case *Maldonado Bautista*. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). The brief guidance instructs immigration judges that "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*." It further explains that a declaratory judgment

"is not an equitable remedy" and lacks the authority to compel a specific action. According to EOIR's guidance, *Matter of Yajure Hurtado* remains binding precedent in bond proceedings. [2]

(iii) Requiring exhaustion would cause irreparable harm

32. Requiring exhaustion would also cause irreparable harm. Mr. Alptekin's has already endured four months of detention. His individual hearing is scheduled for February 19, 2026, leaving him to remain confined indefinitely without a meaningful opportunity for release. As multiple courts have recognized, each additional day of detention without access to bond constitutes irreparable harm that cannot later be remedied. *LG v. Choate*, No. 23-cv-00611 (D.N.M. 2024), slip op. at 14; *Salvador F.-G. v. Noem*, 2025 WL 1669356, at 4 (N.D. Okla. June 12, 2025).

33. Other California District Courts have reached the same conclusion. In *Mosqueda v. Noem*, No. 5:25-cv-02304 CAS (BFM), 2025 WL 2591530, at 6–7 (C.D. Cal. Sept. 8, 2025), the court held that the question of whether detention is governed by § 1225(b) or § 1226(a) is purely legal, that BIA review is futile in light of *Hurtado*, and that "[p]etitioners would be immediately and irreparably harmed by their continued deprivation of liberty without bond hearings that they are entitled to under section 1226(a)."Because this petition raises a pure question of law, administrative review would be futile, and continued detention causes ongoing irreparable harm,

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[2] American Immigration Lawyer's Association, Practice Alert: EOIR Issues Nationwide Guidance on *Maldonado Bautista*, AILA Doc. No. 26011404 https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista (last visited Feb. 1, 2026).

exhaustion is not required. Habeas corpus under 28 U.S.C. § 2241 is therefore the only adequate and appropriate remedy.

34. Since no statutory exhaustion requirements apply to Mr. Alptekin's claim of unlawful custody in violation of his due process rights and there are no administrative remedies that he needs to exhaust, Mr. Alptekin respectfully requests this Court waive the prudential exhaustion requirement for his claim for habeas corpus relief. *See Chavez v. Noem*, No. 3:25-CV-02325-CAB-SBC, 2025 WL 2730228, at *3 (S.D. Cal. Sept. 24, 2025) (waiving prudential exhaustion requirement because the BIA "already applied its expertise in deciding and designating" *Hurtado* as precedential, pursuant to which detainees are subject to mandatory detention without bond under § 1225(b)(2)); *e.g.*, *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1253 (W.D. Wash. 2025) ("The Ninth Circuit has recognized 'the irreparable harms imposed on anyone subject to immigration detention.'") (citing *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017)); *Beltran v. Noem*, No. 25-cv-2650-LL-DEB, 2025 WL 3078837, at *4 (S.D. Cal. Nov. 4, 2025); *Kuzmenko v. Phillips*, No. 25-cv-00663-DJC-AC, 2025 WL 779743, at *4 (E.D. Cal. Mar. 10, 2025)).

GOVERNING DETENTION STATUTE

I. Applicability of 8 U.S.C. § 1226(a) or 8 U.S.C. § 1225(b)(2)

35. Generally, noncitizens are subject to civil immigration detention only if the noncitizen presents a risk of flight or danger to the community. See *Zadvydas v. Davis,* 533 U.S. at 690 (2001) (holding that 8 U.S.C. § 1231(a)(6) does not authorize indefinite detention).

36. Mr. Alptekin maintains that (1) he is not properly detained under 8 U.S.C. § 1225(b)(2)(A) as the respondents surely claim, and instead, is detained under 8 U.S.C. § 1226(a) and entitled to a pre-deprivation bond hearing; and (2) his's detention violates his constitutional

right to due process. Respondents have already demonstrated that they believe that Mr. Alptekin is not a flight risk or a danger to the community and their position that Mr. Alptekin's detention is mandatory under § 1225(b)(2)(A) should fail.

37. The issue here is whether Mr. Alptekin, who has no criminal record and has lived in the United States since February 2022, is subject to discretionary release as first ordered by immigration officials under § 1226(a), or whether he is now subject to mandatory detention under § 1225(b)(2)(A), as the respondents will argue. Respondent have argued that § 1225(b)(2)(A) applies to Mr. Alptekin because he is an "applicant for admission" and therefore subject to mandatory detention.

38. The Court should conclude that § 1226 applies to Mr. Alptekin. First, immigration authorities must have released him on his own recognizance or parole pursuant to § 1226 on or about March 20, 2022 "in accordance with section 236 of the INA.[3] The majority of courts nationwide, including this Court, have rejected respondent's interpretation of Sections 1225 and 1226. *See Rodriguez Vazquez v. Bostock*, 2025 WL 2782499, at *1, 21-22 (W.D. Wash. Sept. 30, 2025) (concluding, after a thorough analysis, that "the government's [interpretation of § 1225] belies the statutory text of the [Immigration and Nationality Act], canons of statutory interpretation, legislative history, and longstanding agency practice"); *J.Y.L.C. v. Bostock*, 2025 WL 3169865, at *2 (D. Or. Nov. 12, 2025) (collecting more than thirty cases rejecting the government's assertion that § 1225 empowers DHS to arrest and hold a noncitizen present

[3] Section 236 of the INA is codified at 8 U.S.C. § 1226; section 235 of the INA is codified at 8 U.S.C. § 1225.

without legal status who has spent years in the U.S.); *Cardona-Lozano v Noem*, 2025 WL 3218244, at *6 (W.D. Tex. Nov. 14, 2025) ("Repeatedly, [district courts across the country] have found that DHS and the [Board of Immigration Appeals'] construction of the [Immigration and Nationality Act] is incorrect and that petitioners who have long resided in the United States but are being held under § 1225 are entitled to relief.") (collecting cases)); *Faizyan v. Casey*, 2025 WL 3208844, at *5 (S.D. Cal. Nov. 17, 2025) (holding that § 1226 applies to a petitioner who "DHS has consistently treated" as subject to discretionary detention and "who has been residing in the United States for two years" (internal quotation marks and citation omitted)); *Josue I.C.A. v. Lyons*, 2025 WL 3496432, at 3 n.6 (E.D. Cal. Dec. 5, 2025) (collecting cases); *Morales-Flores v. Lyons*, 2025 WL 3552841, at *3 (E.D. Cal. Dec. 11, 2025) (collecting cases) ("Courts nationwide, including this one, have overwhelmingly rejected respondents' arguments and found DHS's new policy unlawful.").

39. "These courts examined the text, structure, agency application, and legislative history of 1225(b)(2) and concluded that it applies only to noncitizens 'seeking admission,' a category that does not include noncitizens like [petitioner], living in the interior of the country." *Salcedo Aceros v. Kaiser*, 2025 WL 2637503, at *8 (N.D. Cal. Sept. 12, 2025) (collecting cases). By contrast, "[t]he government's proposed reading of the statute (1) disregards the plain meaning of section 1225(b)(2)(A); (2) disregards the relationship between sections 1225 and 1226; (3) would render a recent amendment to section 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory interpretation and practice." *Guerro Lepe v. Andrews*, 2025 WL 2716910, at *4 (E.D. Cal. Sept. 23, 2025) (collecting cases). This Court should incorporate and adopt the thorough and persuasive reasoning of the district court in *Lepe*, 2025 WL 2716910, at *3-9. As the district court found in *Lepe*, this Court should also reject the new interpretation of 8 U.S.C. §

1225(b)(2)(A) by respondent, and find that Mr. Alptekin is detained under 8 U.S.C. § 1226(a) and its implementing regulations, because he has resided in this country for almost four years since he was either released on his own recognizance or parole pursuant to § 1226, and petitioner's January 15, 2026 arrest and re-detention were not upon his arrival to the United States.

II. As a member of the *Maldonado Bautista* bond eligible class, Petitioner has a statutory right to a bond hearing because Petitioner is detained under § 1226(a)

40. On November 20, 2025, the District Court in *Maldonado Bautista* for the Central District of California granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *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) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

41. The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

42. The district court certified the following Bond Eligible Class:

> 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*, 2025 WL 3288403, at *9.

43. Under this class definition, there are two groups of people who have claims to relief. First, there are those who entered the United States, were not apprehended at or near the border or close in time to their entry, and who were later arrested by immigration authorities. Second, there are those who were apprehended at or near the border and close in time to their entry, were released on recognizance, and then were re-detained by immigration authorities after residing in the United States. The *Maldonado Bautista* court's reasoning and language also indicates that the relevant inquiry for determining class membership for the latter group should be a person's most recent arrest. *Id.*

DUE PROCESS

I. Substantive Due Process

44. Mr. Alptekin maintains that he has a fundamental liberty interest in freedom from imprisonment and the Respondent's asserted compliance with § 1225(b)(2)(A) does not demonstrate the government has satisfied the requirements of the Due Process Clause, "which of course constitute[s] the supreme law of the land[.]" *Tot v. United States*, 319 U.S. 463, 472 (1943).

45. The Due Process Clause protects persons in the United States from being deprived of life, liberty, or property without due process of law. U.S. Const. amend. V. "It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. "The Due Process

clause applies to noncitizens in this country in connection with removal proceedings, even if their presence is unlawful or temporary." *Tinoco v. Noem*, 2025 WL 3567862, at *5 (E.D. Cal. Dec.14, 2025) (citing Zadvydas, 533 U.S. at 690).

46. The Supreme Court has found that a protected liberty interest may arise from a conditional release from physical restraint. *Young v. Harper*, 520 U.S. 143, 147-49 (1997). Even when a statute allows the government to arrest and detain an individual, a protected liberty interest under the Due Process Clause may entitle the individual to procedural protections not found in the statute. *See id.* (finding due process requires pre-deprivation hearing before revocation of pre-parole); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (same, in parole context). To determine whether a specific conditional release rises to the level of a protected liberty interest, "[c]ourts have resolved the issue by comparing the specific conditional release in the case before them with the liberty interest in parole as characterized by Morrissey." *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010).

47. In *Morrissey*, the Supreme Court explained that parole "enables [the parolee] to do a wide range of things open to persons" who have never been in custody or convicted of any crime, including to live at home, work, and "be with family and friends and to form the other enduring attachments of normal life." *Morrissey*, 408 U.S. at 482. "Though the [government] properly subjects [the parolee] to many restrictions not applicable to other citizens," such as monitoring, his "condition is very different from that of confinement in a prison." *Id.* "The parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." *Id.* The revocation of parole undoubtedly "inflicts a grievous

loss on the parolee." *Id.* Therefore, a parolee possesses a protected interest in his "continued liberty." Id. at 481-84.

48. Here, Mr. Alptekin's initial detention then release in March of 2022 either on his own recognizance or parole pursuant to §1226 is similar because it allowed him to live in New Jersey subject to immigration supervision, but outside of custody for over three years. Such time allowed Mr. Alptekin to form "enduring attachments of normal life." *Morrissey*, 408 U.S. at 482. Mr. Alptekin's original release and time out of custody gave rise to a constitutionally protected liberty interest.

49. Mr. Alptekin's release pursuant to 8 U.S.C. § 1226(a) was premised upon a finding that, at the time of his's release, he was not dangerous nor a flight risk. See 8 C.F.R. § 1236.1(c)(8) ("Any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien not described in [8 U.S.C. § 1226](c)(1), under the conditions at section [8 U.S.C. § 1226](a)(2) and (3) of the Act; provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding."); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), aff'd sub nom. *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018); *F.M.V. v. Wofford*, 2025 WL 3083934, at *1 (E.D. Cal. Nov. 4, 2025).

50. In light of the foregoing, this Court should find that Mr. Alptekin's prior release pursuant to 8 U.S.C. § 1226(a) created a reasonable expectation that he would be entitled to retain his liberty as long as he was not a flight risk and did not pose a danger to the community. *See Perry v. Sindermann*, 408 U.S. 593, 601-03 (1972) (finding reliance on governmental representations may establish a legitimate claim of entitlement to a constitutionally protected interest); *F.M.V.*, 2025 WL 3083934 at *4. Mr. Alptekin has a protected liberty interest in his release. *See*

Guillermo M. R. v. Kaiser, 2025 WL 1983677, at *4 (N.D. Cal. July 17, 2025) (recognizing that "the liberty interest that arises upon release [from immigration detention] is inherent in the Due Process Clause"); *Ortega v. Kaiser,* 2025 WL 1771438, at *3 (N.D. Cal. June 26, 2025) (collecting cases finding that noncitizens who have been released have a strong liberty interest); *F.M.V.,* 2025 WL 3083934 at *4-5.

II. Procedural Due Process

51. The next issue is what procedures are necessary to ensure that the deprivation of that protected liberty interest meets the demands of the Constitution. The Ninth Circuit has "regularly applied *Mathews v. Eldridge*, 424 U.S. 319 (1976)], to due process challenges to removal proceedings." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022); see also *Hernandez v. Sessions*, 872 F.3d 976, 993 (9th Cir. 2017) (applying Mathews factors in immigration detention context). In applying the Mathews test to a procedural due process claim to a detention under 8 U.S.C. § 1226, the Ninth Circuit explained that "Mathews remains a flexible test that can and must account for the heightened governmental interest in the immigration detention context." *Rodriguez Diaz*, 53 F. 4th at 1206-07 (citations omitted). Under Mathews, the Court considers three factors: (1) the private interest affected; (2) the risk of an erroneous deprivation; and (3) the government's interest. *Mathews*, 424 U.S. at 335.

52. First, Mr. Alptekin has a clear interest in remaining free from detention. "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*, 533 U.S. at 690 (citing *Foucha*, 504 U.S. at 80 ("Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause.); *Hernandez*, 872 F.3d at 981 ("[T]he government's discretion to incarcerate non-citizens is always constrained by the requirements of due

process."). For almost four years, Mr. Alptekin was free from custody before his re-detention. He worked full-time and became an active member of his community. (ECF No. 14 at 12.) The duration of his conditional release elevates and underscores his interest in liberty. *See Pinchi v. Noem*, 2025 WL 2084921, at *3 (N.D. Cal. July 25, 2025) (in the past five years, petitioner developed "extensive relations of support and interdependence" that "underscore the high stakes of [his] liberty."); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 963 (N.D. Cal. 2019) (holding that petitioner had a substantial liberty interest where he had been released from custody for 18 months and was living with his wife, spending time with his mother and other family members, working as a bicycle mechanic, and developing friendships in his community).

53. The second Mathews factor also weighs in Mr. Alptekin's favor. "The risk of an erroneous deprivation [of liberty] is high" when "[the petitioner] has not received any bond or custody redetermination hearing." *See A.E. v. Andrews*, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025). Again, civil immigration detention, which is "nonpunitive in purpose and effect[,]" is typically justified under the Due Process Clause only when a noncitizen presents a risk of flight or danger to the community. See *Zadvydas*, 533 U.S. at 690; Padilla v. ICE, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023). Respondents cannot show that Mr. Alptekin is or was a flight risk or a danger to the community.

54. Here, Mr. Alptekin has been detained since January 15, 2026, without being given an individualized bond hearing to evaluate whether he is a flight risk or a danger to the community. No neutral arbiter under 8 U.S.C. § 1226 has determined whether Mr. Alptekin is a flight risk or a danger to the community. Respondents must demonstrate that his re-detention is reasonably related to a valid government purpose. *See Zadvydas,* 533 U.S. at 690; see, e.g., *Rodriguez Diaz v. Kaiser*, 2025 WL 3011852, at *11 (N.D. Cal. Sept. 16, 2025) ("If respondents wish to

establish that re-detention is warranted by raising the effect of . . . [petitioner's] six alleged bond violations, a hearing before a neutral adjudicator provides a forum to do so."); *see Cajina v. Wofford*, 2025 WL 3251083, at *1, 6 (E.D. Cal. Nov. 21, 2025) (ordering petitioner's immediate release and enjoining and restraining respondents from re-detaining petitioner absent a pre-detention hearing, despite petitioner being charged with driving under the influence).

55. As to the third Mathews factor, the government has an interest in enforcing immigration laws, but respondent's interest in detaining Mr. Alptekin without a hearing is "low." *Ortega v. Bonnar,* 415 F. Supp. 3d at 970; *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1094 (E.D. Cal. Mar. 3, 2025). Detention hearings in immigration courts are routine and impose a "minimal cost." Doe, 787 F. Supp. 3d at 1094. In addition, here, the government's interest is even lower because Mr. Alptekin was previously released on his own recognizance or parole after immigration officials determined he was not a flight risk or danger to the community, he lived in the country for almost four years after his initial release, and he has no criminal record. *See Pinchi,* 2025 WL 1853763, at *2.

56. Overall, balancing these factors, the Court should find that the Mathews factors weigh in favor of finding that Mr. Alptekin is entitled to a bond hearing, and he should have been provided such a hearing before he was detained. "An essential principle of due process is that a deprivation of life, liberty, or property be preceded by notice and opportunity for hearing appropriate to the nature of the case." *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985) (internal quotation marks and citation omitted). In criminal cases, parolees released on parole, which does not provide "absolute liberty," but rather "conditional liberty properly dependent on observance of special parole restrictions," are also entitled to due process, including a pre-deprivation hearing before their parole can be revoked. *Morrissey*, 408 U.S. at

480-86. "Numerous district courts have held that these principles extend to the context of immigration detention." *F.M.V.*, 2025 WL 3083934 at *6 (collecting cases). Respondents cannot point to any reasons a pre-deprivation hearing could not be held, and provided no evidence of "urgent concerns," thus, "a pre-deprivation hearing is required to satisfy due process." *Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d at 1036.

THE ADMINISTRATIVE PROCEDURES ACT

I. Respondent's Violation of the Administrative Procedure Act

57. The Administrative Procedures Act ("APA") requires courts to hold challenged final agency actions unlawful when the actions are arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law. 5 U.S.C. § 706(2)(A). Agency action is arbitrary and capricious when the agency fails to "examine the relevant data and articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made.'" Motor Vehicle Mfrs. Ass'n of the U.S., Inc. v. State Farm Mut. Auto. Ins., 463 U.S. 29, 43 (1983) (quoting Burlington Truck Lines v. United States, 371 U.S. 156, 168 (1962)).An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). For a challenged agency action to be upheld, the agency "must explain the evidence which is available, and must offer a rational connection between the facts found and the choice made." *Motor Vehicle Manufacturers Ass'n of the United States, Inc. v. State Farm Mut. Auto.*

Ins. Co., 463 U.S. 29, 52 (1983) (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)).

58. As the court in *Saravia v. Sessions* articulated, "[r]elease reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). After release, a noncitizen should not be returned to custody unless the purposes of the parole have been served. *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1144-45 (D. Or. 2025). Additionally, under regulation, parole must be terminated upon written notice after an individualized determination that the purposes no longer apply. 8 C.F.R. § 212.5(e)(2)(i); *see, e.g.*, *Bostock,* 792 F. Supp. 3d at 1146-47 (finding parolee must receive written notice of impending revocation with reasons for revocation); *Padilla v. U.S. Immigr. & Customs Enf't*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023) ("The Supreme Court has consistently held that non-punitive detention violates the Constitution unless it is strictly limited, and, typically, accompanied by a prompt individualized hearing before a neutral decisionmaker to ensure that the imprisonment serves the government's legitimate goals."); *Castellon v. Kaiser*, No. 1:25-CV-00968 JLT EPG, 2025 WL 2373425, at *6 (E.D. Cal. Aug. 14, 2025) (finding a case-by-case analysis is needed to revoke parole); *Garcia v. Andrews*, No. 1:25-CV-01006-JLT-SAB, 2025 WL 2420068, at *12 (E.D. Cal. Aug. 21, 2025); *but see Doe v. Noem*, No. 25-1384, 2025 WL 2630395, at *9 (1st Cir. Sept. 12, 2025) (finding an individualized termination of parole is not required). In sum, to meet statutory and regulatory requirements, revocation should only occur when the parole's purpose is served, *and* the noncitizen is provided written notice. *Bostock*, 792 F. Supp. 3d at 1144-46.

59. Mr. Alptekin maintains that Respondents violated APA when they re-detained him and initiated expedited removal proceedings without lawful authority. Given Respondents' diligent efforts to remove him after effectively revoking his release, their termination of his supervised release is reviewable as a final agency action that will have lasting incurable consequences. Respondents did not articulate a satisfactory explanation including a "rational connection between the facts found and the choice made" for the change to Mr. Alptekin's status. *See Motor Vehicle Mfrs. Ass'n.*, 463 U.S. at 43; ECF No. 10-4. Respondents also do not show any consideration of the "serious reliance interests" that they have engendered in Mr. Alptekin by granting him supervised release prior to their change in policy. See Dept. of Homeland Security v. Regents of the Univ. of Calif., 591 U.S. at 30. Because Respondents revoked his supervised release and detained him without any rational individualized fact-finding or consideration of the effects of altering their prior decisions, Respondents acted arbitrarily and capriciously in violation of the APA.

CLAIMS FOR RELEIF

COUNT ONE

(*Unlawful Detention Under the Immigration and Nationality Act and the Administrative Procedure Act*)

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

61. Mr. Alptekin is detained under an unlawful and unauthorized application of 8 U.S.C. § 1225(b)(2)(A). As set forth in the governing statutory framework, § 1225 governs detention of individuals seeking admission at the border, while § 1226 governs detention of individuals already inside the United States *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018). Mr. Alptekin

entered the US on February 26, 2022, detained upon his arrival, then released on his own recognizance. Then on January 15, 2026, he was re-detained, three years and ten months later—a form of interior enforcement that Congress expressly associated with discretionary detention under § 1226(a)

62. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) cannot override a § 1226(a) and impose mandatory detention on a long-term resident encountered and re-detained in the interior. Federal district courts in the Ninth Circuit confronting nearly identical circumstances have uniformly held that such detention is governed by § 1226(a) and that reliance on *Hurtado* is contrary to law. See, *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *1 (W.D. Wash. Sept. 30, 2025) ("Every district court to address this question has concluded that the government's position belies the statutory text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice."); *See Aceros v. Kaiser*, No. 25-cv-06924-EMC (EMC), 2025 U.S. Dist. LEXIS 179594, at *23 (N.D. Cal. Sep. 12, 2025) (Finding the BIA's new ruling "unpersuasive" and "thus entitled to little deference"). See also, *Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO (E.D. Cal. Sept. 23, 2025); *Maldonado Vazquez v. Feeley*, No. 2:25-cv-01562 (D. Nev. Sept. 17, 2025); *Roman v. Noem*, No. 2:25-cv-01803 (D. Nev. Sept. 23, 2025); *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at *4–5 (C.D. Cal. Sept. 8, 2025). *Pelico, et al. v. Kaiser, et al.,* No. 25-CV-07286-EMC, 2025 WL 2822876, at *9 (N.D. Cal. Oct. 3, 2025).

63. These courts have all found that individuals arrested inside the United States—often at checkpoints or during routine enforcement—are detained under § 1226(a) and are entitled to individualized bond determinations.

64. In sum, by invoking § 1225(b)(2)(A) to nullify an IJ's jurisdiction to conduct a bond hearing and to continue Mr. Alptekin's detention without lawful basis, Respondents have acted beyond the scope of their statutory authority under the Immigration and Nationality Act.

COUNT TWO

(Violation of Fifth Amendment's Due Process Clause)

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

66. Mr. Alptekin's continued detention violates the Due Process Clause of the Fifth Amendment, which protects all persons within the United States from arbitrary or unjustified deprivations of liberty. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Civil immigration detention, being nonpunitive, may be justified only when it serves legitimate regulatory goals—such as ensuring appearance or protecting the public—and only when accompanied by adequate procedural safeguards. *Id.* at 690; *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017).

67. The DHS released Mr. Alptekin on his own recognizance with no bail requirement shortly after his arrival in the US. If the DHS believed that Mr. Alptekin posed a danger to the community, the agency would not have released him on his own recognizance as they did.

68. The DHS is correct in its opinion that Mr. Alptekin is neither a flight risk nor danger to the community. Since the commencement of his removal proceedings he has had many immigration court hearings, all of which he presented himself on time and he has never attempted to evade state or federal law enforcement.

69. The Supreme Court's decision in *Mathews v. Eldridge*, 424 U.S. 319 (1976), provides the governing framework for determining what process is constitutionally due when the government seeks to deprive a person of liberty. The Ninth Circuit applies the *Mathews* balancing test in the

immigration-detention context, and district courts throughout the circuit have done so routinely. See, e.g., *Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022); *Cordero Pelico v. Kaiser*, No. 25-CV-07286-EMC, 2025 WL 2822876, at *6 (N.D. Cal. Oct. 3, 2025); *Naser Noori v. Larose, et al.,,* No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *10 (S.D. Cal. Oct. 1, 2025); *Calderon v. Kaiser*, No. 25-CV-06695-AMO, 2025 WL 2430609, at *3 (N.D. Cal. Aug. 22, 2025); *Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082, at *17 (D. Nev. Sept. 17, 2025); *Hernandez v. Wofford*, No. 1:25-CV-00986-KES-CDB (HC), 2025 WL 2420390, at *3 (E.D. Cal. Aug. 21, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263, at *5 (N.D. Cal. Aug. 21, 2025); *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025); *Hernandez Nieves v. Kaiser*, No. 25-CV-06921-LB, 2025 WL 2533110, at 4 (N.D. Cal. Sept. 3, 2025).

70. Under *Mathews*, courts weigh the following three factors: (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 the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335. *Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082, at *17 (D. Nev. Sept. 17, 2025)

71. **Private Interest at Stake:** The private interest at stake here is as weighty as any in our legal system. "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). Prolonged civil confinement constitutes a "significant deprivation of liberty" requiring robust procedural safeguards. *Addington v. Texas*,

441 U.S. 418, 425–27 (1979). The cost of erroneous detention is not abstract: it means months or even years of lost freedom, isolation from community, and disruption of family life. As one court recently recognized, "[t]he deprivation of liberty occasioned by continued civil detention, without a meaningful opportunity to contest its necessity, is among the most severe governmental intrusions." *Vazquez v. Feeley*, No. 2:25-cv-01542-RFB-EJY, 2025 WL 2676082, at *17 (D. Nev. Sept. 17, 2025).

72. That liberty interest is further heightened here because Mr. Alptekin has been living in the US for almost four years. His continued detention has severed the daily contact he enjoyed with his partner and friends, and it has deprived his family of the emotional support, care, and stability that define a close family— one of the most fundamental liberty interests recognized by the Constitution. See *Pinchi v. Garland*, No. 2:25-cv-00431, 2025 WL 1853763, at *3 (N.D. Cal. May 6, 2025) (acknowledging the "grave human cost" of prolonged detention, including separation from family). Each additional day Mr. Alptekin spends confined not only deepens the injury to his own liberty but inflicts anxiety on his loved ones who care for him underscoring the profound private interests at stake in ensuring the adequacy of procedural protections.

73. **Risk of Erroneous Deprivation**: The risk of erroneous deprivation here is substantial. Mr. Alptekin's opportunity for bond would be denied not through an evidentiary process, but by administrative fiat—based solely on the government's unilateral legal position under *Hurtado*. He received no notice, opportunity to be heard, or neutral adjudication before his liberty was taken. Additional safeguards, such as notice and a new bond hearing before an IJ, would all but eliminate that risk. Courts have consistently found that categorical detention decisions without individualized assessment create a "high risk of error." *Ramirez Clavijo*, 2025 WL 2419263, at *5; Pinchi*, 2025 WL 2084921, at *3.

74. **Government's Interest and Administrative Burden**: The government's interest in detaining Mr. Alptekin without hearing is minimal. Civil detention serves only regulatory—not punitive—goals and may be justified only when it furthers legitimate objectives such as ensuring appearance or protecting the community. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The administrative burden of affording Mr. Alptekin a bond hearing is negligible; such procedures are routine and well established. As Judge Chen observed in *Cordero Pelico*, "the government cannot claim a cognizable interest in avoiding procedures that ensure compliance with the Constitution." *Cordero Pelico*, 2025 WL 2822876, at *6.*

75. Balancing the *Mathews* factors confirms that the procedures afforded here were constitutionally deficient. Mr. Alptekin's liberty interest is at its apex, the risk of erroneous deprivation is high, and the government's asserted burden is minimal. The abrupt reclassification and continued detention, without a meaningful hearing or individualized justification, violate fundamental principles of due process.

76. In sum, Respondents' actions denying Mr. Alptekin an opportunity for bond and continued detention under § 1225(b)(2)(A) deprived him of liberty without constitutionally adequate process. The government's shifting statutory posture and reliance on *Hurtado*, compound the arbitrariness of his confinement. Mr. Alptekin's detention therefore violates the Fifth Amendment's guarantee of due process.

COUNT THREE

(*Violation of the Administrative Procedure Act*)

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

78. The Administrative Procedure Act ("APA") requires that "[t]he reviewing court shall … compel agency action unlawfully withheld or unreasonably delayed," and "shall … hold unlawful and set aside agency action … found to be … not in accordance with law [or] in excess of statutory jurisdiction." 5 U.S.C. § 706(1), (2)(A), (C).

79. Respondents have invoked *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), to reclassify Mr. Alptekin's detention under § 1225(b)(2)(A)—a statute that does not apply to noncitizens already residing in the interior.

80. By denying bonds for individuals like Mr. Alptekin and imposing continued detention under a different statutory provision, Respondents acted "not in accordance with law" and "in excess of statutory jurisdiction." 5 U.S.C. § 706(2)(A), (C).

81. Federal courts considering nearly identical circumstances have rejected the government's post-hoc invocation of § 1225 as unlawful and arbitrary under the APA. See *Aceros v. Kaiser*, No. 25-cv-06924-EMC, 2025 WL 2637503, at *8–12 (N.D. Cal. Sept. 12, 2025); Oliveros v. Kaiser*, No. 25-cv-07117-BLF, 2025 WL 2677125, at *4 (N.D. Cal. Sept. 18, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *7–9 (S.D.N.Y. Aug. 13, 2025).* These decisions uniformly hold that DHS's reclassification of custody status after release or bond authorization is "arbitrary, capricious, and contrary to law."

82. In sum, Respondents' substitution of an inapplicable statutory framework to justify Mr. Alptekin's continued detention constitutes unlawful and arbitrary agency action. The APA requires this Court to set aside those actions and compel Respondents to comply with the governing statutory authority under § 1226(a).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Issue a writ of habeas corpus directing Respondents to immediately release Mr. Alptekin from custody under 8 U.S.C. § 1225(b)(2)(A), as his detention is unlawful under the Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment;

b. In the alternative, order Respondents to provide Mr. Alptekin with a prompt and constitutionally adequate bond hearing before a neutral decisionmaker pursuant to 8 U.S.C. § 1226(a), at which the Government bears the burden to justify continued detention by clear and convincing evidence;

c. Declare that Mr. Alptekin's detention under § 1225(b)(2)(A) is contrary to law and exceeds statutory authority;

d. Expedite briefing and adjudication of this petition pursuant to 28 U.S.C. § 1657(a) and the Court's inherent authority, in light of Mr. Alptekin's ongoing deprivation of liberty and the urgent need for prompt resolution.

e. Award attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and any other applicable authority; and

f. Grant such other and further relief as the Court deems just and proper.

Considering the foregoing, this Court should grant this petition for writ of habeas corpus.

DATED: February 4, 2026

Respectfully Submitted,

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