

1. Plaintiff-Petitioner Wilmer Suarez (“Petitioner”) is a citizen and national of Venezuela who has resided in the U.S. for over four years. *See* Pet.’s Exh. A, Respondent’s Passport Biographic Page.
2. Petitioner entered the United States without admission or inspection on January 15, 2022. *See* Pet.’s Exh. B, Record of Border Patrol Arrest and INA 212(d)(5) Parole Stamp. Petitioner, who traveled to the United States with his wife, Yusmaira Del Carmen Lopez Moreno, encountered U.S. Border Patrol, was briefly detained, and was released on parole under 8 U.S.C. § 1182(d)(5)(A) (INA § 212(d)(5)). *Id.* Mr. Suarez was permitted to participate in the Alternatives to Detention (“ATD”) program and wore an ankle monitor for nearly eight months before having it removed because of his consistent and timely compliance with check-ins. *Id.*
3. Mr. Suarez was never issued a Notice to Appear in Immigration Court. As a result, and to comply with the one-year asylum filing deadline, he and his wife timely filed Form I-589, Application for Asylum, with United States Citizenship and Immigration Services (“USCIS”), with Mr. Suarez proceeding as a derivative on his wife’s application. *See* Pet.’s Exh. C, USCIS Receipt Notice and Form I-589, Application for Asylum, Withholding of Removal, and CAT Protection; Exhibit D, Respondent’s Employment Authorization Document (“EAD”), Based on Submission of Form I-589. Both parties evince a fear of returning to Venezuela based on [REDACTED]
[REDACTED] *See*
Pl.’s Exh. B.
4. Mr. Suarez fully complied with the terms of his parole and ATD while awaiting adjudication of his application for asylum and reported to all regularly-scheduled check-

ins with ICE, as required.

5. In or around December of 2025, Mr. Suarez and his family moved to Columbus, Ohio, and duly notified USCIS. *See* Pl.'s. Exh. E, Form AR-11, Alien's Change of Address Card.
6. Concurrently, Petitioner communicated with ICE Philadelphia through their outreach email to request that Mr. Saurez' ICE check-in be moved to Columbus, Ohio. Representatives for ICE indicated that Mr. Saurez would need to check in at the ICE office in Philadelphia prior to having his case transferred to his new state of residency.
7. Upon receipt of a response from ICE, Counsel advised the agency through email that Petitioner would appear on January 26, 2026, for the check-in. However, because of a snowstorm on the east coast, Petitioner was unable to attend on this date. In advance of that intended check-in, ICE representatives advised that the office may be closed and that Petitioner should reschedule accordingly.
8. Mr. Suarez appeared at the ICE office on February 6, 2026, to comply with ICE's reporting requirement. Upon arriving, Mr. Suarez was arrested and detained. He is presently detained at the Philadelphia ICE Office.
9. Mr. Suarez has no criminal record in the United States. Nothing about his circumstances have changed since he was initially permitted to enter the United States on parole in 2022.
10. Mr. Suarez was advised that current ICE policy is to detain individuals at their check-ins when no NTA has been issued or filed with the Immigration Court. ICE, a subagency of the Department of Homeland Security, that has the authority to issue NTAs, had not previously issued an NTA. Indeed, ICE refused Counsel's request that Defendants issue an NTA to Respondent's Counsel at the time of detention.
11. The ICE representative that detained Mr. Suarez advised it is ICE policy to detain and

continue to hold individuals who have not been issued an NTA by the Department of Homeland Security or its subagencies.

12. The ICE representative informed Mr. Suarez would be moved to the Philadelphia Federal Detention Center on the night of February 6, 2026. Based on the representations of ICE agents, Mr. Suarez is currently detained at the ICE Office in Philadelphia or the Federal Detention Center in Philadelphia. He does not appear in the ICE detainee locator and he does not have an open Immigration Court case.
13. Petitioner's detention pursuant to § 1225(b)(2)(A) violates the plain language of the INA and its implementing regulations. Petitioner, who has resided in the U.S. for four years and who was released on recognizance after a brief detention upon entry, then re-detained on February 6, 2026, should not be considered to be "seeking admission" under § 1225(b)(2)(A). Rather, he should be detained pursuant 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond. Indeed, this was long the policy of Respondent DHS, which until approximately July of 2025¹ had consistently found that individuals like Petitioner are subject to § 1226(a) and thereby eligible for bond.
14. In January of 2025, the United States launched a multi-pronged invasion in Venezuela, and successfully deposed and detained former President Nicolas Maduro with the aim of restoring to Venezuela a democratic political system that provides its citizens with the fundamental rights of freedom of expression, civic engagement, and due process of law. Yet now, here in the United States, the government has reneged on its promise to provide due process to Venezuelans who entered the country seeking relief and

¹ *CBS News*, "ICE Says Many In Immigration Detention No Longer Qualify For Bond Hearings" (Jul. 15, 2025), available at: <https://www.cbsnews.com/news/ice-immigration-detention-bond-hearings/>; *The Washington Post*, "ICE declares millions of undocumented immigrants ineligible for bond hearings" (Jul. 15, 2025), available at: <https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/>.

maintain a fear of return to Venezuela.

15. Mr. Suarez, who is presently detained without having ever been issued a Notice to Appear in Immigration Court and in direct contradiction to the statutory language of the Immigration and Nationality Act, seeks declaratory relief that he is subject to detention under § 1226(a) and its implementing regulations and asks that this Court order Respondents to release Petitioner from custody.

CUSTODY

16. Petitioner is currently in the custody of Immigration and Customs Enforcement (“ICE”) at their office at 114 North 8th St., Philadelphia, PA. A representative for ICE informed Counsel that Mr. Suarez would be moved to the Philadelphia Federal Detention Center located at 700 Arch St., Philadelphia, Pennsylvania over the weekend. He is therefore in “custody” of [the DHS] within the meaning of the habeas corpus statute.” *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

17. This court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et. seq.*
18. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et. seq.*, the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).
19. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging both the lawfulness and the constitutionality of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

20. None of the jurisdiction-stripping provisions of the INA apply to Petitioner’s request that the Court review Respondents’ misinterpretation of INA §§ 1225(b)(2)(A) and 1226(a), which has caused his continued unlawful detention. When considering subject matter jurisdiction, “[t]he usual ‘strong presumption [is] in favor of judicial review of administrative action.’” *E.O.H.C. v. Sec’y U.S. Dep’t of Homeland Sec.*, 950 F.3d 177, 184 (quoting *INS v. St. Cyr*, 533 U.S. 289, 298 (2001)). “[T]he general rule [states] the narrower construction of a jurisdiction-stripping provision is favored.” *Id.* (quoting *Alli v. Decker*, 650 F.3d 1007, 1013 n.9 (3d Cir. 2011)).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

21. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to Respondents “forthwith,” unless Petitioner is not entitled to relief. 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.*

22. Petitioner is “in custody” for the purpose of § 2241 because Petitioner was arrested and detained by Respondents.

VENUE

23. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States acting in their official capacity and because Petitioner is currently detained in Philadelphia, Pennsylvania.

24. Petitioner was detained at 11:15 a.m. EST on February 6, 2026, at the ICE ERO office at 114 North 8th St. in Philadelphia, Pennsylvania. Based on the representations of ICE to Counsel for Respondent, he will be transferred to the Philadelphia Federal Detention

Center at the end of the day. Accordingly, based on the representations of ICE, Petitioner remains within the jurisdiction of the Eastern District of Pennsylvania.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

25. Petitioner cannot exhaust his unlawful detention because he has not been issued a Notice to Appear in Immigration Court. Absent a Notice to Appear, Respondent cannot request bond in front of an Immigration Judge.
26. Even if Respondent were able to request bond, exhaustion is not required under 28 U.S.C. § 2241 where statutory interpretation is the sole issue presented, as it is here. “Although habeas petitioners are “ordinarily required to exhaust their administrative remedies,” they “need not exhaust administrative remedies where the issue presented involves only statutory construction.” *Demirel*, 2025 WL 3218243, at *3 (E.D. Pa. Nov. 18, 2025) (citing *Moscato v. Fed. Bureau of Prisons*, 98 F.3d 757, 760 (3d Cir. 1996)); *Corona Diaz v. Olson*, 2025 WL 3022170, at *3 (N.D. Ill., 2025) (“Exhaustion is not required for habeas petitions brought under 28 U.S.C. § 2241.”).
27. Administrative exhaustion is also unnecessary because it would be futile. *See Duvall v. Elwood*, 336 F.3d 228, 234 (3d Cir. 2003) (“Where exhaustion is not clearly mandated by statute, a futility exception exists”); *Ndialy v. Jamison*, no. 2:25-cv-06007 at *7 (E.D. Pa., November 19, 2025) (citing *Bradshaw v. Carlson*, 682 F.2d 1050, 1052 (3d Cir. 1981)) (“The exception is appropriate when the decisionmakers in the administrative process will almost certainly reject petitioner’s requested relief).
28. It would be pointless for Petitioner to seek a custody redetermination hearing before an Immigration Judge because of the recent BIA decision holding that anyone who has entered the U.S. without inspection is now considered to be “seeking admission” and therefore

subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see, e.g., del Cid v. Bondi*, No. 25-304, 2025 WL 2985150, at *13 (W.D. Pa. Oct. 23, 2025) (noting that BIA’s decision in *Yajure Hurtado* renders exhaustion futile); *Demirel v. Fed. Det. Center Philadelphia*, no. 25-5488, 2025 WL 3218243, at *4 (E.D. Pa. Nov. 18, 2025) (same); *Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (same); *Morales Rodriguez v. Arnott*, no. 6:25-cv-00836-MDH at *2 (W.D. Mo., Nov. 18, 2025) (same).

29. Petitioner’s membership in the *Maldonado Bautista* class would not change this analysis because Immigration Judges continue to deny bond hearings to class members despite the partial summary judgment issued by the District Court.

PARTIES

30. Petitioner, Wilmer Suarez, is from Venezuela and has resided in the United States since 2022. He is currently detained at the ICE facility at 114 North 8th St., Philadelphia, Pennsylvania. Upon the representations of ICE to Counsel for Respondent, he will be moved to the Philadelphia Federal Detention Facility by the end of today, February 6, 2026.
31. Respondent Warden is sued in his or her official capacity as Warden of the Philadelphia Federal Detention Center. In his or her official capacity, Respondent Warden is Petitioner’s immediate custodian.
32. Respondent Michael Rose is sued in his official capacity as Field Office Director, Philadelphia Field Office, Enforcement and Removal Operations, ICE. In his official capacity, Respondent Rose is the legal custodian of Petitioner.
33. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.

34. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security.

As the head of the U.S. Department of Homeland Security, the agency tasked with enforcing immigration laws, Secretary Noem is Petitioner's ultimate legal custodian.

35. Respondent Pamela Jo Bondi is sued in her official capacity as the Attorney General of the United States. As Attorney General, she has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

LEGAL BACKGROUND AND ARGUMENT

36. The INA prescribes three basic forms of detention for noncitizens in removal proceedings.

37. First, individuals detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to a bond hearing, unless they have been arrested, charged with, or convicted of certain crimes and are subject to mandatory detention. *See* 8 U.S.C. §§ 1226(a), 1226(c) (listing grounds for mandatory detention); *see also* 8 C.F.R. §§ 1003.19(a) (immigration judges may review custody determinations made by DHS), 1236.1(d) (same).

38. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) as well as other recent arrivals deemed to be "seeking admission" under § 1225(b)(2).

39. Third, the INA authorizes detention of noncitizens who have received a final order of removal, including those in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

40. 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, 300-582 to 3009-583, 3009-585.

41. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

42. Following the enactment of the IIRIRA, the U.S. Department of Justice’s Executive Office of Immigration Review (“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)² (“Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination”).
43. Thus, in the three decades that followed, most immigrants who entered the United States without inspection and were thereafter detained and placed in standard removal proceedings were considered for release on bond and received bond hearings before an Immigration Judge (“IJ”), unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States—even without inspection—were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).
44. For decades, long-term residents of the U.S. who entered without inspection and were subsequently apprehended by ICE in the interior of the country—including those initially permitted entry with a 212(d)(5) waiver—have been detained pursuant to § 1226 and

² Available at <https://www.govinfo.gov/content/pkg/FR-1997-03-06/pdf/97-5250.pdf>.

entitled to bond hearings before an IJ, unless barred from doing so due to their criminal history.

45. In July 2025, however, ICE began asserting that all immigrants who entered without inspection should be considered “seeking admission” and therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
46. On September 5, 2025, the BIA issued a precedential decision adopting this interpretation, departing from the INA’s text, federal precedent, and existing regulations. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
47. Respondents’ new legal interpretation is plainly contrary to the statutory framework and its implementing regulations. Indeed, for decades, Respondents had applied § 1226(a) to people like Petitioner. Respondents’ new policies are thus not only contrary to law but are arbitrary and capricious in violation of the Administrative Procedure Act (“APA”). They were also adopted without complying with the procedural requirements of the APA.
48. Federal district courts in the Third Circuit and across the country have rejected this interpretation and instead have consistently found that § 1226, not § 1225(b)(2), authorizes detention of noncitizens who entered without inspection and were later apprehended in the interior of the country. *See, e.g., del Cid v. Bondi*, No. 25-00304, 2025 WL 2985150 (W.D. Pa. Oct. 23, 2025) (finding Petitioner to be detained pursuant to §1226(a), not §1225, and ordering a bond hearing within seven days); *Cantu-Cortes v. O’Neill*, No. 25-6338, 2025 317639 (E.D. Pa. Nov. 13, 2025); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (noting court’s disagreement with BIA’s analysis in *Yajure Hurtado*); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-

326-LM-AJ (D.N.H. Sept. 8, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *3 n.4 (E.D. Cal. Sept. 9, 2025); *see also Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO (HC) (E.D. Cal. Sept. 23, 2025); *Lopez v. Hardin*, No. 2:25-cv-830-KCD-NPM (M.D. Fla. Sept. 25, 2025); and *Chafra v. Scott*, No. 2:25-cv-00437-SDN (D. Maine Sept. 21, 2025).

49. A November 26, 2025, decision from the Southern District of New York ordering the release of a noncitizen included appendices listing 362 recent opinions on this issue, 350 of which were decided in favor of the Petitioners. *See Barco Mercado v. Francis*, 1:25-cv-06582 (S.D.N.Y. Nov. 26, 2025).³

50. Under *Loper Bright*, the BIA, as the appellate body in the Executive Office for Immigration Review (EOIR), a division within the the Department of Justice under the Executive Branch, is no longer afforded automatic deference by federal courts. *Loper Bright*, 603 U.S. 369 (2024) (“The views of the Executive Branch could inform the judgment of the Judiciary, but [do] not supersede it.”). This Court should independently interpret the INA and give the BIA’s expansive interpretation of § 1225(b)(2) no weight, as it conflicts with the statute, regulations, and precedent.

51. The statutory context and structure of the INA make clear that § 1226 applies to individuals who have not been admitted and entered without inspection. The Department’s position that all noncitizens who entered the country without inspection are ineligible for bond under INA § 1225(b) would render portions of the INA meaningless and cannot be reconciled with 2025 amendments made pursuant to the Laken Riley Act.

52. In interpreting §§ 1225(b)(2) and 1226(a), a District Court must “interpret the words

³ Petitioner asks that this Court take judicial notice of the appendices provided by the Southern District of New York at the following link: gov.uscourts.nysd.647311.28.0.pdf.

consistent with their ‘ordinary meaning . . . at the time Congress enacted the statute.’” *Wis. Ctr. Ltd. v. United States*, 585 U.S. 274, 277 (2018) (quoting *Perrin v. United States*, 444 U.S. 37, 42 (1979)). The Court first “start[s] . . . with the statutory language.” *United States v. Brow*, 62 F.4th 114, 119 (3d Cir. 2023). Statutory language “cannot be construed in a vacuum. It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.” *Roberts v. Sea-Land Servs., Inc.*, 566 U.S. 93, 101 (2012) (quoting *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997)). With this consideration in mind, a court must determine “whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case.” *Id.* at 100.

53. As written and in the context of legislative history and the overall statutory scheme, § 1225 clearly does not apply to individuals, like Petitioner, who are detained in the interior of the country long after their initial entrance.
54. The title of 8 U.S.C. § 1225 is “Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.” The language of 1225(b)(2)(A) makes clear that it applies only if three criteria are met. Generally, a noncitizen must be (i) an “applicant for admission,” (ii) “seeking admission,” and (iii) “not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. §1225(b)(2)(A).
55. “The titles, headings, and other provisions of § 1225 repeatedly refer to ‘inspection,’ and ‘inadmissible arriving aliens,’ and ‘examin[ations],’ which typically “occur at ports of entry, their functional equivalent, or near the border.” *Soto v. Soto*, No. 25-cv-16200, 2025 WL 2976572, at *2 (D.N.J. Oct. 22, 2025). “Thus, on its face, § 1225 applies only at the borders or at other ports of entry, where individuals are “seeking admission” to the

country.” *Santana-Rivas v. Warden, Clinton Cty. Correctional Fac.*, 3:25-cv-01896 at *24 (M.D. Pa., Nov. 15, 2025) (citing *Del Cid v. Bondi*, No. 25-304, 2025 U.S. Dist. LEXIS 209136, at *39-40 (W.D. Pa. Oct. 23, 2025)) (“[T]he Supreme Court has tethered § 1225 to ‘the Nation’s borders and ports of entry,’ noting that aliens detained pursuant to those provisions are typically detained during removal proceedings.”).

56. Section 1226 applies “to aliens already present in the United States” and “creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings.” *Jennings v. Rodriguez*, 583 U.S. 281, 297, 2987 (2018) (clarifying that while § 1225(b) is concerned “primarily [with those] seeking entry,” and is generally imposed “at the Nation’s borders and ports of entry, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible” while § 1226 “authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings.”).
57. “[E]very clause and word of a statute’ should have meaning.” *See United States, ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023). “The ‘use of the present progressive, like use of the present participle, denotes an ongoing process.’” *Matter of M-D-C-V-*, 28 I. & N. Dec. 18, 23 (B.I.A. 2020).
58. Respondents’ selective reading of the statutory language ignores the clear decision by Congress to use the present progressive tense “seeking” in the phrase “seeking admission.” “The use of the present progressive tense “implies affirmative action by a noncitizen is needed and is inconsistent to apply this phrase to all noncitizens already residing in the United States.” *Ndialy v. Jamison*, no. 2:25-cv-06007 at 9 (E.D. Pa., November 19, 2025).

59. Collectively, the language in these sections and in the implementing regulations clearly demonstrate that 8 U.S.C. § 1225 is intended to apply to noncitizens at the border, arriving in the country, not those who are already here.
60. To this end, Respondents actively declined to designate Petitioner as an “arriving alien,” the language used to define the scope of § 1225(b)(2)(A) in the implementing regulations, instead charging him as “an alien present in the United States who has not been admitted or paroled.” *See* Pet.’s Exh. H; 8 C.F.R. § 235.3(c)(1) (“Except as otherwise provided in this chapter, any arriving alien who appears to the inspecting officer to be inadmissible, and who is placed in removal proceedings pursuant to section [1229a] shall be detained in accordance with section [1225(b)].”)
61. Thirty years of previous policy and practice by Respondents also support this interpretation of the INA. When statutes are ambiguous, courts can look to “the longstanding practice of the government” which “can inform [a court’s] determination of what the law is.” *Loper Bright*, 603 U.S. at 386 (quoting *NLRB v. Noel Canning*, 573 U.S. 513, 525 (2014)).
62. Beginning in 1997 with the implementation of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and up until July of 2025, the Government’s practice was to apply § 1226(a) to inadmissible non-citizens who were already residing in the country. *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).
63. The mandatory detention provision of § 1225(b)(2) clearly does not apply to Petitioner. Petitioner entered the United States in 2022, at which point he was detained for 12 days

and then explicitly released on recognizance under § 1226 (INA § 236) (Pet.’s Exh. C, Form I-220). *See Ndialy*, 2:25-cv-06007 at *13 (finding that Petitioner’s “release[] pursuant to § 1226” after he “turned himself in” at the border shows that “the longstanding practice of using § 1226 to detain noncitizen who are present within the United States favors [Petitioner’s] interpretation of the INA”).

64. Petitioner was then re-detained on November 5, 2025—again under § 1226, as recorded on the administrative warrant for his arrest. Pet.’s Exh. F, Warrant for Arrest of Alien Pursuant to INA Section 236 and 287.

65. At the time of his arrest, Petitioner was already present here and seeking a lawful means of remaining, having entered without admission or inspection three years prior. As a result, he cannot be lawfully detained under section 1225(b)(2)(A) and his detention is instead clearly governed by section 1226(a).

66. The Government’s interpretation of § 1225 and § 1226 would also render the Laken Riley Act superfluous and nonsensical.

67. In January of 2025, Congress passed the Laken Riley Act (“the Act”). *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). The Act amended several provisions of the INA, including § 1225 and §1226(c). 8 U.S.C. § 1226(c), “Detention of criminal aliens,” carves out a statutory category of noncitizens for whom detention is mandatory, comprised of individuals who have committed certain “enumerated criminal offenses [or] terrorist activities.” The Laken Riley Act added another category of those subject to mandatory detention under §1226(c). *See* 8 U.S.C. § 1226(c)(1)(E).

68. First, the new section states that the provision encompasses “any alien who— is inadmissible under [8 U.S.C. § 1182(6)(A)],” which are “alien[s] present in the United

States without being admitted or paroled, or who arrive[] in the United States at any time or place other than as designated by the Attorney General.” 8 U.S.C. § 1226(c)(1)(E)(i); § 1182(6)(A).

69. The new section then continues, stating that in order to be ineligible for bond, such noncitizens must *also* have been charged with, arrested for, convicted of, admitted having committed, or admitted committing “acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person.” 8 U.S.C. § 1226(c)(1)(E)(ii).
70. In so doing, Congress outlined a *specific list* of individuals present without admission or inspection who are ineligible for bond related to criminal issues. *See* 8 U.S.C. § 1226(c)(1)(E). When Congress creates “specific exceptions” to a statute’s applicability, it “proves” that absent those exceptions, the statute generally applies. *See Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.* 559, U.S. 393, 400 (2010).
71. If INA § 1225(b) applied to all noncitizens who are inadmissible under INA § 1182(6)(A) for entering the United States without being admitted or paroled, Congress’s recent passage of the Laken Riley Act to require mandatory detention for noncitizens who are (1) present in the United States without being admitted or paroled and (2) implicated in an enumerated crime would be superfluous, since *all* noncitizens who had not been admitted would *already* be subject to mandatory detention under INA § 235(b). *See Corley*, 556 U.S. at 314, n.5 (explaining that seemingly conflicting statutes read in isolation can be reconciled if read in their broader context, which includes observing the anti-superfluousness canon); *see also Stone v. Immigration and Naturalization Svc.*, 514 U.S. 386, 397 (1995) (“When

Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect.”) (internal citations omitted).

72. Thus, it is clear that Congress did not mean for *all* individuals present without inspection to be subject to mandatory detention.

73. By specifically referencing inadmissibility for entry without inspection under 8 U.S.C. § 1182(6)(A) in the Laken Riley Act, Congress made clear that such individuals are otherwise covered by § 1226—and thus eligible for bond. Thus, § 1226 plainly applies to noncitizens charged as inadmissible, including those present without admission or parole.

74. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to Petitioner, who entered the U.S. approximately four years ago after he was granted parole under INA 212(d)(5), and is no longer “seeking admission.” *See, e.g., Sharapov v. O’Neill*, 2026 WL 146668 at *(E.D. Pa. Jan. 20, 2026) (finding that entry into the United States on 212(d)(5) parole “does not impact [petitioner’s] right to habeas relief” under this statutory inquiry, and granting immediate relief); *Gonzalez Centeno v. Lowe*, 3:25-cv-02518 at *7 (M.D. Pa. Jan. 13, 2026) (granting immediate release of a Venezuelan Petitioner provided with INA 212(d)(5) parole at entry and later unlawfully detained under § 1225, and noting that “[a]s observed by the Honorable Robert D. Mariani, “every district court in the Third Circuit to consider this issue has found that detainees similarly situated . . . are not subject to the mandatory detention provision of 8 U.S.C. § 1225(b)(2)(A) and that the [r]espondents’ interpretation of the INA is wrong”); *Patel v. O’Neil*, No. 3:25-CV-2185, 2025 WL 3516865, at *4, n.7 (M.D. Pa. Dec. 8, 2025) (collecting 56 cases decided on or before December 5, 2025, finding in favor of similarly-situated petitioners); *Restrepo v. Jamison*, No. 2:25-cv-6518 2026 WL 141803 at *10 (E.D. Pa. Jan. 20, 2026) (finding

petitioner, a Venezuelan citizen granted 212(d)(5) parole not at a port of entry and present in the United States since 2022, to not be actively “seeking admission” and thereby detained under § 1226(a), not § 1225(b)(2); *Moreno Ramirez v. Jamison*, No. 2:25-cv-7346, 2026 WL 196474 (E.D. Pa. Jan. 26, 2026) (same *Francois v. Noem*, No. 25-7334, 2026 WL 27565, at *3 (E.D. Pa. Jan. 5, 2026) (same); *Rios Porras v. O’Neill*, No. 25-6801, 2025 WL 3708900, at *1 (E.D. Pa. Dec. 22, 2025) (same).

75. Further, this Court should award Petitioner his attorney’s fees and costs under the Equal Access to Justice Act (“EAJA”). *See Michelin v. Warden, Moshannon Valley Correctional Center*, no. 24-2990 (3d Cir. Feb. 2, 2026) (precedential decision holding that federal law authorizes EAJA fee awards for immigrants who successfully challenge their detention through habeas actions, and affirming two such awards). Plaintiff qualifies for such an award, as he has a net worth of less than \$2 million and satisfies the other requirements listed at 7 C.F.R. § 1.184(b)(2-6).

STATEMENT OF FACTS

76. Petitioner is a citizen of Venezuela.

77. Upon information and belief, Petitioner has resided in the U.S. since 2022.

78. Upon information and belief, Petitioner has never been arrested or charged with any crime in the United States or elsewhere in the world.

79. At the time of filing this Petition, February 6, 2026, Petitioner is detained at the ICE ERO Office at 114 North 8th St., Philadelphia, PA. ICE has represented to Counsel for Petitioner that Petitioner would be moved to the Philadelphia Federal Detention Center in Philadelphia, PA tonight.

80. Without relief from this Court, he faces continued detention without a bond hearing.

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

81. Petitioner restates and realleges all paragraphs as if fully set forth here.
82. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).
83. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. *See* 8 C.F.R. 236.1(d) & 1003.19(a)-(f).
84. Petitioner has not been, and will not be, provided with a bond hearing as required by law.
85. Petitioner’s continuing detention is therefore unlawful.

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

86. Petitioner restates and realleges all paragraphs as if fully set forth here.
87. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service (“INS”) issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323. The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.
88. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III

**Violation of 8 U.S.C. § 1252(b)(2)
Unlawful Detention Under This Provision**

89. Petitioner restates and re-alleges paragraphs 1 to 73 as if fully set forth here.
90. Title 8 U.S.C. § 1225(b) is concerned primarily with those seeking entry to the United States and is generally imposed at the Nation's borders and ports of entry, where the Government must determine whether a noncitizen seeking to enter the country is admissible.
91. Upon information and belief, Petitioner has resided in the U.S. since 2022. He is therefore neither an arriving alien nor an alien who is now seeking admission to the United States.
92. Because 8 U.S.C. § 1252(b) does not apply to Petitioner, Respondents' detention of him under this provision is unlawful.

**COUNT IV
Violation of Fifth Amendment Right to Due Process**

93. Petitioner restates and re-alleges all paragraphs as if fully set forth here.
94. The Fifth Amendment's Due Process Clause prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. CONST. Amend. V.
95. The Supreme Court has repeatedly emphasized that the Constitution generally requires a hearing before the government deprives a person of liberty or property. *Zinermon v. Burch*, 494 U.S. 113, 127 (1990).
96. Under the *Mathews v. Eldridge* framework, the balance of interests strongly favors Petitioner's release.
97. Petitioner's private interest in freedom from detention is profound. The interest in being free from physical detention is "the most elemental of liberty interests." *Hamdi v.*

Rumsfeld, 542 U.S. 507, 529 (2004); *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“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.”).

98. The risk of erroneous deprivation is exceptionally high. Petitioner has never been arrested, charged with, or convicted for a crime in the United States or abroad and has many ties to the community, including a partner, many friends, and employment.
99. The government’s interest in detaining Petitioner without due process is minimal, and the government never has an interest in unjust detention. Immigration detention is civil, not punitive, and may only be used to prevent danger to the community or ensure appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690.
100. Furthermore, the “fiscal and administrative burdens” of providing Petitioner with a bond hearing are minimal, particularly when weighed against the significant liberty interests at stake. *See Mathews*, 424 U.S. at 334–35. Indeed, the fiscal and administrative burdens of continuing to detain Petitioner—an applicant for asylum with no criminal record and no changed circumstances since he was initially paroled into the United States but for the development of ties with the country—are significant and come at great taxpayer expense and substantial administrative burden.
101. Considering these factors, Petitioner respectfully requests that this Court order his immediate release from custody or provide him with a bond hearing.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court will:

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner not be transferred outside of this District;

- (3) Issue an Order to Show Cause ordering Respondents to show cause why his
Petition should not be granted within three days;
- (4) Declare that Petitioner's detention is unlawful;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release him from
custody OR order that an Immigration Judge provide him with a bond hearing
no more than three (3) days after a decision is made on the present Petition;
- (6) Permanently enjoin the Government from re-detaining Petitioner under
Section 1225(b)(2)(A) or 1225(b)(1);
- (7) Temporarily enjoin the Government from re-detaining Petitioner under
Section 1225(a) for seven days following his release;
- (8) Award him his attorney's fees and costs under the Equal Access to Justice Act,
and on any other basis justified under law; and
- (9) Grant him any further relief this Court deems just and proper.

Respectfully submitted for the Petitioner,

/s/ Stephen J. Antwine
Stephen J. Antwine, Esq.
PA Bar No. 309379
Green & Spiegel, LLC
1524 Delancey Street, Floor 4
Philadelphia, PA 19102
Phone: (215) 395-8959
Fax: (401) 454-7880
santwine@gands-us.com



U.S. Immigration and Customs Enforcement

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement
Enforcement and Removal Operations

Instructions and Scheduling Notification for Reporting to ICE

Release Location: SNA - Eagle Pass, TX Date: 01/16/2022

Subject ID: [REDACTED] Non-Citizen Name: Suarez, Wilmer

As a condition of your release from the custody of U.S. Customs and Border Protection (CBP), you are now required to report to U.S. Immigration and Customs Enforcement (ICE), according to the below instructions.

You have been placed on the following Alternative to Detention by ICE:

- GPS, an independent device to monitor your location
- SmartLink, a smartphone application to monitor your location

If you have been placed on GPS:

1. You must report to the ICE office located at:

26 Federal Plaza 9th floor

City: New York State: NY Zip Code: 10278 Suite: 9-110

Your report Time is: 09:00 AM PM

Day: 1 Month: February Year: 2022

2. You must present and keep this notification and any other documentation you received from CBP, ICE, USCIS and any foreign identity documents (Passport, Cedula, Drivers Licenses, etc.) upon your next report in at ICE.

If you have been placed on SmartLink:

1. Within 14 days of your release, you must call (833) 466-0067, Monday through Friday, between 8:00 am and 4:00 pm EDT.
2. Your call will be routed to an ICE officer. If your call cannot be routed at that time (e.g., due to high call volume), an ICE officer will call you back.
3. An ICE officer will conduct an initial telephonic interview.
4. Based on the information you provided and attested to being correct, an ICE officer will provide you with further instructions on how to report at the ICE field office closest to your address.

NOTE: Failure to comply with these instructions, and failure to report in person, may result in your arrest, detention, and possible removal from the United States.

Form Issued by: _____ Contact Number: _____



Language Communicated: _____

Translation Services Utilized: YES NO If yes, translator ID#: _____

Interpreter Utilized YES NO If yes, officer/employee utilized: _____

FINS #

Event No: EGT220100086

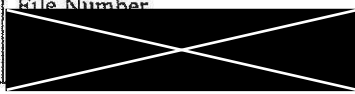
1. FAMILY NAME (Capital Letters) SUAREZ, WILMER		First Name	Middle Name	2. Age 40	3. Country of Citizenship VENEZUELA	
4. Allas				5. Date Apprehended January 15, 2022		6. Office DRT/EGT
7. Birth Date		8. Birth Place VENEZUELA, VENEZUELA				14 A. 
9. Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female		10. OSC/WA Served <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Explain)				
11. File Number		12. Bond Date Posted \$				
13. CINS <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		14 Medical Alert <input type="checkbox"/> No <input type="checkbox"/> Yes (Explain)				
15. TRANSFER DATE		FROM		TO		
A						
B						
C						
16. ADMITTED BY:			19. RELEASED TO: <input type="checkbox"/> V/R <input type="checkbox"/> Deport		22. Rt. Index Print - In	23. Rt. Index Print - Out
17. SEARCHED IN BY:			20. RELEASED BY:			
18. DATE ADMITTED:			21. DATE RELEASED:			
24. Remarks: See I-831						
FORM I-385 (08/01/07)				ALIEN BOOKING RECORD UNITED STATES DEPARTMENT OF HOMELAND SECURITY		

U.S. Department of Homeland Security

Continuation Page for Form

I385

Alien's Name
SUAREZ, WILMER

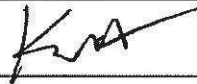
File Number


Date
January 15, 2022

24. REMARK

AS A CONDITION OF YOUR PAROLE, YOU ARE TO REPORT TO THE IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) OFFICE NEAR YOUR FINAL DESTINATION WITHIN 15 DAYS OR FACE REMOVAL FROM THE UNITED STATES. VISIT [WWW. ICE.GOV/CONTACT/FIELD-OFFICES#](http://WWW.ICE.GOV/CONTACT/FIELD-OFFICES#) FOR ADDRESSES.

Signature



Title

Border Patrol Agent

CONTROL Name (Last, First, Middle) SUAREZ, WILGER						
Birthdate		Age 40	Marital Status <input type="checkbox"/> Single <input type="checkbox"/> Separated <input type="checkbox"/> Widowed <input type="checkbox"/> Married <input type="checkbox"/> Divorced		File Number	
Sex M	Hair BLK	Eyes BRO	Complexion DBR	Height 70	Weight 200	Scars or Marks
U.S. Address/Mail (Number)		(Street)	(City)	(State)	(ZIP CODE)	
		BAY SHORE, NEW YORK			117066216	
Alien's Telephone #			Date of Action 01/16/2022		Location Code DRT/ECT	
City, Province (State) and Country of Birth VENEZUELA, VENEZUELA			Country of Citizenship VENEZUELA			
Date, Place, Time, and Manner of Last Entry/Attempted Entry 01/15/2022, 0950, 3 mile(s) S of EGP, etc.				Status at Entry PWA Mexico		
Foreign Address/Residence (Number, Street, City, Province (State), Country) VENEZUELA						
Method of Location/Apprehension PB UNKNOWN			(At/Near) ENGLI PASS, TX		Date & Hour 01/15/2022 1004	

U.S. DEPARTMENT OF HOMELAND SECURITY
 02/14/22
 212 (125)
 01/16/22 DRT ECT
 U.S. DEPARTMENT OF HOMELAND SECURITY

You are required to retain this permit in your possession and to surrender it to the transportation line at the time of your departure unless you depart over the land border of the United States in which case you must surrender it to a Canadian immigration officer on the Canadian border, or to a United States Immigration officer of the Mexican border.

DEPARTURE RECORD

Port:

Date:

Manner:

Country of

Destination :

UNITED STATES DEPARTMENT OF HOMELAND SECURITY

Form Approved OMB No. 43-R0496

ARRIVAL - DEPARTURE RECORD

Form I-94 (Rev. 08/01/07)



DEPARTAMENTO DE SEGURIDAD INTERNA
 Servicio de Inmigración y Control de Aduanas de los Estados Unidos

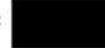
PD G-56

Nombre: SUAREZ, Wilmer

Número del Expediente:



Fecha de Nacimiento:



Fecha:

01/15/2022

Domicilio:



Favor de presentarse con este aviso en la oficina local de ICE cuando sea solicitado

UBICACIÓN DE LA OFICINA	Las oficinas locales de ICE están enumeradas en el documento adjunto titulado "Oficinas Locales de ICE". Favor de llamar al 1-888-351-4024 si usted necesita asistencia en localizar o reportarse a su oficina local de ICE.
FECHA LIMITE	Debe presentarse en su oficina local de ICE en los 15 días siguientes de su puesta en libertad.
SOLICITUD	Preséntese ante un Oficial de Deportación de ICE para que continúe su tramitación y consideración para su inscripción en un Programa Alternativo a la detención (ATD, por sus siglas en inglés).
MOTIVO DE LA CITA	Usted ha sido puesto en libertad a discreción del Servicio de Aduanas y Protección Fronteriza de los Estados Unidos y ahora debe ponerse en contacto con su oficina local para completar la tramitación. Reportarse con ICE asegurará de que el Departamento de Seguridad Interna (DHS, por sus siglas en inglés) tiene su domicilio e información de contacto actualizados. Una vez que se presente con ICE por primera vez, será evaluado para cumplir con los requisitos de presentación continua que pueden incluir la presentación en persona. El no reportarse a la oficina local de ICE puede resultar en su detención o se le coloque en formas adicionales de supervisión o monitoreo.
TRAIGA CON USTED	Documentos de identificación (acta de nacimiento, documentos de identidad emitidos por el gobierno, tales como licencia de conducir o cédula) y todos los documentos de inmigración.

U.S. Department of Justice

**Change of Address/Contact Information Form
Immigration Court**

Executive Office for Immigration Review

Instructions: To complete this form, fill out all blanks below, including proof of service, which certifies that you will provide a copy of this form to the Department of Homeland Security (DHS). After filling in the blanks and signing both the declaration and proof of service, you must submit the form electronically, in person, or by mail. If submitting electronically, file in Respondent Portal at <https://respondentaccess.eoir.justice.gov>. Attorneys and fully accredited representatives submitting this form electronically must file in Case Portal at <https://portal.eoir.justice.gov>. If submitting by mail, follow the mailing instructions on Page 2. You must submit a separate copy of this form for each individual who has a case pending in immigration court and whom the change of information affects.

You must file this form with the immigration court within five working days of the change to your contact information, or your receipt of a charging document (e.g., a Notice to Appear) with incorrect contact information. The immigration court will send all official correspondence (e.g., notices, decisions) to the address you provide. The immigration court will only make any change(s) to your contact information in EOIR's records upon receipt of this form; the immigration court will not change your contact information based on different information on pleadings, motions, or other communications with the court.

If you fail to appear at any hearing before an immigration judge when notice of that hearing or other official correspondence was served on you or sent to the address you provided, DHS may take you into custody. In addition, the immigration court may conduct your hearing in your absence and enter an order of removal, deportation, or exclusion against you. If the court enters such an order, you may be ineligible for certain forms of relief from removal under the Immigration and Nationality Act as follows:

- If you are in *removal* proceedings: You will be subject to an order of removal for a period of ten years after the date of entry of the final order. You may also become ineligible for voluntary departure, cancellation of removal, and adjustment of status or change of status.
- If you are in *deportation* proceedings: You will be subject to an order of deportation for a period of five years after the date of the entry of the final order. You may also become ineligible for voluntary departure, suspension of deportation or voluntary departure, and adjustment of status or change of status.
- If you are in *exclusion* proceedings: Your application for admission to the United States may be considered withdrawn.

Name - Last, First, Middle, Suffix (if applicable):	A-Number:
---	-----------

My FORMER address and phone number were:	My CURRENT address and phone number are:
<p>_____</p> <p style="text-align: center;">"In care of" other person (if any)</p> <p>_____</p> <p style="text-align: center;">Number; Street; Apartment (if any)</p> <p>_____</p> <p style="text-align: center;">City, State, and ZIP Code; Country (if other than U.S.)</p> <p>_____</p> <p style="text-align: center;">Phone Number (include country code if other than U.S.)</p> <p>_____</p> <p style="text-align: center;">Email Address</p>	<p>_____</p> <p style="text-align: center;">"In care of" other person (if any)</p> <p>_____</p> <p style="text-align: center;">Number; Street; Apartment (if any)</p> <p>_____</p> <p style="text-align: center;">City, State, and ZIP Code; Country (if other than U.S.)</p> <p>_____</p> <p style="text-align: center;">Phone Number (include country code if other than U.S.)</p> <p>_____</p> <p style="text-align: center;">Email Address</p>

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I am the person named above associated with the A-Number listed above, and that the information contained in this form is true and correct to the best of my knowledge.

SIGN HERE →	X		
		Signature	Date

PROOF OF SERVICE

I, _____, provided a copy of this Change of Address Form on, _____, to the
(Name) (date)
 Office of the Principal Legal Advisor for DHS Immigration and Customs Enforcement-ICE at: _____

(Indicate if electronic/email service, or in-person or mail service (provide Number and Street, City, State, ZIP Code))

By signing, I agree to provide a copy of this Change of Address Form to the Office of the Principal Legal Advisor for DHS Immigration and Customs Enforcement-ICE at the location I selected above. I understand that I can provide DHS with a copy either electronically through the DHS eService portal (register at <https://eserviceregistration.ice.gov>), or by mail or personal delivery.

SIGN HERE →	X		
		Signature	

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement


ATD PARTICIPANT ENROLLMENT FORM

ATD Location: DLR	Site Type: S	Case DCO: DLR	EARM Case ID: 	A Number: 																											
Participant Biographical Information																															
Last Name: SUAREZ		First Name: WILMER																													
DOB (under 18 not eligible) 		COC VENEZ		Gender: <input checked="" type="checkbox"/> M <input type="checkbox"/> F <input type="checkbox"/> U																											
Street Address 		City BAY SHORE	State NY	Zip Code 117066216																											
Cell Phone																															
Referral Source:																															
<input type="checkbox"/> CAP <input type="checkbox"/> Fugitive Ops <input type="checkbox"/> Detained <input type="checkbox"/> Non-Detained <input type="checkbox"/> HSI <input checked="" type="checkbox"/> CBP <input type="checkbox"/> USCIS <input type="checkbox"/> Other (Explanation Required): _____																															
Composition: Family Unit <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																															
Legal Stage:																															
<input checked="" type="checkbox"/> Pre-Order (Notice to Appear) <input type="checkbox"/> Post-Order (VD/Final Order of Removal) <input type="checkbox"/> Appeal (Pending with the BIA)																															
Officer to Determine Supervision Levels on a Case by Case Basis																															
Technology Options:																															
<input type="checkbox"/> GPS <input type="checkbox"/> Monthly Telephonic Reporting <input type="checkbox"/> No Technology		Biometric Reporting: <input type="checkbox"/> Daily <input checked="" type="checkbox"/> Weekly <input type="checkbox"/> Monthly																													
Contractor Provided Device:																															
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<input checked="" type="checkbox"/>	<input type="checkbox"/>	Alert Management* (GPS, Telephonic, and Biometric Alerts)																													
*If not contracted, this function is the responsibility of the ATD Officer.																															
PIRIE, PIRIE, S. 8049 - Deportation Officer			16-JAN-22																												
ERO Case Officer Authorizing Enrollment (Name and Title)			Date																												

ATD Location: DLR	Site Type: S	Case DCO: DLR	FARM Case ID: [REDACTED]	A-Number: [REDACTED]
Relevant Information (Criminal History, Special Vulnerabilities, Risk to Public Safety or Risk of Flight): Please note behavioral issues, next court date, employment eligibility, travel document status, special notifications such as medical needs or any other relevant case information.				
Criminal History: None				
Special Vulnerabilities: None				
Relevant Information: ATD Orientation and enrollment was successfully completed for the ERO ISAP RGV DLR Del Rio, TX S-Site ATD Program.				

Submit both pages to the contractor

DEPARTMENT OF HOMELAND SECURITY
 U.S. Immigration and Customs Enforcement
ATD ENROLLMENT - NOTICE TO ALIEN

Name: Suarez, Wilmer	Field Office: SNA - Eagle Pass BPS	A Number: 
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Your release is contingent upon your enrollment and successful participation in an Alternatives to Detention (ATD) program as designated by the U.S. Department of Homeland Security. As part of the ATD program, you will be subject to electronic monitoring and may be subject to a curfew. Failure to comply with the requirements of the ATD program will result in a redetermination of your release conditions or your arrest and detention.

If fitted with a U.S. Immigration and Customs Enforcement GPS monitoring device, do not tamper with or remove the device. Under federal law, it is a crime to willfully damage or attempt to damage property of the United States. **The unauthorized removal of the GPS monitoring device will result in damage to property of the United States.** Damaging or attempting to damage the GPS monitoring device or any of its associated equipment (including, but not limited to, the charging station, batteries, and power cords) may result in your arrest, detention, and prosecution under **18 U.S.C. § 1361** and/or **18 U.S.C. § 641**, each punishable by a fine, up to ten years' imprisonment, or both.

RECORD OF SERVICE

Served On: (Alien's Signature) 	Date: 1-16-22
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By signing I acknowledge that this form was provided to me in a language I understand. I further acknowledge that tampering with, removing the GPS Device, or any of its associated equipment, without permission may result in your arrest and detention, and prosecution for which I may be criminally prosecuted.

Served By: (Print Name and Title of Officer) N. Rodriguez O.O.	
Officer's Signature: 	

Date: 1/16/22

Vietnamese**GHI DANH THAY THẾ GIAM GIỮ- THÔNG BÁO CHO NGOẠI KIỀU**

Việc trả tự do của quý vị tùy thuộc vào sự ghi danh và tham dự thành công trong chương trình Thay Thế cho Giam Giữ (ATD) như đã được chỉ định bởi Bộ Nội An Hoa Kỳ. Là một phần của chương trình ATD, quý vị sẽ là đối tượng giám sát điện tử và có thể là đối tượng bị giới nghiêm. Không tuân theo các đòi hỏi của chương trình ATD sẽ đưa đến kết quả quyết định lại các điều kiện trả tự do của quý vị hay việc bắt giữ quý vị.

Nếu được gắn vòng cổ chân theo dõi của Văn Phòng Thực Thi Hải Quan và Di Trú Hoa Kỳ, không nên phá hay cởi bỏ thiết bị. Theo luật liên bang, khi cố tình làm hư hỏng hay tìm cách làm hư hỏng tài sản của Hoa Kỳ là một tội phạm. Việc tháo bỏ thiết bị theo dõi Định Vị không có phép sẽ đưa đến kết quả trong việc hư hỏng tài sản của Hoa Kỳ. Làm hư hỏng hay tìm cách làm hư hỏng vòng cổ chân định vị hay bất cứ dụng cụ liên hệ đến nó (kể cả, nhưng không giới hạn đến, trụ sạc nạp điện, pin, giấy điện) có thể đưa đến kết quả quý vị bị bắt, giam giữ?, và bị truy tố theo Luật Hoa Kỳ tiêu đề 18 mục 1361 và/hoặc Luật Hoa Kỳ tiêu đề 18 mục 641, mỗi tội sẽ bị phạt tiền, đến mười năm tù, hay cả hai.

CHỨNG NHẬN CHUYỂN GIAO

Bằng cách ký nhận, tôi công nhận rằng mẫu đơn này đã được cung cấp cho tôi bằng một ngôn ngữ tôi hiểu được hay đã được đọc cho tôi bằng một ngôn ngữ tôi hiểu. Tôi công nhận thêm rằng phá hoại với, làm hư hỏng, và/hay, không được phép, cởi bỏ thiết bị Định Vị, hay bất cứ dụng cụ nào liên hệ với nó, có thể đưa đến kết quả hư hỏng tài sản liên bang mà theo đó tôi có thể bị truy tố hình sự.

French**INSCRIPTION AU PROGRAMME ATD - AVIS AUX ETRANGERS**

Votre libération dépend de votre inscription et participation réussie dans le programme « Alternatives to Detention » ATD [Détention Alternative] désigné par le DHS. Dans le cadre de ce programme ATD, vous serez surveillé électroniquement et peut-être vous devriez obéir à un couvre-feu. Le non-respect des conditions du programme ATD mènera à une ré-détermination des conditions de votre liberté conditionnelle ou votre arrestation et détention.

Au cas où ICE vous fournit un appareil de surveillance GPS, n'essayez ni de l'enlever, ni de le modifier. En vertu de la loi fédérale, endommager ou essayer d'endommager délibérément des biens appartenant aux Etats-Unis, constitue un délit grave. L'enlèvement non-autorisé de l'appareil de surveillance GPS aura comme conséquence le dommage aux biens des Etats-Unis. Endommager ou essayer d'endommager l'appareil de surveillance GPS ou l'équipement y lié (y compris, mais pas limité à : la borne de recharge, les batteries et les câbles) pourrait mener à votre arrestation, détention ou des poursuites en vertu de 18 U.S.C. § 1361 et/ou U.S.C. § 641, chacune des infractions passible d'une amende et/ou une incarcération maximum de dix ans.

ACCUSE DE RECEPTION

En signant, je reconnais avoir reçu ce document dans une langue que je comprends ou qu'on me l'a lu dans une langue que je comprends. En outre, je reconnais que modifier, endommager et/ou enlever, sans permission, l'appareil GPS ou tout équipement y lié, pourrait avoir comme conséquence le dommage aux biens des Etats-Unis et pour ce fait je pourrais être l'objet de poursuites pénales.

Mandarin Chinese**ATD登记 - 外国人通知书**

你的获释乃取决于你登记并成功参加美国国土安全部指定的替代拘留 (Alternatives to Detention, ATD) 计划。作为ATD计划的一部分, 你须受电子监察, 以及可能的宵禁。未能遵守ATD计划的要求, 将导致重新决定你的释放条件, 或对你逮捕及拘留。

如果佩戴上美国移民和海关执法局的GPS监察设备, 请不要胡乱搞弄或移除该装置。根据联邦法律, 故意毁损或尝试毁损美国政府财产是刑事罪行。未经授权而移除GPS监察设备, 将导致毁损美国财产。毁损或尝试毁损 GPS 监察设备, 或任何与其相关的配备 (包括, 但不限于, 充电器、电池、电源线等等) 可导致根据18 U.S.C. § 1361及 / 或18 U.S.C. § 641对你逮捕、拘留, 与起诉, 而每项均可判以罚金, 监禁长达十年, 或两者兼罚的惩罚。

服务记录

通过签署, 本人确认此表格是以本人理解的语言提供给本人, 或者已经以本人理解的语言阅读给本人听。本人进一步承认, 未经允许擅自胡乱搞弄, 毁损和/或移除GPS设备或其任何相关配备, 可能会导致毁损联邦财产, 本人可能因此受到刑事起诉。

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

WILMER SUAREZ

(b) County of Residence of First Listed Plaintiff Philadelphia (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Stephen J. Antwine, Esq., Green & Spiegel LLC, 1524 Delancey St., Ste 4, Philadelphia, PA 19102, 215-

DEFENDANTS

Warden of Philadelphia Federal Detention Center et al.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, HABES CORPUS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Property Damage, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 2241

Brief description of cause: Immigration habeas petition challenging detention in violation of the I.N.A., implementing regulations, & Due Process Clause of the 5th Amendment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

12/6/2025 //S// Stephen J. Antwine, Esq.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE