THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

MANDEEP SAINI, Petitioner vs. PAMELA BONDI, in her official capacity as Attorney General of the United States, KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security, TODD LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement; JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility, Respondents.	Case No.: _____ Agency File: [redacted]

PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR ORDER TO SHOW CAUSE

Mandeep Saini, hereinafter "Mr. Saini" or "Petitioner," by and through undersigned counsel, files this Petition for Writ of Habeas Corpus, and in support thereof, alleges as follows:

INTRODUCTION

1. Petitioner Mandeep Saini is in the physical custody of Respondents at the Denver Contract Detention Facility. He now faces unlawful detention because new DHS policy and precedent from the Board of Immigration Appeals (BIA or Board) hold that any person who entered the United States without admission is subject to mandatory detention.
2. Petitioner is charged with, inter alia, having entered the United States without admission or parole. *See* 8 U.S.C. § 1182(a)(6)(A)(i), and 8 U.S.C. § 1182(a)(7)(A)(i)(I).

3. Based on this allegation in Petitioner's removal proceedings, it is DHS' position that, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.
4. Similarly, on May 15, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that "an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1225(b) (2018), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a) (2018)." *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025).
5. On September 5, 2025, the Board issued another decision, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.
6. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who were detained upon their entry, processed and released pursuant to 8 U.S.C. § 1226(a), and are re-arrested a year later. Instead, such individuals are subject to § 1226(a), which allows

for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without being admitted or paroled.

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

8. Alternatively, if this court were to find that Petitioner is not subject to § 1226(a), then Petitioner contends that the only statutory mechanism for his prior release from custody was parole under § 1182(d)(5)(A).

9. Noncitizens placed in expedited removal proceedings, are generally ordered removed without further hearing or review, *See Jennings v. Rodriguez*, 138 S. Ct. 830, 837 (2018). The regulations provide that a noncitizen who is in expedited removal proceedings "shall be detained pending determination" regarding his or her inadmissibility and removal." 8 C.F.R. § 235.3(b)(2)(iii) ("an alien whose inadmissibility is being considered under this section or who has been ordered removed pursuant to this section shall be detained pending determination and removal"). However, if a noncitizen placed in expedited removal proceedings "indicate either an intention to apply for asylum...or a fear of persecution", an immigration officer shall refer the noncitizen for a credible fear interview. INA § 235(b)(1)(A)(ii); 8 C.F.R. § 235.3 (b)(4); *Jennings*, 138 S. Ct. at 837. Such noncitizens "shall be detained pending final determination of credible fear of persecution and, if found not to have such fear, until removed". However, if found to have a credible fear of persecution that noncitizens "shall be detained for further consideration of the application for asylum", INA section 235(b)(1)(B)(ii). Noncitizens detained whether under 235(b)(1)

or (b)(2) may be paroled into the United States pursuant to Section 212(d)(5)(A) of the Act. *Jennings*, 138 S. Ct. at 837, 844; *Matter of M-S-*, 27 I&N Dec. at 510, 517-18; *see also* INA § 212(d)(5)(A); 8 C.F.R. §§ 235.3(b)-(c).

10. If this Court determines that Petitioner is an applicant for admission that was detained under INA § 235(b), the parole authority of 212(d)(5)(A) is the only legal means for release of inadmissible applicants for admission who are subject to expedited or full removal proceedings. *See Jennings*, 138 S. Ct. at 844 and *Matter of M-S-*, 27 IN Dec 509 at 517.
11. However, if that is the case, the record does not reflect that Petitioner was issued written notice of revocation of parole.
12. Therefore, DHS's re-detention of Petitioner is unlawful because it failed to comply with the statutory and regulatory procedures required to terminate parole.
13. To remedy this unlawful detention, Petitioner asks this Court to issue a writ of habeas corpus directing Respondents to release Petitioner unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.
14. Alternatively, Petitioner asks this Court to, under 28 U.S.C. § 2241, issue a writ of habeas corpus directing Respondents to release him because his continued confinement violates the Administrative Procedure Act ("APA"), procedural due process, and substantive due process.
15. Petitioner further requests this Court to order Respondents to show cause demonstrating why he should not be released within three days given his unlawful detention. 28 U.S.C. § 2243.

JURISDICTION

16. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Denver Contract Detention Facility.

17. Jurisdiction of the Court is predicated upon 28 U.S.C. §§ 1331 and 1346(a)(2) in that the matter in controversy arises under the Constitution and laws of the United States, and the United States is a Defendant.

18. This Court also has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

19. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651

20. Federal courts also have federal question jurisdiction, through the APA, to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by "any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus"). The APA affords a right of review to a person who is "adversely affected or aggrieved by agency action." 5 U.S.C. § 702. Respondents' continued detention of Petitioner despite him being in lawful status has adversely and severely affected Petitioner's liberty and freedom.

VENUE

21. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the District of Colorado, the judicial district in which Petitioner currently is detained.

22. Venue is proper in this District under 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of Colorado.

REQUIREMENTS OF 28 U.S.C. § 2243

23. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

24. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

PARTIES

25. Petitioner, Mr. Mandeep Saini, is a 21-year-old native and citizen of India, with no criminal record. On Monday, January 26, 2026, Mr. Saini was detained by ICE while reporting at his ICE check in appointment.

26. Respondent, Ms. Pamela Bondi, is the United States Attorney General. She oversees the immigration court system, which is housed within the Executive Office for Immigration Review ("EOIR") and includes all Immigration Judges and the Board of Immigration Appeals ("BIA"). She is sued in her official capacity.

27. Respondent, Ms. Kristi Noem, is the United States Secretary of Homeland Security. DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Noem is the ultimate legal custodian of Petitioner. She is sued in her official capacity.

28. Respondent, Mr. Todd Lyons, is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States and is legally responsible for pursuing any effort to remove Petitioner and confine him pending removal. As such, he is a custodian of Petitioner. He is sued in his official capacity.

29. Respondent, Juan Baltazar, is the Warden of the Denver Contract Detention Facility. He is responsible for the immediate execution of detention over Petitioner. As such, he is a custodian of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

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

31. First, 8 U.S.C. § 1226 authorizes that "on a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from

the United States." 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).

32. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

33. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

34. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

35. 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).

36. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining 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." *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).

37. Thus, in the decades that followed, most people who were apprehended within the borders of the United States 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)).

38. In *Jennings v. Rodriguez*, the Department of Homeland Security ("DHS") explicitly acknowledged that individuals who have already entered the United States and are not apprehended within 100 miles of the border or within 14 days of entry are subject to discretionary detention under 8 U.S.C. § 1226(a), not mandatory detention under § 1225(b). *Jennings v. Rodriguez*, 583 U.S. 281 (2018). During oral argument on November 30, 2016, then–Solicitor General Ian Gershengorn stated: "If they are not detained within 100 miles of the border or within 14 days… then they are under 1226(a) and not 1226(c)." In response to a question regarding "an alien who has come into the United States illegally without being admitted [and] who takes up residence 50 miles from the border," the Government confirmed, "The answer is they are held under 1226(a) and that they get a bond hearing…" Transcript of Oral Argument at 7–8. DHS further reiterated that such individuals "would be held under 1226(a)" and cited the administrative record to support that position. *Id.* These statements reflect DHS's prior litigation position that § 1226(a) governs detention for noncitizens who have entered and are residing in the United States–a position directly contrary to the agency's current interpretation extending § 1225(b)(2)(A) to those same

individuals. Having prevailed in *Jennings* after taking this position, they should be now estopped from reversing course simply due to a shift in political or litigation strategy. Estoppel in this case is necessary to preserve the predictability inherent in the rule of law and due process under the Fifth Amendment, as well as to uphold the integrity of the judicial system.

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 normative agency practice.

40. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," [1] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision 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. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

42. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same interpretation of the statute as ICE.

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[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

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

44. Subsequently, several courts have adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g.*, *Nava Hernandez v. Baltazar, et al.*, No. 1:25-CV-03094-CNS, 2025 WL 2996643 (D. Colo. Oct. 24, 2025); *Hernandez Vazquez v. Baltasar, et al.*, No. 1:25-cv-3049-GPG, ECF No. 22 (D. Colo. Oct. 23, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL

2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g.*, *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same); *Santana-Rivas v. Warden of Clinton County Correctional Facility*, No. 3:25-cv-01896-JPW, 2025 (M.D. Pa. Nov. 13, 2025) (same).

45. This Court has rejected Respondents' new interpretation and conditionally certified the following class:

> All people who are arrested or detained by Respondents in Colorado pending a decision on whether they are to be removed from the United States based on alleged violations of the Immigration and Nationality Act, or who are otherwise subject to the jurisdiction of an Immigration Court located in Colorado, where:
>
> (a) For the person's most recent entry into the United States, the government has not alleged that the person was admitted into the United States;

(b) For the person's most recent entry into the United States, the person was not paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A) at the time of entry;

(c) The person is not a person whose most recent arrest occurred at the border while they were arriving in the United States; and,

(d) The person is being detained based on Respondents' assertion that they are subject to 8 U.S.C. § 1225(b)(2)(A).

Mendoza Gutierrez v. Baltasar, No. 25-CV-2720-RMR, at *3-4 (D. Colo. Nov. 21, 2025).

Petitioner is a member of this class.

46. The U.S. District Court for the Central District of California has likewise rejected Respondents' interpretation and certified a nationwide class, extending declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

47. Courts have uniformly rejected DHS's and EOIR's new interpretation because it contradicts the INA. As this court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

48. "Courts have noted that Respondents' interpretation of the phrase 'seeking admission' 'violates the rule against surplusage and negates the plain meaning of the text.'" *Santana-Rivas*, No. 3:25-cv-01896-JPW, at *27-28 (citing *Soto v. Soto, et. al.*, No. 25-16200, 2025 U.S. Dist. LEXIS 207818, at *9 (D.N.J. Oct. 22; *Martinez v. Hyde,* No. 25-11613, 2025

U.S. Dist. LEXIS 141724, at *6 (D. Mass. July 24, 2025); *Zumba v. Bondi,* No. 25-14626, 2025 U.S. Dist. LEXIS 190052, at *8; *Benitez v. Francis,* No.25-5937, 2025 U.S. Dist. LEXIS 157214, at *16 (S.D.N.Y. Aug. 8, 2025). "The phrase 'seeking admission' in § 1225(b)(2)(A) necessarily connotes some affirmative, present-tense action." *Santana-Rivas*, No. 3:25-cv-01896-JPW, at *28. "The verb 'seeking' is a present participle, and the 'present participle is used to signal present and continuing action.'" *Id.* (quoting *Westchester Gen. Hosp., Inc. v. Evanston Ins. Co.,* 48 F.4th 1298, 1307 (11th Cir. 2022); *D.L. Markham DDS, MSD, Inc. 401(K) Plan v. Variable Annuity Life Ins. Co.,* 88 F.4th 602, 610 (5th Cir. 2023) ("The word 'providing,' used here as a present participle, most commonly describes a person who is currently providing services.") *(emphasis in original); United States v. Hull,* 456 F.3d 133, 145 (3d Cir. 2006) (Ackerman, Sr. Dist. J., sitting by designation, concurring) ("Congress's use of the present participle 'committing' connotes present, continuing action.")).

49. "The INA defines the term 'admission' as, 'with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.'" *Santana-Rivas*, No. 3:25-cv-01896-JPW, at *28-29 (quoting 8 U.S.C. § 1101(a)(13)(A)). "Thus, the INA's own definition of the term 'admission' supports the limited application of § 1225 to encounters with aliens along the borders and at ports of entry." *Id.* at *29.

50. Here, Petitioner cannot be said to be "seeking admission" as defined in § 1101(a)(13)(A). Petitioner "'has already 'entered' the country'— [he] is no longer seeking to enter the United States (lawfully or otherwise)." *Santana-Rivas*, No. 3:25-cv-01896-JPW, at *29 (quoting *Jimenez,* 2025 U.S. Dist. LEXIS 176165, at *22, citing *Benitez,* 2025 U.S. Dist.

LEXIS 157214, at *19). Like the Middle District of Pennsylvania found in *Santana-Rivas,* "while Petitioner "has applied for asylum, that application does not seek '"lawful entry" to the United States, but [rather] a lawful means to remain here.'" *Id.*

51. Indeed, according to the document I-220A, Order of Release on Recognizance, issued to Petitioner upon his initial encounter with ICE in 2024, the DHS itself determined that Petitioner is an alien present in the United States without being admitted or paroled who was arrested and released under § 1226(a), not § 1225(b).

52. 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]."

53. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection or admission. *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). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

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

55. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry. 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 v. Rodriguez*, 583 U.S. 281, 287 (2018) (reversing the lower court's judgement because it adopted an implausible construction of §§1225(b)(1), (b)(2) and 1226(c).

56. In *Jennings*, the Supreme Court describes section 1226 as governing "the process of arresting and detaining" noncitizens who are living "inside the United States" but "may still be removed," including noncitizens "who were inadmissible at the time of entry." *Jennings*, 583 U.S. at 288. In harmonizing sections 1225 and 1226, the Supreme Court explains "in sum, U.S. immigration law authorizes the Government to detain certain [noncitizens] *seeking* admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings under §§ 1226(a) and (c).'" *Id.* at 289 (emphasis added).

57. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered, were processed and released previously under 8 U.S.C. § 1226, and were already residing in the United States at the time they were re-apprehended. Petitioner was previously released after a quasi-judicial determination by an immigration official on a form I-220A that he falls under the discretionary arrest provision of § 1226(a). The Government's own issuance of an I-220A, releasing him pursuant to §

1226, reflects a discretionary, fact-based determination that Petitioner was not subject to mandatory detention under § 1225(b)(2)(A). This is significant because mere days after his entry to the U.S., the Government had already recognized that Petitioner was no longer "seeking admission" as described in § 1225, and itself applied the provisions of § 1226 and released Petitioner. This quasi-judicial decision was made by DHS at the outset of proceedings, based on the facts available to both parties and Petitioner's own admissions. This legal determination squarely contradicts the Government's current position—adopted wholesale by the Board of Immigration Appeals—that Petitioner is ineligible to apply for bond before EOIR.

58. Therefore, 8 U.S.C. § 1226 is the appropriate governing framework in this case.

59. Alternatively, should this Court deem that 8 U.S.C. § 1226 is not the appropriate governing framework in this case, Petitioner contends that as an applicant subject to expedited removal, the only legal means of release is the parole authority, and that his parole was unlawfully revoked.

60. The INA "establishes the framework governing noncitizens' entry into and removal from the United States, with regulations promulgated by the enforcing agencies providing further governance." *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1132 (D. Or. 2025). Noncitizens who arrive at a port of entry without a visa or other entry document, or who are present in the United States without admission, like Petitioner, are deemed 'inadmissible' under 8 U.S.C. § 1182(a)(7) or 1182(a)(6), respectively. 8 U.S.C. § 1182(a)(7); 8 U.S.C. § 1182(a)(6).

61. If a noncitizen is deemed to be inadmissible under § 1182(a)(7), "the immigration officer must order the noncitizen's removal unless the noncitizen indicates an intention to apply for asylum or fear of prosecution." *Y-Z-L-H.*, 792 F. Supp. at 1132 (citing 8 U.S.C. § 1225(b)(1)(A)(i)). If the noncitizen claims fear of return, the government may either place the noncitizen into expedited removal proceedings, *see* 8 U.S.C. § 1225(b)(1), or into regular removal proceedings under 8 U.S.C. § 1229(a). *See Y-Z-L-H*, 792 F. Supp. 3d at 1132–33 (citing 8 U.S.C. § 1225(b)(2)).

62. Section 1225(b)(1)(A) provides that "[i]f an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States or is described in clause (iii) is inadmissible under section 1182(a)(6)(C) or 1182(a)(7) of this title, the officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum under section 1158 of this title or a fear of persecution.." 8 U.S.C. § 1225(b)(2)(A).

63. "Applicants for admission may be temporarily released on parole for urgent humanitarian reasons or significant public benefit." *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)).

64. The parole authority of 212(d)(5)(A) is the only legal means for release of inadmissible applicants for admission who are subject to expedited or full removal proceedings. *See Jennings*, 138 S. Ct. at 844 and *Matter of M-S-*, 27 IN Dec 509 at 517.

65. The decision to grant parole pursuant to 8 U.S.C. § 1182(d)(5)(A) is determined "on a case-by-case basis." 8 U.S.C. § 1182(d)(5)(A).

66. "To terminate a previously granted parole, the agency must comply with the applicable regulatory and statutory requirements." *Infante v. Raycraft*, No. 1:25-cv-01560-RJJ-MV, (W.D. Mich. Dec. 18, 2025).

67. 8 C.F.R. § 212.5(e) governs the termination of parole. The regulation provides that DHS may terminate a noncitizen's parole either "automatically" or "[o]n notice." 8 C.F.R. § 212.5(e)(1), (e)(2). A grant of parole terminates automatically either (a) when the noncitizen departs the United States, or (b) "if not departed, at the expiration of the time for which parole was authorized." *Id.* § 212.5(e)(1). In cases not covered by paragraph (e)(1), parole "shall be terminated upon written notice to the alien." *Id.* § 212.5(e)(2). That is, only when "the purpose for which parole was authorized" is accomplished "or when in the opinion of" the DHS Secretary or their delegee "neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States." *Id*; *see also Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025) (citing 8 C.F.R. § 212.5(e)).

68. Several district courts who have addressed the termination of parole issue "have found that just as a grant of parole requires an individualized review, revocation of parole requires a case-by-case assessment to comply with the statute." *Infante*, No. 1:25-cv-01560-RJJ-MV at *9 (quoting *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 146 (W.D.N.Y. 2025) (citations omitted) (addressing this issue, and granting the petitioner's motion for preliminary injunction and ordering that the petitioner be released); *see, e.g., Y-Z-L-H*, 792 F. Supp. 3d at 1137–47 (addressing this issue, and granting the petitioner's habeas petition and ordering that the petitioner be released from custody); *Loaiza Arias*, 2025 WL 3295385,

at *2–4 (same); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149, at *10–13 (S.D. Cal. Oct. 1, 2025) (same); *Munoz Materano v. Arteta*, No. 25 CIV. 6137 (ER), --- F. Supp. 3d ----, 2025 WL 2630826, at *14–17 (S.D.N.Y. Sept. 12, 2025) (same); *Gabriel B.M. v. Bondi*, No. 25-cv-4298 (KMM/EMB), 2025 WL 3443584, at *6–7 (D. Minn. Dec. 1, 2025) (addressing this issue, and granting the petitioner's request for a preliminary injunction and ordering the petitioner's release from custody); *Orellana v. Francis*, No. 25-cv-04212 (OEM), 2025 WL 2822640, at *2–3 (E.D.N.Y. Oct. 3, 2025) (addressing the issue in the context of a motion for reconsideration filed by the respondents, and affirming the court's grant of habeas relief to the petitioner and the court's order to release the petitioner). *But see Doe v. Noem*, 152 F.4th 272, 278–79, 285 (1st Cir. 2025) (reversing district court's grant of preliminary relief and vacating district court's stay of the termination notice for previously granted parole because "Plaintiffs ha[d] not demonstrated a strong likelihood of success in showing that under the statute, the Secretary must terminate these grants of parole under the [parole] program[s] on an individual basis").

69. Here, if this Court does not belief that Respondent's release falls squarely under § 1226, Petitioner's release from custody must be treated as parole authorized under 8 U.S.C. § 1182(d)(5)(A). That parole could not have terminated automatically because Petitioner has not departed the United States and DHS did not provide any expiration date. *See* 8 C.F.R. § 212.5(e)(1). Nor did DHS terminate parole "on notice," because the record contains no written notice of termination and no individualized determination that the parole purpose had been served or that continued parole was unwarranted. *See* 8 C.F.R. § 212.5(e)(2).

70. Based on the information currently on the record, there is no indication that Respondents followed the applicable statutory and regulatory requirements to revoke or terminate Petitioner's parole.

71. "If Respondents did not follow those requirements, then they did not have the authority to arrest and detain Petitioner, 'unless there [wa]s some other valid reason to arrest [him].'" *Infante*, No. 1:25-cv-01560-RJJ-MV at *11 (quoting *Mata Velasquez, 794 F. Supp. 3d at 145, and citing Norfolk S. Ry. Co. v. U.S. Dep't of Lab.,* No. 21-3369, 2022 WL 17369438, at *6 (6th Cir. Dec. 2, 2022) (discussing that "an agency's action that fails to observe the procedures required by its own regulations should be set aside" (citation omitted)); *Wilson v. Comm'r of Soc. Sec.,* 378 F.3d 541, 545 (6th Cir. 2004) ("It is an elemental principle of administrative law that agencies are bound to follow their own regulations[,] . . . [and] '[a]n agency's failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual's constitutional right to due process.'" (additional internal quotation marks omitted) (quoting *Sameena, Inc. v. U.S. Air Force,* 147 F.3d 1148, 1153 (9th Cir. 1998))).

72. Respondents had no reason to arrest Petitioner other than his status as a noncitizen. Therefore, Respondents failed to follow the applicable statutory and regulatory requirements to terminate Petitioner's parole.

UNDERLYING FACTS AND PROCEDURAL HISTORY OF THE CASE

73. Petitioner entered the United States on August 20, 2024.

74. On August 21, 2024, Petitioner was given a Notice and Order of Expedited Removal.

75. On October 2, 2024, Petitioner was issued a Notice to Appear ("NTA"), charging him as an alien present in the United States who has not been admitted or paroled, and vacating the prior Notice and Order of Expedited Removal. The NTA was filed with the immigration court on October 04, 2024, thereby commencing removal proceedings.

76. On November 10, 2024, Petitioner was issued an Order of Release on Recognizance, indicating that "in accordance with section 236 of the Immigration and Nationality Act . . . you are being released on your own recognizance." He was enrolled in the Alternatives to Detention (ATD) Program, with which he faithfully complied.

77. As relief from removal, he applied for Asylum, Withholding of Removal, and CAT protections.

78. Despite Petitioner's consistent compliance with reporting requirements, absence of any new violations, and demonstrated stability, on January 26, 2026, he was unexpectedly detained, while reporting at one of his scheduled check-in appointments with ICE.

79. From the time of his initial release on recognizance in 2024 to his re-detention in 2026, Petitioner committed no criminal offenses, incurred no new immigration violations, and remained in compliance with all reporting requirements.

80. Petitioner has ties to the United States, including his United States citizen uncle. He possesses valid employment authorization and has maintained stable, lawful employment. He also holds a valid driver's license and has never been arrested or convicted of any crime. Furthermore, he has a pending asylum application because he fears returning to his native country. Petitioner's record and history demonstrate that he is neither a flight risk nor a danger to the community.

81. Petitioner is currently detained at the Denver Contract Detention Facility. Without intervention from this Court, he faces the prospect of prolonged detention lasting months or even years, separated from his family and community, despite his full compliance with prior release conditions and absence of any new basis for custody.

CAUSES OF ACTION

COUNT ONE
Violation of the INA

82. The allegations in the above paragraphs are realleged and incorporated herein.

83. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who were previously apprehended by ICE, released under § 1226, and have been residing in the United States prior to being re-detained by Respondents. Once ICE exercised its discretion to release Petitioner under § 1226(a), his legal posture was fixed within § 1229a removal proceedings and governed by § 1226(a)'s custody framework. Therefore, such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

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

COUNT TWO
Violation of Fifth Amendment Right to Procedural Due Process – Unlawful Detention Without a Pre-Deprivation Hearing, or alternatively Unlawful Revocation of Parole

85. The allegations in the above paragraphs are realleged and incorporated herein.

86. It has long been established that aliens, even if in the United States unlawfully, are entitled to due process of law under the Fifth Amendment. *See Mathews v. Diaz*, 426 U.S. 67, 77

(1976) ("Even one whose presence in this country is unlawful, involuntary, or transitory is entitled to th[e] constitutional protection [of the Due Process Clause]"); *see also Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("It is well established that certain constitutional protections available to persons inside the United States are unavailable to aliens outside of our geographic borders. But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent").

87. The Due Process Clause of the Fifth Amendment prohibits the government from depriving individuals of liberty without notice and a meaningful opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

88. When the Government interferes with a liberty interest, it must provide constitutionally sufficient procedures. *Ky. Dep't of Corr. v. Thompson*, 490 U.S. 454, 460 (1989). The adequacy of these procedures is determined by weighing three factors: (1) the private interest that will be affected by the official action, (2) the risk of erroneous deprivation of that interest through the available procedures, and (3) the Government's interest, including the fiscal and administrative burdens that the additional or substantive procedures would entail. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

89. Applying these factors here demonstrates that the procedures attendant upon Petitioner's detention are constitutionally insufficient.

90. First, Petitioner has a significant interest at stake. Being free from physical detention by one's own government "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542

U.S. 507, 529 (2004). Petitioner is being held at the Denver Contract Detention Facility and is far from his family and community.

91. Second, the risk of erroneous deprivation is extraordinarily high. Petitioner has already been found not to be a danger to the community or a flight risk upon his initial entry, when ICE reviewed his custody and issued paperwork releasing him on his own recognizance. Nevertheless, despite not incurring any new criminal or immigration violations, he was summarily re-detained without a bond hearing and without the government identifying any new facts or changed circumstances. Absent a pre-deprivation hearing, there was no safeguard to prevent ICE from arbitrarily re-arresting Petitioner in direct contradiction of the prior determination that release was warranted. Alternatively, he was summarily re-detained without written notice or an individualized determination regarding the revocation of his parole.

92. Third, the government's interest in detaining Petitioner without a hearing is minimal, if it exists at all. The government has already determined that Petitioner does not pose a risk to the community or a risk of flight. Providing a bond hearing before re-arrest would impose little to no fiscal or administrative burden, while simultaneously protecting core constitutional rights. Respondents' decision to re-detain Petitioner without such a hearing contravenes federal law and violates his procedural due process rights.

93. This arbitrary deprivation of liberty without a pre-deprivation hearing violates the constitutional requirement that detention be accompanied by due process safeguards. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (holding that immigration detention is subject

to constitutional limits); *Demore v. Kim*, 538 U.S. 510, 532 (2003) (emphasizing limited scope and justification for immigration detention).

94. By taking Petitioner back into custody without notice, new facts, or opportunity to be heard, Respondents deprived him of liberty in a manner inconsistent with due process and the fundamental fairness required by the Fifth Amendment.

COUNT THREE
Violation of Fifth Amendment Right to Substantive Due Process

95. The allegations in the above paragraphs are realleged and incorporated herein.

96. The Fifth Amendment's Due Process Clause not only guarantees procedural safeguards, but also protects individuals against governmental conduct that "shocks the conscience" or interferes with rights implicit in the concept of ordered liberty. *County of Sacramento v. Lewis*, 523 U.S. 833, 846–47 (1998).

97. Here, Petitioner had been affirmatively determined not to be a danger to the community or a flight risk upon his initial entry, when ICE conducted a custody review and issued paperwork releasing him on his own recognizance.

98. Despite these findings, Petitioner was re-detained without cause. This re-detention occurred without any new facts or changed circumstances that could justify depriving him of liberty.

99. The government's conduct is arbitrary and capricious, amounting to punishment rather than regulation. It transforms ICE's discretionary authority into an unchecked power to re-incarcerate noncitizens at will, untethered to legitimate governmental objectives.

100. By subjecting Petitioner to renewed detention without justification, Respondents violated Petitioner's substantive due process rights under the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (immigration detention is constitutionally limited and must

bear a reasonable relation to its purposes); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (continued confinement is impermissible absent a legitimate basis such as dangerousness or flight risk).

101. Respondents' actions shock the conscience because they reflect arbitrary government conduct that disregards both prior determinations and Petitioner's fundamental right to be free from unjustified physical confinement.

COUNT FOUR
Violation of the Bond Regulations

102. The allegations in the above paragraphs are realleged and incorporated herein.

103. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service 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 (emphasis added). The agencies thus made clear that individuals who were present without having been admitted or paroled were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

104. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individuals like Petitioner.

105. 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 FIVE
Violation of the Administrative Procedure Act ("APA")

106. The allegations in the above paragraphs are realleged and incorporated herein.

107. The Administrative Procedure Act ("APA") provides the framework for judicial review of agency action. While § 701(a)(2) precludes review where "agency action is committed to agency discretion by law," this limitation is narrowly construed considering the language of § 702. *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55, 64–65 (2004); 5 U.S.C. § 551(13). Namely, § 702 expressly authorizes review by any person "suffering legal wrong because of agency action" or "adversely affected or aggrieved by agency action within the meaning of a relevant statute." 5 U.S.C. § 702; 5 U.S.C. § 551(13).

108. Moreover, in *Southern Utah Wilderness Alliance*, the Supreme Court clarified that "agency action" encompasses discrete action, or failure to act when mandated by statute, rather than broad challenges to an agency's overall program management. *Southern Utah Wilderness Alliance*, 542 U.S. at 64–65; 5 U.S.C. § 551(13) (agency action includes the whole or part of an agency's order, relief, or denial of relief).

109. When reviewing the erroneous agency action, section 706 directs courts to resolve all relevant questions of law, interpret statutory provisions, and "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1)–(2). Courts must also "hold unlawful and set aside" agency actions that are arbitrary, capricious, contrary to law, in excess of statutory authority, procedurally defective, unsupported by substantial evidence, or unwarranted by the facts. *Id.*

110. To invoke judicial review of an agency action, and hold unlawful or set aside arbitrary or capricious actions under § 706, a plaintiff must demonstrate Article III standing—an injury in fact, traceable to the challenged action, and redressable by a favorable decision—and must show that the interest asserted is "arguably within the zone of interests" protected by the statute invoked. *Ass'n of Data Processing Serv. Orgs., Inc. v. Camp*, 397 U.S. 150, 153 (1970); *Clarke v. Sec. Indus. Ass'n*, 479 U.S. 388, 399 (1987); *Nat'l Credit Union Admin. v. First Nat'l Bank & Trust Co.*, 522 U.S. 479, 492 (1998). This zone-of-interests requirement is not demanding, and any doubt is resolved in the plaintiff's favor. *Nat'l Credit Union Admin.*, 522 U.S. at 492 (reaffirming the standard established by *Sec. Indus. Ass'n*, 479 U.S. 388 (1987)).

111. Finally, to overcome the allegation of an agency's erroneous actions under § 702, the agency must prove to the satisfaction of the reviewing court, that its actions were not arbitrary and capricious under §706. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 52 (1983); 5 U.S.C. § 702; 5 U.S.C. § 706(1)–(2). In *State Farm Mut. Auto. Ins. Co.*, the Court defined the arbitrary and capricious standard of §706 as requiring the agency to show it engaged in reasoned decision-making when deciding the matter at issue. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. at 52; 5 U.S.C. § 706(1)–(2).

112. The APA framework squarely applies to Petitioner's case. ICE's July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission," adopted "in coordination with" DOJ, and EOIR's implementation of that guidance—together with the Board's published decision in *Matter of Yajure Hurtado* (Sept. 5, 2025)—constitute "final agency action" because they mark a consummation of the agencies' decision-making

process and determine legal rights and obligations by categorically placing noncitizens like Petitioner under 8 U.S.C. § 1225(b)(2)(A) and denying access to IJ bond hearings. *See* 5 U.S.C. § 704.

113. These agency actions are contrary to law and in excess of statutory authority because they disregard the statutory text, structure, and history establishing that detention of noncitizens already within the United States and placed in § 1229a proceedings is governed by § 1226(a), not § 1225(b)(2). *See* 8 U.S.C. §§ 1226(a), 1229a. Following *Loper Bright Enterprises v. Raimondo*, courts do not defer to an agency's interpretation merely because the statute is ambiguous; rather, courts must exercise independent judgment in interpreting the INA. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). The agencies' interpretation fails on that independent review.

114. The agencies' actions are also arbitrary and capricious under § 706(2)(A) because they (a) represent an unexplained reversal of decades of settled practice and regulatory interpretation without reasoned analysis; (b) fail to consider important aspects of the problem, including Congress's UAC framework in 8 U.S.C. § 1232 and 6 U.S.C. § 279; (c) ignore serious reliance interests of noncitizens and the adjudicatory system, which had long afforded IJ bond review under § 1226(a); and (d) apply a border-inspection scheme designed for "arriving" individuals to persons apprehended well after entry, which lacks a rational connection to the statute's purposes. *See State Farm*, 463 U.S. at 43; *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009) (agency changing policy must provide a reasoned explanation and address reliance interests); *Dep't of Homeland Sec. v. Regents of*

the Univ. of California, 591 U.S. 1, 24–26 (2020) (failure to consider reliance interests renders rescission arbitrary and capricious).

115. The July 8, 2025, guidance operates as a substantive rule with legal consequences but was issued without notice-and-comment rulemaking as required by 5 U.S.C. § 553. It therefore is unlawful and must be set aside for "failure to observe procedure required by law." 5 U.S.C. § 706(2)(D). *See also Perez v. Mortgage Bankers Ass'n*, 575 U.S. 92, 96–97 (2015) (distinguishing interpretive from legislative rules and reaffirming § 553 requirements for the latter).

116. Independently, the agencies failed to follow their own binding regulations by denying Petitioner access to custody review and IJ bond procedures that apply under § 1226(a), violating the *Accardi* doctrine. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267–68 (1954); 8 C.F.R. §§ 236.1, 1236.1, 1003.19. Agency action taken in derogation of binding regulations is unlawful under § 706(2)(A), (C), and (D).

117. As applied to Petitioner, the agencies' actions (a) deprived him of an IJ bond hearing under § 1226(a); (b) subjected him to mandatory detention under § 1225(b)(2)(A) without statutory basis; and (c) foreclosed individualized custody determinations despite a prior government finding that he is neither a danger nor a flight risk. This discrete deprivation is reviewable and unlawful under 5 U.S.C. § 706(2)(A)–(C), and the failure to provide the required bond process is "agency action unlawfully withheld" under § 706(1).

118. Petitioner has standing to challenge these actions: he suffers concrete and ongoing injury (continued detention without access to an IJ bond hearing), traceable to Respondents' policies and decisions, and redressable by vacatur and injunctive relief requiring custody to

be governed by § 1226(a) and the implementing regulations. His interests are plainly within the INA's zone of interests, which protects access to § 1226(a) custody determinations for noncitizens in § 1229a proceedings.

119. Alternatively, whether DHS lawfully terminated parole in accordance with governing statutes and regulations is a discrete, reviewable agency action subject to judicial review under the APA.

120. Applicants for admission subject to expedited removal are subject to mandatory detention under 8 U.S.C. § 1225(b)(1). The parole authority of 212(d)(5)(A) is the only legal means for release of inadmissible applicants for admission who are subject to expedited or full removal proceedings. *See Jennings*, 138 S. Ct. at 844 and *Matter of M-S-*, 27 IN Dec 509 at 517. Accordingly, DHS's decision to release Petitioner from custody in 2024 necessarily constituted an exercise of parole authority, even though DHS failed to formally label the release as "parole" or issue documentation specifying the purpose or duration of such parole.

121. Having exercised parole authority to release Petitioner, DHS was required to comply with the statutory and regulatory requirements governing the termination of parole before re-detaining him. *See* 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5(e). Those requirements include written notice upon an individualized determination that the purpose of parole has been served or that neither humanitarian reasons nor significant public benefit warrants continued parole. 8 C.F.R. § 212.5(e)(2).

122. DHS failed to comply with these mandatory requirements. The record does not reflect that DHS ever made an individualized determination that the purpose of Petitioner's parole had been served, nor that DHS provided Petitioner with written notice of parole termination as

required by regulation. DHS's re-detention of Petitioner therefore constitutes agency action taken "without observance of procedure required by law." 5 U.S.C. § 706(2)(D).

123. DHS's failure to provide notice of parole termination or to engage in an individualized, case-by-case assessment also constitutes agency action "not in accordance with law" and "in excess of statutory authority." 5 U.S.C. § 706(2)(A), (C). Congress authorized parole decisions to be made on a case-by-case basis, 8 U.S.C. § 1182(d)(5)(A), and courts have repeatedly found that parole revocation, like parole grants, requires individualized consideration rather than categorical or automatic action.

124. DHS's actions are further arbitrary and capricious because the agency failed to articulate a reasoned basis for concluding that parole could be terminated without process. *See State Farm Mut. Auto. Ins. Co.*, 463 U.S. at 43 (agency action is arbitrary and capricious where the agency "entirely failed to consider an important aspect of the problem" or offered an explanation counter to the evidence before it).

125. DHS's unlawful revocation of parole has caused Petitioner concrete and ongoing injury, including prolonged physical detention, deprivation of liberty without due process, and denial of the opportunity to remain at liberty under the same conditions that governed his release for over four years. These injuries are directly traceable to DHS's failure to comply with the APA and are redressable by this Court through vacatur of the unlawful agency action and an order directing Petitioner's release.

126. Petitioner's interests fall squarely within the zone of interests protected by the INA's parole provisions and the APA. The parole statute and its implementing regulations are designed to govern when and how DHS may release and re-detain noncitizens, and to protect

noncitizens from arbitrary deprivation of liberty through unreviewed or procedurally defective parole decisions.

127. For all of these reasons, Respondents' actions are arbitrary, capricious, an abuse of discretion, contrary to law, and in excess of statutory authority, and must be set aside under 5 U.S.C. § 706(2).

REQUEST FOR RELIEF

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

1. Accept jurisdiction over this matter;
2. Order that Petitioner shall not be transferred outside the United States District Court for the District of Colorado while this habeas petition is pending;
3. Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243, directing Respondents to show cause why the petition for a writ of habeas corpus filed by Petitioner should not be granted within three days;
4. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner immediately or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
5. Order Respondents not to re-arrest or detain Petitioner under 28 U.S.C. § 1225(b)(2)(A);
6. Declare that Petitioner's detention is unlawful;
7. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
8. Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s Deliane Quiles
Deliane Quiles, Esq.
Florida Bar No. 1044089
Liliana Y. Gomez, P.A.
5000 SW 75th Ave., Suite 400
Miami, FL 33155
786.502.7615 Tel
Deliane@gomezquileslaw.com
Counsel for Petitioner

Dated: February 10, 2026

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

I represent Petitioner, Mandeep Saini, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 10th day of February 2026.

s/ Deliane Quiles
Deliane Quiles
Florida Bar No. 1044089