



1 PETITION FOR WRIT OF HABEAS CORPUS

2 INTRODUCTION

3 1. Petitioner Nelson Barrientos Almanzar is in the physical custody of  
4 Respondents at the Stewart Detention Center located in Lumpkin, Georgia. He now  
5 faces unlawful detention because the Department of Homeland Security (DHS) and  
6 the Executive Office of Immigration Review (EOIR) have concluded Petitioner is  
7 subject to mandatory detention.  
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9 2. Petitioner is charged with, inter alia, having entered the United States  
10 without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

11 3. Based on this allegation in Petitioner’s removal proceedings, DHS  
12 denied Petitioner release from immigration custody, consistent with a new DHS  
13 policy issued on July 8, 2025, instructing all Immigration and Customs  
14 Enforcement (ICE) employees to consider anyone inadmissible under §  
15 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or  
16 inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and  
17 therefore ineligible to be released on bond.  
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19 4. Petitioner’s detention on this basis violates the plain language of the  
20 Immigration and Nationality Act (“INA”). Section 1225(b)(2)(A) does not apply to  
21 individuals like Petitioner who previously entered and are now residing in the  
22 United States. Instead, such individuals are subject to a different statute, § 1226(a),  
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1 that allows for release on conditional parole or bond. That statute expressly applies  
2 to people who, like Petitioner, are charged as inadmissible for having entered the  
3 United States without inspection.

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5 5. Respondents' new legal interpretation is plainly contrary to the  
6 statutory framework and contrary to decades of agency practice applying § 1226(a)  
7 to people like Petitioner.

8 6. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he  
9 be released immediately. In the alternative, Petitioner requests that Respondents  
10 provide a new custody redetermination hearing under § 1226(a) within seven days  
11 whereby the Immigration Judge does have jurisdiction over Petitioner's custody  
12 redetermination request.

### 14 JURISDICTION

15 7. Petitioner is in the physical custody of Respondents. Petitioner is  
16 detained at the Stewart Detention Center in Lumpkin, Georgia.

17 8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas  
18 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of  
19 the United States Constitution (the Suspension Clause).

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21 9. This Court may grant relief pursuant to 28 U.S.C. § 2241, the  
22 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28  
23 U.S.C. § 1651.  
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1 **VENUE**

2 10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410  
3 U.S. 484, 493- 500 (1973), venue lies with the district court having jurisdiction  
4 over the custodian of the detainee. In the case at hand, venue is proper with the  
5 United States District Court for the Middle District of Georgia, the judicial district  
6 encompassing the Stewart Detention Center in Lumpkin, Georgia in Stewart  
7 County, Georgia.

9 11. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)  
10 because Respondents are employees, officers, and agencies of the United States,  
11 and because a substantial part of the events or omissions giving rise to the claims  
12 occurred in the Middle District of Georgia.

14 **REQUIREMENTS OF 28 U.S.C. § 2243**

15 12. The Court must grant the petition for writ of habeas corpus or order  
16 Respondents to show cause “forthwith”, unless the petitioner is not entitled to  
17 relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file  
18 a return “within three days unless for good cause additional time, not exceeding  
19 twenty days, is allowed.” *Id.*

21 13. Habeas corpus is “perhaps the most important writ known to the  
22 constitutional law . . . affording as it does a *swift* and imperative remedy in all  
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1 cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)  
2 (emphasis added).

3  
4 **PARTIES**

5 14. Petitioner Nelson Barrientos Almanzar is alleged to be a citizen of the  
6 Dominican Republic who was initially detained upon entry but then was released  
7 on an Order of Release on Recognizance and issued a Notice to Appear charging  
8 him as having entered the United States without admission or parole. Petitioner is  
9 currently detained at the Stewart Detention Center in the custody, and under the  
10 direct control, of Respondents and their agents. Petitioner has been in immigration  
11 detention since January 2025. After arresting Petitioner, ICE did not set bond.  
12

13 15. Respondent Jason Streeval is employed by CoreCivic as Warden of  
14 the Stewart Detention Center where Petitioner is detained. He has immediate  
15 physical custody of Petitioner. He is sued in his official capacity.

16 16. Respondent LaDeon Francis is the Director of the Atlanta Field  
17 Office of ICE’s Enforcement and Removal Operations division. As such, LaDeon  
18 Francis is Petitioner’s immediate custodian and is responsible for Petitioner’s  
19 detention and removal. He is named in his official capacity.  
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21 17. Respondent Kristi Noem is the Secretary of the Department of  
22 Homeland Security. She is responsible for the implementation and enforcement of  
23 the Immigration and Nationality Act (INA), and oversees ICE, which is  
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1 responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority  
2 over Petitioner and is sued in her official capacity.

3 18. Respondent Pamela Bondi is the Attorney General of the United  
4 States. She is responsible for the Department of Justice, of which the Executive  
5 Office for Immigration Review and the immigration court system it operates is a  
6 component agency. She is sued in her official capacity.  
7

### 8 LEGAL FRAMEWORK

9 19. The INA prescribes three basic forms of detention for the vast  
10 majority of noncitizens in removal proceedings.  
11

12 20. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in  
13 standard removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229a.  
14 Individuals detained pursuant to § 1226(a) are generally entitled to a bond hearing  
15 at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while  
16 noncitizens who have been arrested, charged with, or convicted of certain crimes  
17 are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).  
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19 21. Second, the INA provides for mandatory detention of noncitizens  
20 subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent  
21 arrivals seeking admission referred to under § 1225(b)(2).  
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1 22. Last, the INA also provides for detention of noncitizens who have  
2 been ordered removed, including individuals in withholding-only proceedings, *see*  
3 8 U.S.C. § 1231(a)–(b).

4 23. This case concerns the detention provisions at §§ 1226(a) and  
5 1225(b)(2).  
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7 24. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted  
8 as part of the Illegal Immigration Reform and Immigrant Responsibility Act  
9 (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546,  
10 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended  
11 earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).  
12

13 25. Following the enactment of the IIRIRA, EOIR drafted new  
14 regulations explaining that, in general, people who entered the country without  
15 inspection were not considered detained under § 1225 and that they were instead  
16 detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens:  
17 Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum  
18 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).  
19

20 26. Thus, in the decades that followed, most people who entered without  
21 inspection and were placed in standard removal proceedings received bond  
22 hearings, unless their criminal history rendered them ineligible pursuant to 8  
23 U.S.C. § 1226(c). That practice was consistent with many more decades of prior  
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1 practice, in which noncitizens who were not deemed “arriving” were entitled to a  
2 custody hearing before an Immigration Judge or other hearing officer. *See* 8 U.S.C.  
3 § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that  
4 § 1225(a) simply “restates” the detention authority previously found at § 1252(a)).  
5

6 27. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new  
7 policy that rejected well-established understanding of the statutory framework and  
8 reversed decades of practice.

9 28. The new policy, entitled “Interim Guidance Regarding Detention  
10 Authority for Applicants for Admission,”<sup>1</sup> claims that all persons who entered the  
11 United States without inspection shall now be subject to a mandatory detention  
12 provision under § 1225(b)(2)(A). This interpretation of the statute applies  
13 regardless of when a person is apprehended and affects those who have resided in  
14 the United States for months, years, and even decades.  
15

16 29. On September 5, 2025, the BIA adopted this same position in a  
17 published decision, *Matter of Yajure Hurtado*. There, the Board held that all  
18 noncitizens who entered the United States without admission or parole are subject  
19 to mandatory detention under § 1225(b)(2)(A) and are therefore ineligible for bond  
20 hearings.  
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24 <sup>1</sup> Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applicants-for-admission>.

1           30.     Since Respondents adopted their new policies, dozens of federal  
2 courts have rejected their new interpretation of the INA's detention authorities.  
3 Indeed, this Court has followed suit in numerous recent decisions, ultimately  
4 issuing a standing order authorizing the Magistrate Judges to issue orders granting  
5 petitions for writs of habeas corpus so long as they fall within the parameters of  
6 *J.A.M. v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1,  
7 2025) and *P.R.S. v. Strzeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga.  
8 Nov. 24, 2025).

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10           31.     Even before ICE or the BIA introduced these nationwide policies,  
11 Immigration Judges in the Tacoma, Washington, immigration court stopped  
12 providing bond hearings for persons who entered the United States without  
13 inspection and who have since resided here. There, the U.S. District Court in the  
14 Western District of Washington found that such a reading of the INA is likely  
15 unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not  
16 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779  
17 F. Supp. 3d 1239 (W.D. Wash. 2025).

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19           32.     Subsequently, several courts have adopted the same reading of the  
20 INA's detention authorities and rejected ICE and EOIR's new interpretation. *See*,  
21 *e.g.*, *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July  
22 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ---,  
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1 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-  
2 02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *repcrt and*  
3 *recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL  
4 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937  
5 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No.  
6 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-*  
7 *Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D.  
8 Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D.  
9 Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL  
10 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-  
11 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No.  
12 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*,  
13 No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose*  
14 *J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL  
15 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-  
16 BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v*  
17 *Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025);  
18 *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL  
19 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546,  
20 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-  
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1 11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g., Palma*  
2 *Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at \*2 (D. Neb. Sept. 3, 2025)  
3 (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2)  
4 authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL  
5 2402271 at \*3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-  
6 03158-JFB-RCC, 2025 WL 2374224 at \*2 (D. Neb. Aug. 14, 2025) (same).

8 33. Courts have uniformly rejected DHS’s and EOIR’s new interpretation  
9 because it defies the INA. As the *Rodriguez Vazquez* court and others have  
10 explained, the plain text of the statutory provisions demonstrates that § 1226(a),  
11 not § 1225(b), applies to people like Petitioner.

13 34. Section 1226(a) applies by default to all persons “pending a decision  
14 on whether the [noncitizen] is to be removed from the United States.” These  
15 removal hearings are held under § 1229a, to “decid[e] the inadmissibility or  
16 deportability of a[] [noncitizen].”

17 35. The text of § 1226 also explicitly applies to people charged as being  
18 inadmissible. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such  
19 people makes clear that, by default, such people are afforded a bond hearing under  
20 subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress  
21 creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent  
22 those exceptions, the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp.  
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1 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559  
2 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at \*7.

3 36. Section 1226 therefore leaves no doubt that it applies to people who  
4 face charges of being inadmissible to the United States, including those who are  
5 present without admission or parole.

7 37. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry  
8 or who recently entered the United States. The statute’s entire framework is  
9 premised on pe inspections at the border of people who are “seeking admission” to  
10 the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has  
11 explained that this mandatory detention scheme applies “at the Nation’s borders  
12 and ports of entry, where the Government must determine whether a[] [noncitizen]  
13 seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281,  
14 287 (2018).

16 38. In recent months, this Court has also held that people who are  
17 apprehended upon arrival but are subsequently released from DHS custody only to  
18 be later apprehended within the United States qualify under § 1226(a) and are not  
19 subject to mandatory detention despite not falling within the certified class of  
20 *Maldonado Bautista*. *See e.g., L.M.P.V. v. Streeval*, No. 4:25-cv-00499-CDL-  
21 AGH (M.D. GA. Dec. 29, 2025).

1 39. Accordingly, the detention provision of § 1225(b)(2)(A) does not  
2 apply to people like Petitioner, who have already entered and were residing in the  
3 United States at the time they were apprehended.  
4

### 5 **FACTS**

6 40. Petitioner has resided in the United States since approximately 2023  
7 and lives in Yonkers, New York.  
8

9 41. According to Petitioner, he previously submitted a Form I-589,  
10 Application for Asylum and for Withholding of Removal before the United States  
11 Citizenship and Immigration Services (USCIS) in or around 2025. According to  
12 Petitioner, that application is currently pending.  
13

14 42. Petitioner was detained upon entry in 2023. He was subsequently  
15 ordered to be released on his own recognizance. A Notice to Appear was created  
16 for a hearing scheduled for April 26, 2023.

17 43. Based on Petitioner's account, on or about January 1, 2026, he was  
18 pulled over for a minor traffic infraction in Hall County, Georgia and subsequently  
19 arrested. Petitioner paid the cash bond in Hall County and was then transferred to  
20 DHS ICE custody. Petitioner is now detained by DHS at the Stewart Detention  
21 Center in Lumpkin, Georgia.  
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1           44. The Petitioner maintains a fixed address as he rents an apartment in  
2 New York with his partner. Petitioner has significant ties to the community and is  
3 not a flight risk.

4           45. To the knowledge of undersigned counsel, Petitioner has not been  
5 arrested for any dangerous or violent criminal violations. As such, Petitioner is not  
6 a danger to the community.

7           46. Following Petitioner's arrest and transfer to the Stewart Detention  
8 Center, ICE issued a custody determination to continue Petitioner's detention  
9 without an opportunity to post bond or be released on other conditions. A *Motion*  
10 *for Bond* was filed with the immigration court by Petitioner's counsel, Michael  
11 Wallace. Respondent's custody redetermination request was denied by the  
12 Honorable Immigration Judge Bowden on January 29, 2026 due to a finding of  
13 lack of jurisdiction.

14           47. In practice, following grants of habeas relief, custody redetermination  
15 proceedings frequently fail to provide the individualized analysis contemplated by  
16 the Court's order, instead resulting in summary denials based on generalized  
17 findings of flight risk. Without relief from this court, specifically in the form of  
18 immediate release as requested, Petitioner faces the prospect of months, or even  
19 years, in immigration custody, separated from his family and community.  
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1 **CLAIMS FOR RELIEF**

2 **COUNT I**

3 **Violation of the Immigration and Nationality Act**

4 48. Petitioner incorporates by reference the allegations of fact set forth in the  
5 preceding paragraphs.  
6

7 49. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply  
8 to all noncitizens residing in the United States who are subject to the  
9 grounds of inadmissibility. As relevant here, it does not apply to those who  
10 previously entered the country and have been residing in the United States  
11 prior to being apprehended and placed in removal proceedings by  
12 Respondents. Such noncitizens are detained under § 1226(a), unless they are  
13 subject to § 1225(b)(1), § 1226(c), or § 1231.  
14

15 50. The application of § 1225(b)(2) to Petitioner unlawfully mandates his  
16 continued detention and violates the INA.  
17

18 **COUNT II**

19 **Violation of the Bond Regulations**

20 51. Petitioner incorporates by reference the allegations of fact set forth in  
21 preceding paragraphs.

22 52. In 1997, after Congress amended the INA through IIRIRA, EOIR and the  
23 then-Immigration and Naturalization Service issued an interim rule to  
24

1 interpret and apply IIRIRA. Specifically, under the heading of  
2 “Apprehension, Custody, and Detention of [Noncitizens],” the agencies  
3 explained that “[d]espite being applicants for admission, [noncitizens] who  
4 are present without having been admitted or paroled (formerly referred to as  
5 [noncitizens] who entered without inspection) will be eligible for bond and  
6 bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The  
7 agencies thus made clear that individuals who had entered without  
8 inspection were eligible for consideration for bond and bond hearings before  
9 Immigration Judges under 8 U.S.C. § 1226 and its implementing regulations.  
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11  
12 53. Nonetheless, EOIR has a policy and practice of applying § 1225(b)(2) to  
13 individuals like Petitioner.

14 54. The application of § 1225(b)(2) to Petitioner unlawfully mandates his  
15 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

### 16 COUNT III

#### 17 **Violation of Fifth Amendment Right to Due Process**

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

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21 56. The government may not deprive a person of life, liberty, or property  
22 without due process of law. U.S. Const. amend. V. “Freedom from  
23 imprisonment—from government custody, detention, or other forms of  
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1 physical restraint—lies at the heart of the liberty that the Clause protects.”

2 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

3 57. Petitioner has a fundamental interest in liberty and being free from official  
4 restraint.

5 58. The government’s detention of Petitioner without a custody redetermination  
6 hearing to determine whether he is a flight risk or danger to others violates  
7 his right to due process.

8 59. Petitioner has a right to a fair and impartial bond hearing

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10 **PRAYER FOR RELIEF**

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

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- 13 a. Assume jurisdiction over this matter;
  - 14 b. Order that Petitioner shall not be transferred outside the Middle  
15 District Court of Georgia while this habeas petition is pending;
  - 16 c. Issue an Order to Show Cause ordering Respondents to show cause  
17 why this Petition should not be granted within three days;
  - 18 d. Issue a Writ of Habeas Corpus requiring that Respondents  
19 immediately release Petitioner or, in the alternative, provide Petitioner  
20 with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
  - 21 e. Declare that Petitioner’s detention is unlawful.
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- 1 f. Award Petitioner attorney’s fees and costs under the Equal Access to  
2 Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any  
3 other basis justified under law; and  
4  
5 g. Grant any other and further relief that this Court deems just and  
6 proper.

7 It is RESPECTFULLY SUBMITTED this 6<sup>th</sup> day of January, 2026.

8 The Kennedy Immigration Firm, LLC  
9 /s/Alexandra H. Bradley  
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