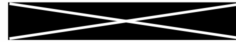
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

1. MERT OZSEVIM, Petitioner, v. 1. SCARLET GRANT, Warden of the Cimarron Correctional Facility, in their official capacity, Respondent.	Civil Action No.: **PETITION FOR WRIT OF HABEAS CORPUS** 

Pursuant to 28 U.S.C. § 2241, Mert Ozsevim ("Petitioner") seeks a Writ of Habeas Corpus ordering Respondent to release him from custody or, in the alternative, to provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a).

The Department of Homeland Security ("DHS") has recently reversed their decades-long practice of providing bond hearings to people in petitioner's situation. To justify that reversal, the Department has adopted an indefensible interpretation of immigration statutes and the Executive Office of Immigration Review ("EOIR" or "Immigration Court") under the Department of Justice ("DOJ") has promoted this interpretation. Implementing their new interpretation, DHS has unlawfully seized Petitioner and is detaining him without the possibility of release on bond, even though he has resided in the United States for nearly three years. Petitioner asks that

this Court declare that he has been detained unlawfully, that the DHS's interpretation of the governing statute is wrong, and that it orders either his release or that he receive a bond hearing before the Immigration Court.

INTRODUCTION

1. Petitioner is in the physical custody of Respondent at the Cimarron Correctional Facility in Cushing, OK. He is unlawfully detained because the Department of Homeland Security ("DHS"), with the concurrence of the Executive Office of Immigration Review ("EOIR") under the Department of Justice ("DOJ"), has determined that Petitioner is subject to mandatory detention. As a result, Petitioner's continued detention violates 8 U.S.C. § 1226(a) and the Due Process Clause of the Fifth Amendment to the United States Constitution. See the ICE Detainee Locator website screenshot below, accessed on February 6, 2026, at 10:00 A.M. ET.

Facility Page

Detention Information For:

MERT OZSEVIM
Country of Birth: Turkey
A-Number: [redacted]

Current Detention Facility:

Cimarron Correctional Facility
3700 S. Kings Highway
NA
Cushing, OK 74023
Visitor Information: (918) 225-3336

2. Petitioner is charged with removability for having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i). **(Exhibit 1**, Notice to Appear).

3. Petitioner has resided in the United States since at least March 30, 2023. After an initial period of ICE detention, he was released on his own recognizance on April 27, 2023 (**Exhibit 2**, DHS Order of Release on Recognizance), and he remained at liberty until ICE detained him again on or about January 22, 2026. (**Exhibit 3**, Notice to EOIR). He is now subject to immigration detention without the opportunity for release on bond.

4. Based on the charge alleged in the Notice to Appear, DHS has taken the position that Petitioner is subject to mandatory detention and therefore ineligible for release on bond.

5. That action by DHS is also mandated by recent precedent of the Board of Immigration Appeals (BIA). The BIA, on September 5, 2025, issued a precedential decision, which binds all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission or inspection. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board, deviating from decades of established precedent, decided that such individuals are now subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

6. Despite a nation-wide class action declaratory judgment issued by the U.S. District Court for the Central District of California that confirmed that all class members (of which Petitioner would be one) are subject to detention under § 1226(a) and therefore entitled to a bond hearing, Immigration Judges ("IJs") have been instructed by the Chief Immigration Judge Teresa L. Riley to ignore this case law that clearly indicated that *Matter of Yajure Hurtado* is no longer controlling. See *Bautista v. Santacruz, 2025 U.S. Dist. LEXIS 262265; see also* AILA Practice Alert 01/14/2026:*https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista*.

7. Documents issued by the DHS indicate that Petitioner has been treated as detained under 8 U.S.C. § 1226(a). Petitioner has a pending asylum application and has filed a Form I-589, Application for Asylum and for Withholding of Removal and protection under the Convention Against Torture, with the EOIR. This filing reflects substantial equities and an intent to pursue lawful status through established legal processes. Petitioner fears persecution and torture in his home country. *See* **Exhibit 4** EOIR filing/cover page for Form I-589.

8. Section 1226(a) authorizes release on bond or conditions during the pendency of immigration proceedings. Accordingly, Petitioner's continued detention without an individualized bond hearing violates 8 U.S.C. § 1226(a).

9. Respondent's new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner and violates his procedural due process right to be heard concerning whether the government should continue to deprive him of his liberty.

10. The government's continued deprivation of Petitioner's liberty interest is significant because Petitioner has resided in the United States since April 2023 and remained at liberty in the community without immigration detention. After living in the community, Petitioner's sudden detention without an individualized hearing under 8 U.S.C. § 1226(a) constitutes a patent violation of the Due Process Clause of the Fifth Amendment.

11. Accordingly, Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus and order his immediate release from unlawful detention, or in the alternative, order a bond hearing before an Immigration Judge ("IJ") where DHS bears the burden of justifying his continued detention.

CUSTODY

12. Petitioner is in the immediate physical custody of Respondent. He is detained at Cimarron Correctional Facility, an immigration detention facility located in Cushing, OK. Petitioner is detained within this District and under the direct control of Respondent.

JURISDICTION

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

14. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, Cl. 2 of the United States Constitution (the Suspension Clause).

15. 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.*, and the All Writs Act, 28 U.S.C. § 1651.

16. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(a)(5), 1252(b)(9), 1225(g), or 1226(e). District courts have jurisdiction under 28 U.S.C. § 2241 to decide habeas claims by individuals challenging the lawfulness or constitutionality of their civil immigration detention. *See Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

VENUE

17. Venue is proper in the Western District of Oklahoma under 28 U.S.C. §§1391(e)(1) and (2) because the Respondent is an officer, employee, or agency of the United States and detains Petitioner at Cimarron Correctional Facility which is in this District. Venue is also proper in this District because a substantial part of the

events or omissions giving rise to the claims occurred in the Western District of Oklahoma.

REQUIREMENTS OF 28 U.S.C. § 2243

18. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

19. Pursuant to 28 U.S.C. § 2243, the Court must grant the Petition for a writ of habeas corpus or order Respondent to show cause "forthwith," unless the petitioner is not entitled to relief. *Id.* After issuance of an order to show cause, Respondent must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* Upon filing of the return, the Court sets a hearing "not more than five days after the return unless for good cause additional time is allowed." *Id.* Finally, "[t]he court shall summarily hear and determine the facts and dispose of the matter as law and justice require." *Id.*

EXHAUSTION OF ADMINISTRATIVE REMEDIES

20. There is no statutory exhaustion requirement for habeas challenges under 28 U.S.C § 2241. In the absence of a statutory exhaustion requirement, "sound judicial discretion governs." *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). For example, there is no need to seek an administrative remedy when doing so would be "futile," *e.g.*, "where the administrative body" has "predetermined the issue before

it." *Id.* at 144, 148; see also *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 U.S. Dist. LEXIS 226877, at *8 (E.D. Pa. Nov. 18, 2025). Similarly, exhaustion is excused "when the issue presented involves only statutory construction." *Vasquez v. Strada*, 684 F.3d 431, 434 (3d Cir. 2012).

21. Both exceptions apply here. The BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—which binds immigration judges, 8 C.F.R. § 1003.1(g)(1)—plainly denies Petitioner a bond hearing. Due to that binding BIA precedent, Petitioner's legal issue has been predetermined within the agency, and exhaustion would be futile just as it was in *Demirel*, a fact that clears the way for judicial review. Second, because the central issue here is whether Petitioner may be detained under Section 1225 or Section 1226 of the INA—a purely legal question of statutory interpretation—any exhaustion requirements should therefore be excused.

PARTIES

22. Petitioner Mert Ozsevim is currently in the custody of ICE and is detained at the Cimarron Correctional Facility in Cushing, OK.

23. Respondent Scarlet Grant is the Warden of Cimarron Correctional Facility and is sued in her official capacity as the individual in charge of the immigration detention facility where Petitioner is currently detained. She is the immediate custodian of Petitioner and, in conjunction with DHS and ICE, has the authority to release him.

FACTUAL ALLEGATIONS

24. Petitioner is a 24-year-old Turkish citizen who has resided in the United States since April 2023. Petitioner has no criminal convictions and no history of offenses rendering him a danger to the community.

25. Petitioner has lived and worked in the United States prior to his current immigration detention.

26. Petitioner last entered the United States on or about March 30, 2023, at or near San Ysidro, California, without admission or parole.

27. Petitioner has been working in the United States and has established ties to his local community. Petitioner was taken into ICE custody on or about January 22, 2026.

28. Petitioner has been in removal proceedings and has pursued multiple forms of relief from removal. During that time, Petitioner has resided in the community and complied with the requirements of his immigration proceedings. He is now detained without an opportunity for release on bond despite having long-standing ties to the United States and pending applications for relief.

29. Petitioner currently has a master calendar hearing scheduled on February 9, 2026, at the Aurora Immigration Court. The prolonged delay before Petitioner may obtain a merits determination underscores the constitutional

significance of providing an individualized bond hearing to assess whether his continued detention is justified during the pendency of those proceedings.

30. Petitioner is currently detained by ICE at the Cimarron Correctional Facility in Cushing, OK.

LEGAL FRAMEWORK

31. There are three statutes that govern civil immigration detention. See 8 U.S.C. §§ 1225, 1226, 1231.

32. First, Section 1225 provides for mandatory detention of two groups of noncitizens regardless of any criminal record. The first group consists of those who are subject to expedited removal (a) for being apprehended upon arrival at or near the border lacking any valid entry document or (b) for being apprehended at any location and unable to show that they have been physically present in the United States for more than two years. 8 U.S.C. §§ 1225(b)(1)(A)(i), (ii). The second group consists of anyone alleged to be an "applicant for admission" who is "seeking admission" and whom an "examining officer determines . . . is not clearly and beyond a doubt entitled to be admitted," *e.g.*, someone who presents valid entry documents at a port of entry but is inadmissible for some reason. 8 U.S.C. § 1225(b)(2). This section mandates detention and is "applied primarily to aliens seeking entry into the United States" who claim fear of return to their home country at a United States border. *Jennings*, 583 U.S.C. at 297.

33. Second, Section 1226(a) authorizes discretionary detention of noncitizens in standard removal proceedings under 8 U.S.C. § 1229a. This section governs detention of noncitizens in removal proceedings not apprehended at the border, has traditionally governed, and grants the Attorney General discretion to determine whether a noncitizen, except those with certain criminal histories, may be released on bond. 8 U.S.C. § 1226(a). Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

34. Third, under 8 U.S.C. § 1231(a)(1)(A), ICE must detain a noncitizen for the first ninety days after a removal order becomes final. *Jennings v. Rodriguez*, 583 U.S. 281, 298 (2018). This statute is not at issue in this case.

35. This case presents a pure legal question regarding whether Petitioner's detention is governed by 8 U.S.C. §§ 1225 or 1226.

Statutory Framework for §§ 1226 and 1225

36. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546,

3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

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

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

39. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. *Martinez v. Hyde*, 792 F. Supp. 3d 211, 223 n.10 (D. Mass. 2025).

40. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be subject to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.".

41. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

42. "At least 282 decisions from district courts. . . find that the application of Section 1225(b)(2)(A) to noncitizens residing in the United States is unlawful." *Patel v. McShane*, No. 25-5975, 2025 U.S. Dist. LEXIS 228258, at *2 (E.D. Pa. Nov. 20, 2025); *see also Del Cid v. Bondi*, No. 3:25-cv-00304, 2025 U.S. Dist. LEXIS 209136, at *40 (W.D. Pa. Oct. 23, 2025) (determining that petitioners were likely to succeed on their claim that § 1226(a) governed their detention based on years of U.S. residence, but declining to adopt a bright-line rule).

43. Many courts have likewise concluded that § 1225(b)(2)(A) does not apply to individuals like Petitioner who are in standard removal proceedings and were residing in the United States when DHS detained them under § 1225. Instead,

such individuals are subject to discretionary detention under Section 1226(a), which allows for release on bond. *See, e.g.*, *Martinez*, 792 F. Supp. 3d at 232.

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

45. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). *Id.* As one court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

46. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States without admission or parole. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[]

[noncitizen] seeking to enter the country is admissible." *Jennings*, 583 U.S. at 287; *see Del Cid*, 2025 U.S. Dist. LEXIS 209136, at *40 (recognizing that § 1225 is tethered to the nation's borders, whereas § 1226 is tethered to individuals within the country).

47. Thus, the mandatory detention provision of § 1225(b)(2) does not apply to individuals like Petitioner who have long resided in the United States and are in standard removal proceedings. Instead, such individuals are subject to discretionary detention under § 1226(a), which permits release on bond. *See, e.g., Patel, 2025 U.S. Dist. LEXIS 228258, at *4.*

Detention without Due Process

48. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225. Even if Respondent were correct that § 1225 applied, Petitioner's continued detention without notice, a meaningful opportunity to be heard, or an individualized determination of the necessity of detention violates the Due Process Clause of the Fifth Amendment. *See, e.g., Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025).

49. Petitioner has a protected liberty interest under the Due Process Clause because he has resided in the United States and is entitled to constitutional protections afforded to all "persons" within the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The Supreme Court has repeatedly reaffirmed that

noncitizens, regardless of immigration status, are entitled to due process of law before the government may deprive them of their liberty.

50. *Dep't of Homeland Sec. v. Thuraissigiam* 591 U.S. 103 (2020), underscores the distinction between noncitizens apprehended shortly after unlawful entry and those who have established substantial connections to the United States. Unlike individuals apprehended at or near the border and placed in expedited removal proceedings, Petitioner has resided in the United States and is therefore entitled to the full protections of the Due Process Clause.

51. Petitioner retains a significant liberty interest under the Due Process Clause of the Fifth Amendment in avoiding immigration detention. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972). Having lived in the United States and established substantial ties to his community, Petitioner possesses a protected liberty interest that cannot be extinguished without due process of law.

52. Courts evaluate the procedural protections required using the *Mathews v. Eldridge* factors which consider: (1) the private interest affected; (2) the risk of erroneous deprivation and probable value of additional safeguards; and (3) the government's interest, including fiscal and administrative burdens. 424 U.S. 319, 335 (1976).

53. Being free from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Individuals possess a significant liberty interest in avoiding physical confinement, a principle repeatedly recognized by the Supreme Court and the lower courts. *See, e.g., Young v. Harper*, 520 U.S. 143, 152 (1997); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019).

54. The risk of erroneous deprivation of Petitioner's liberty interest is high. DHS has adopted an impermissibly broad interpretation of 8 U.S.C. § 1225 that categorically forecloses any opportunity for an individualized bond hearing. Civil immigration detention must be "nonpunitive in purpose and effect" and is constitutionally justified only where the government demonstrates that detention is necessary to prevent flight or danger to the community. *Zadvydas* at 678, 690. By denying Petitioner any individualized assessment of whether continued detention is warranted, DHS's interpretation creates a substantial risk of erroneous deprivation of liberty.

55. While the government has an interest in ensuring that noncitizens appear for removal proceedings and do not pose a danger to the community, that interest is minimal when compared to Petitioner's significant liberty interest. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019). Petitioner has no criminal history and has longstanding ties to the United States. Nothing in the record,

apart from the government's challenged interpretation of § 1225, supports his continued detention. Providing Petitioner notice and an individualized hearing to assess whether detention is necessary would impose only a minimal administrative burden, as such hearings are routinely conducted in immigration proceedings. *See* 8 C.F.R. § 1236.1(d)(1).

56. On balance, the *Mathews* factors weigh heavily in Petitioner's favor. Because DHS has denied Petitioner any notice or opportunity to be heard before subjecting him to continued detention, due process requires at minimum an individualized bond hearing to determine whether detention is justified. *See, e.g., Patel*, 2025 U.S. Dist. LEXIS 228258, at *4.

CLAIMS FOR RELIEF

COUNT ONE
FIFTH AMENDMENT DUE PROCESS VIOLATION
(Procedural Due Process)

57. Petitioner alleges and incorporates by reference the paragraphs above.

58. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. The Supreme Court has long-established that noncitizens are afforded due process rights. *Reno v. Flores*, 507 U.S. 292, 306 (1993); *Demore*, 538 U.S. at 523.

59. Procedural due process requires a custody hearing before an independent and impartial adjudicator. *See Marcello v. Bonds*, 39 U.S. 302, 307 (1955).

60. To determine whether civil detention violates an individual's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*.

61. Petitioner has a significant liberty interest in being free from detention.

62. The government's assertion of the wrong detention authority and its continued detention of Petitioner without notice or an individualized hearing presents a significant risk of erroneous deprivation of Petitioner's liberty interest. The government's position lacks support in the plain text of the INA and contravenes longstanding statutory interpretation and prevailing case law. By detaining Petitioner without affording him any procedural safeguards, the government has violated Petitioner's due process rights.

63. Any motion for bond before the Immigration Court, and any subsequent appeal to the Board of Immigration Appeals, would be futile because the agency has adopted the same erroneous interpretation of the governing detention statutes that DHS advances here. As a result, Petitioner has no meaningful opportunity, outside of this Petition, to challenge the legality of his detention based on an incorrect reading of the law.

64. The government's interest and any administrative burden associated with providing Petitioner an individualized bond hearing are minimal. Immigration Judges routinely conduct such hearings, and providing basic procedural protections would impose little burden while substantially reducing the risk of erroneous detention.

65. Petitioner's continued detention without notice, a hearing, or any individualized procedural safeguards constitutes a serious deprivation of liberty and violates the Due Process Clause of the Fifth Amendment.

COUNT TWO
VIOLATION OF 8 U.S.C. § 1226(a)
(Misclassification Without Opportunity to Contest)

66. Petitioner alleges and incorporates by reference the paragraphs above.

67. Petitioner's detention is governed by 8 U.S.C. § 1226(a), which authorizes discretionary detention and release on bond or conditional release during the pendency of removal proceedings.

68. Section 1226(a) is the default detention statute governing noncitizens already present in the United States and placed in standard removal proceedings, whereas § 1225 applies to individuals seeking admission at or near the border. *Jennings* at 288–89 (2018). Petitioner has resided in the United States and therefore falls squarely within the category of noncitizens "already in the country" subject to § 1226(a).

69. The Court should reject any argument that Petitioner falls under § 1225(b)(1) or (b)(2) on the basis that he is an "applicant for admission" or was paroled at a port of entry because such arguments ignore that DHS released Petitioner under § 1226(a) and that Petitioner has an established liberty interest from his time living freely in the United States.

70. DHS's treatment of Petitioner as subject to mandatory detention under § 1225(b), without affording him notice or an opportunity to contest that classification, constitutes an unlawful misapplication of the detention statutes.

71. Section 1226(a) and implementing regulations provide that noncitizens present in the United States pending removal decisions, like Petitioner, are eligible for release on bond unless subject to mandatory detention under § 1226(c). 8 U.S.C. § 1226(a); 8 C.F.R. §§ 1236.1(d), 1003.19(a)-(f).

72. By denying Petitioner a bond hearing and detaining him without an individualized determination of flight risk or danger to the community, DHS has acted contrary to § 1226(a) and in excess of its statutory authority.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;

2. Issue an Order to Show Cause ordering Respondent to show cause within three days why this Petition should not be granted;

3. Enjoin Respondent from transferring Petitioner outside the jurisdiction of this District pending the resolution of this case;

4. Issue a Writ of Habeas Corpus ordering Petitioner's immediate release from detention because his continued detention under an erroneous application of 8 U.S.C. § 1225, without an opportunity to contest that classification, is unlawful;

5. In the alternative, order that Petitioner must receive an immediate bond hearing before an Immigration Judge where DHS shall bear the burden of proving, by clear and convincing evidence of dangerousness or flight risk, that Petitioner's continued detention is justified;

6. Award reasonable attorneys' fees and costs under the Equal Access to Justice Act and on any other basis justified under law; and

7. Grant any further relief this Court deems just and proper.

Date: February 6, 2026.

Respectfully submitted,

/S/ Elissa R Stiles
Elissa Stiles
Rivas & Associates
PO Box 470348, Tulsa OK 74147
918-419-0166
Estiles@rivasassociates.com
Attorney for Petitioner

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

I am submitting this verification on behalf of Petitioner Mert Ozsevim as his attorney. I have not personally met with Petitioner. Rather, I have reviewed the documents referenced herein and have discussed the factual allegations in this Petition with Petitioner's immigration counsel, Okan Sengun, Esq. Based on my review of the records provided, and on information and belief, I hereby verify that the factual statements made in the foregoing Verified Writ of Habeas Corpus under 28 U.S.C. § 2241 are true and correct to the best of my knowledge.

Date: February 6, 2026

/S/ Elissa R Stiles
Elissa Stiles
Rivas & Associates
PO Box 470348, Tulsa OK 74147
918-419-0166
Estiles@rivasassociates.com
Attorney for Petitioner

EXHIBITS

Exhibit 1, Notice to Appear

Exhibit 2, DHS Order of Release on Recognizance

Exhibit 3, Notice to EOIR

Exhibit 4, EOIR filing/cover page for Form I-589