

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

CRISTIAN BIBLIAN LOVERA,

Petitioner,

V.

MARY DE ANDA-YBARRA, Field
Office Director,

El Paso Field Office, Immigration and Customs Enforcement, in his official capacity;

KRISTI NOEM, Secretary, U.S. Department of Homeland Security, in her official capacity;

PAMELA BONDI, U.S. Attorney General,
her official capacity;

TODD M. LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity;

WARDEN, El Paso Special Processing
Center, in his official capacity,

Respondents.

No. 3:26-cv-445

VERIFIED PETITION FOR A WRIT OF
HABEAS CORPUS PURSUANT TO 28
U.S.C. § 2241 OR ORDER TO SHOW
CAUSE WITHIN THREE DAYS

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Cristian Biblian Lovera (“Mr. Lovera” or “Petitioner”) is a Venezuelan national in the physical custody of Respondents at the El Paso Service Processing Center in El Paso, Texas. Petitioner first entered the United States on September 13, 2022. Shortly after crossing the border at El Paso, Texas, Petitioner was initially detained and released with parole pursuant to the authority contained in section 212(d)(5) of the Immigration and Nationality Act, which is codified at 8 U.S.C. § 1182(d)(5). That release embodied the government’s determination that Petitioner presented neither a flight risk nor a danger to his community. While in the United States, Mr. Lovera received Temporary Protected Status (TPS) and worked with a valid

employment authorization document. Mr. Lovera has no criminal history.

2. In January 2025, his two minor children,  entered the U.S., were detained, and transferred to Office of Refugee Resettlement (ORR) custody. Mr. Lovera is the loving father and sole caretaker of these children, *who have now been detained for nearly 400 days in a facility for minors in Houston, Texas*. For 11 months, Petitioner actively complied with all requests for information and documentation from ORR and opened his home for government officials and contractors to conduct multiple home studies. In July 2025, he was informed that his reunification case was complete and submitted for approval.

3. Instead, on December 8, 2025, at the request of an officer, Mr. Lovera appeared at an ICE office to complete the final step for reunification for his children. After he arrived, he instantly realized that the appointment was not related to reunification with his children. Rather, the officers put him in restraints and transferred him to the El Paso Processing Center in El Paso, Texas. With Mr. Lovera in detention, the children's reunification case is completely halted.

4. Petitioner's detention was done without any warrant, without any attempt to show changed circumstances, and without any bond hearing. This deprivation violates Petitioner's procedural due process rights, regardless of the statutory basis the government may try to assert for his re-detention. Further, Petitioner's participation in and reliance on his TPS designation and the procedural hurdles for reunification with his children imposed by immigration officials, created a liberty interest that cannot be infringed without due process of law.

5. Moreover, to the degree the government seeks to detain Petitioner under 8 U.S.C. § 1225(b)(2) instead of 8 U.S.C. § 1226(a), that attempt is foreclosed by *Maldonado Bautista v. Santracruz*, in which the district court certified a class that contains Petitioner, *see infra* ¶ 63 & n.3, and granted declaratory relief that application of a Department of Homeland Security ("DHS")

policy calling for detention of members of that class under § 1225(b)(2) was unlawful, No. 25-cv-1873, 2025 WL 3288403, at *8-9 (C.D. Cal. Nov. 25, 2025), and then reaffirmed those decisions in the course of entering partial final judgment and vacating the DHS policy, ___ F. Supp. 3d ___, 2025 WL 3713987, at *28-32 (C.D. Cal. Dec. 18, 2025).

6. The government's apparent conclusion that Petitioner may be detained pursuant to § 1225(b)(2) is incorrect. Properly understood, that provision does not apply to those who, like Petitioner, are detained at a time and place remote from their entry into the country. Petitioner acknowledges that the Fifth Circuit recently rejected this argument in *Buenrostro-Mendez v. Bondi*, ___ F. 4th ___, No. 25-20496, 2026 WL 323330 (Feb. 6, 2025), but reasserts it here as Petitioner believes that *Buenrostro-Mendez* is limited to its facts and not applicable to him, as well as for purposes of preservation for appeal or in case that Fifth Circuit decision is subsequently vacated or abrogated.

7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released, or in the alternative, that he be provided with a prompt bond hearing.

PARTIES

8. Petitioner is a citizen of Venezuela who has resided in the United States since approximately September 13, 2022. He has been in immigration detention since December 8, 2025.

9. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioner's detention. Secretary Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

10. Respondent Pamela Bondi is the Attorney General of the United States. She is

responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

11. Respondent Todd Lyons is the Acting Director of Immigrations and Customs Enforcement (ICE). As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner. He is sued in his official capacity.

12. Respondent Mary De Anda-Ybarra is the Field Office Director for the ICE Enforcement and Removal Operations (REO) El Paso Field Office, which includes the facility at which Petitioner is detained. As such, Ms. De Anda-Ybarra is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. She is sued in her official capacity.

13. Respondent Warden of El Paso Service Processing Center, is the unknown warden of the facility where Petitioner is currently detained. He is an immediate custodian of Petitioner. He is sued in his official capacity.

JURISDICTION

14. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

15. 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.

16. 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 Western District of Texas, the judicial district in which Petitioner currently is detained.

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

REQUIREMENTS OF 28 U.S.C. § 2243

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

19. 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) (emphasis added); see also *Harris v. Nelson*, 394 U.S. 286, 291 (1969) (“[T]he office of the writ is ‘to provide a prompt and efficacious remedy for whatever society deems to be intolerable restraints.’” (citation omitted)).

FACTUAL BACKGROUND

Petitioner’s entry to the United States and TPS

20. Mr. Lovera is a 37-year-old national of Venezuela. In 2022, he fled Venezuela due to death threats and fear that he and his children would be tortured and killed. At that time, Mr. Lovera made the difficult decision to leave his young children with his mother to temporarily care for them until they could be reunified safely in the United States. His children,  were abandoned by their mother when they were toddlers and Mr. Lovera was their sole caretaker.

21. Mr. Lovera entered the United States without inspection on September 13, 2022, at or near El Paso, Texas.¹ After entering the United States, immigration officials detained him, then

¹ Exhibit C.

processed and released him with parole pursuant to the Immigration and Nationality Act §212(d)(5).² His parole status expired on November 22, 2022.³

22. During the registration period, Mr. Lovera applied for Temporary Protected Status (TPS) with the United States Citizenship and Immigration Services (USCIS). He received TPS status as a Venezuelan national who entered the United States prior to July 31, 2023 (hereinafter “2023 Venezuela TPS”).

Reunification with Petitioner’s minor children

23. On January 18, 2025 [REDACTED] entered the United States with their paternal aunt when they were 15 and 14 years old respectively. They were immediately designated as unaccompanied children⁴ and detained by the Office of Refugee Resettlement (ORR).

24. Although Mr. Lovera has been thoroughly vetted and available to care for them since they arrived, [REDACTED] **have remained in ORR custody since January 18, 2025 – for 391 days as of February 13, 2026.** Mr. Lovera is their biological father, their sole caretaker, and has complied with all requirements set before him in his quest to have the children released from detention and into his care. He promptly responded to ORR’s requests for information and documentation, many times having to take a day off work to obtain and send documentation. Government officials and contractors have conducted two in-person home studies, entering his home, asking him questions, and determining whether he can care for his children. During those visits he explained his deep commitment and love for his children and that he was desperate to reunite with them.

² The Attorney General may, “in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any [noncitizen] applying for admission to the United States...”.

³ Exhibit A

⁴ 6 U.S.C. §279(g)(2)

25. On October 8, 2025, child advocates from The Young Center for Immigrant Children's Rights (who are assigned to the children) found that:

"No substantive evidence exists that both [REDACTED] would be at risk of harm if they reunified with their father. On the contrary, Mr. Lovera would offer a safe home as it is evident that he has provided the necessary emotional support his children have needed while detained.... [H]e has always been present in his children's lives, raising them and consistently providing for their basic needs and education."⁵

Furthermore,

"[REDACTED] have been in ORR custody for 263 days, during which *their well-being has deteriorated*. As the only parental figure the children have known since they were five years and three years old, Mr. Lovera is a fundamental part of the children's family unit."⁶

26. In July 2025, Mr. Lovera was told that his case for reunification with his children was complete and that it was being sent to supervisors for approval. ORR employees and contractors reiterated that no further information or documentation was needed from him. Due to Mr. Lovera's recent ICE detention, the children remain detained without an available sponsor to receive them.

27. Prolonged detention and family separation is causing significant physical and psychological harm to [REDACTED]. The children cry often in despair. They are experiencing detention fatigue, hopelessness and frustration, and profound sadness. Mr. Lovera is also desperate and suffering severe emotional harm. He has limited contact with his children since his detention.

Detention of Petitioner under the fabricated pretense of reunification with his children

28. On Friday, December 5, 2025, an ICE officer called Mr. Lovera on the phone. The officer asked him to attend an appointment at the ICE office on Monday, December 8, 2025, to discuss reunification with his children. The man on the phone identified himself as "Agent Rey"

⁵ Exhibit B at pg. 5.

⁶ *Id.* at p. 6.

and called him again the next day to confirm his appearance at the office. Without confirming the reason for the appointment, Mr. Lovera appeared at the ICE office. He was eager to do anything he could to receive his children and was terrified that ORR or ICE would think he was not cooperating with all requests if he failed to appear.

29. As soon as he arrived, he realized that the ICE officers did not intend to discuss his children or the reunification process. The officers immediately tried to force Mr. Lovera to sign documents that he did not understand and interrogated him without an interpreter. When he refused to sign the documents, the officials became frustrated, took off his clothing, grabbed his identity and personal property, and chained him at his neck, waist, and legs.

30. Mr. Lovera was transferred to the El Paso Processing Center in El Paso, Texas, where he is currently detained. The conditions at the detention facility are poor. Mr. Lovera is often served expired meat and food and is mistreated during his detention. He states that if he or anyone complains about the conditions of the facility, they are detained and sent to solitary confinement or are threatened with being sent to this room. Mr. Lovera complained that an employee messed up his bed, and the employees physically restrained him by forcibly putting his arms on his back and then sent him to a room alone for 8 hours. The treatment is significantly impacting Mr. Lovera's mental health.

31. Absent relief from this court, Petitioner faces the prospect of months, or even years, in immigration custody, separated from his children. Additionally, his children will remain indefinitely in ORR custody, without a viable sponsor to facilitate their release. This result violates the Due Process Clause, the district court's judgement in *Maldonado Baustista*, and the INA.

LEGAL BACKGROUND AND ARGUMENT

I. Due Process Claims

32. Petitioner's custody in an ICE detention facility violates the Fifth Amendment guarantee that "[n]o person shall be ... deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. When evaluating a procedural due process claim, there are "two elements: (1) the existence of a property or liberty interest that was deprived and (2) deprivation of that interest without due process." *Radwan v. Manuel*, 55 F.4th 101, 123 (2d Cir. 2022); see also *Nnebe v. Daus*, 931 F.3d 66, 80 (2d Cir. 2019).

33. "It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

34. The Due Process Clause "covers noncitizens, whether their presence here is lawful, unlawful, temporary, or permanent." *Velasco Lopez v. Decker*, 978 F.3d 842, 850 (2d Cir. 2020); see also *Yamataya v. Fisher*, 189 U.S. 86, 100–01 (1903) (noncitizen who entered the country in violation of the law cannot be "deprived of [her] liberty" without receiving "due process of law"). In habeas proceedings concerning executive detention, courts must conduct "the most searching review" to ensure the legality of detention that "occur[s] without the procedural protections required in courts of law." *Velasco Lopez*, 978 F.3d at 850–51.

35. To determine whether civil detention violates a noncitizen's Fifth Amendment due process rights, courts apply the three-part test described in *Mathews v. Eldridge*, 424 U.S. 319 (1976). See, e.g., *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 685 (W.D.Tex. 2025); *Martinez v.*

Noem, No. 25-cv-1007, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025); *Trejo v. Warden of ERO El Paso E. Montana*, ___ F. Supp. 3d ___, No. 25-cv-401, 2025 WL 2992187, at *8 (W.D. Tex. Oct. 24, 2025); see also *Hernandez v. Cremer*, 913 F.2d 230, 237-38 (5th Cir. 1990) (“To determine what process was due Hernandez we must consider the three-part balancing test adopted ... in *Mathews*”).

36. Under *Mathews*, courts weigh the following three factors: (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” 424 U.S. at 335.

Petitioner’s liberty interest in being free from detention

37. Petitioner has an attenuated private interest in not being in custody. He has been detained for weeks in conditions that are indistinguishable from criminal incarceration. This detention prevents him from seeing his family or going to work, and it deprives him of any privacy or freedom of movement. Petitioner “possesses a cognizable interest in his freedom from detention.” *Lopez-Arevelo*, 801 F. Supp. 3d at 686.

Petitioner’s liberty interest in TPS, Work Permit, and Reunification with Children

38. Petitioner was living and working in the US under the protections afforded to him by the 2023 Venezuela TPS designation.⁷ With TPS, Petitioner was authorized to work and live

⁷ The Secretary for Homeland Security may designate a foreign country for TPS due to the conditions in that country that prevent individuals from returning safely. See 8 U.S.C. §1254a(b). Individuals with TPS status are not removable from the United States while the designation is in effect. See 8 U.S.C. §1254a(a)(1). In 2021, the US Government noted that Venezuela was experiencing the “worst humanitarian crisis in the Western Hemisphere in recent memory”, Deferred Enforced Departure for Certain Venezuelans, Memorandum of Jan. 19, 2021, 86 Fed. Reg. 6845 (2021), and further that the country was ripe with “human rights abuses and repression.” Designation of Venezuela for Temporary Protected Status and Implementation of Employment Authorization for Venezuelans Covered by Deferred Enforced

in the US. 8 C.F.R. § 244.12(a) (“Upon approval of an application for Temporary Protected Status, USCIS shall grant an employment authorization document”).

39. On January 17, 2025, the previous administration extended the 2023 Venezuela TPS protections for all current recipients including Petitioner, through October 2, 2026. Extension of the 2023 Designation of Venezuela for Temporary Protected Status, 90 Fed. Reg. 5963–5966 (2025). On February 3, 2025, however, the current administration terminated TPS status for Venezuela. Vacatur of 2025 Temporary Protected Status Decision for Venezuela, 90 Fed. Reg. 8806 (2025).

40. The termination of TPS for Venezuelan nationals living in the United States was challenged and, in March of 2025, the United States District Court for the Northern District of California entered a preliminary order postponing the effective date of the removal of TPS. *National TPS Alliance, et. al. v. Noem et. al.*, No. 25–cv–1766 EMC (N.D.Ca. March 2025). The United States Supreme Court, however, stayed the order to postpone the removal of protected status, thereby allowing the termination of TPS to proceed while the District Court addressed the merits of the case challenging the validity of the termination. *Noem v. National TPS Alliance*, 606 U. S. ____ (Oct. 3, 2025); *Order in Pending Case 24A1059 Noem, et.al. v. National TPS Alliance, et. al.*, 605 U.S. ____ (May 19, 2025).

41. On January 28, 2026, the United States Court of Appeals for the Ninth Circuit ruled that the administration’s termination of the 2023 Venezuela TPS in 2025 was arbitrary and capricious and therefore unlawful as a violation of the Administrative Procedure Act. *National TPS Alliance et. al. v. Noem et. al.*, No. 25-5724, D.C. No. 3:25-cv-1766-EMC (9th Cir. Jan. 28,

Departure, 86 Fed. Reg. 13576 (2021). It was on this basis that Venezuelan TPS status was put into place. These findings were repeated in subsequent years, up to the most recent finding in January of 2025. Extension of the 2023 Designation of Venezuela for Temporary Protected Status, 90 Fed. Reg. 5963–5966 (2025).

2026). The court further found that Secretary Noem exceeded her authority when she terminated the 2023 Venezuela TPS over the previous administration's decision to extend the program through October 2, 2026. *Id.*

42. Due to the Supreme Court decision allowing the termination of TPS to stand while the underlying issues were being litigated, this decision from the Ninth Circuit Court of Appeals does not immediately restore protection from deportation for Mr. Lovera.

43. In the absence of the unlawful termination of Petitioner's TPS, Respondents would lack any authority to detain him. 8 U.S.C. § 1254a(a)(1) (providing TPS holders are eligible for work authorization and protection from removal while their home country remains designated).

44. Based on the Ninth Circuit's findings that DHS acted improperly in terminating the TPS for Venezuelan nationals, Petitioner should be promptly released and his TPS status restored. The loss of his TPS status without notice and without due process is a violation of his Fifth Amendment right to Due Process.

45. Similarly, the grant of an employment authorization (work permit) by the government and the recommended approval of his request to reunify with his children who are in detention in Texas are benefits that were conferred upon Petitioner and have now been improperly terminated without notice or due process in violation of his constitutional rights.

46. The U.S. Supreme Court has repeatedly recognized a parent's fundamental constitutional liberty interest to be united with their children so that they may care for and nurture their children. *See Troxel v. Granville*, 530 U.S. 57, 66 (2000) (holding "we have recognized the fundamental right of parents to make decisions concerning the care, custody, and control of their children") (citations omitted); *Santosky v. Kramer*, 455 U.S. 745, 753 (1982) (discussing "[t]he fundamental liberty interest of natural parents in the care, custody, and management of their

child”); *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997) (“In a long line of cases, we have held that, in addition to the specific freedoms protected by the Bill of Rights, the ‘liberty’ specially protected by the Due Process Clause includes the righ[t] ... to direct the education and upbringing of one’s children”). Petitioner’s right to be with his children has been improperly denied without notice or due process.

Risk of Erroneous Deprivation

47. As to the second *Mathews* factor, courts must “consider[] ‘whether the challenged procedure creates a risk of erroneous deprivation of individuals’ private rights and the degree to which alternative procedures could ameliorate these risks.’” *Lopez-Arevelo*, 801 F. Supp. 3d at 686 (quoting *Martinez*, 2025 WL 2598379, at *3).

48. There is a high risk of erroneous deprivation through the procedures used to detain Petitioner. Respondents did not provide him with any notice or any opportunity to be heard before a DHS officer or immigration judge before ICE detained him on December 8, 2025. There is a high risk of erroneous deprivation of liberty in detaining Petitioner without any notice or opportunity to be heard. *See, e.g., Rodriguez-Acurio v. Almodovar*, No. 2:25-cv-6065 (NJC), 2025 WL 3314420, at *29–30 (E.D.N.Y. Nov. 28, 2025). There is little cost and significant benefit from providing the procedural safeguard of requiring that any detention be preceded by an individualized determination by a DHS officer as to whether Petitioner poses a flight or safety risk. *See id.*; *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 495 (S.D.N.Y. 2025); *Hyppolite v. Noem*, No. 24-cv-4304, 2025 WL 2829511, at *13–14 (E.D.N.Y. Oct. 6, 2025) (finding an “extremely high” risk of erroneous deprivation where a person is detained under Section 1226(a) without any pre-deprivation notice or an opportunity to be heard).

The Government's Interest in Detaining Petitioner Without a Hearing

49. Although the Attorney General may have a legitimate government interest in ensuring the appearance of noncitizens at immigration proceedings and preventing danger to the community, Petitioner is not a flight risk or a danger to the community. Indeed, Petitioner is unaware of anything that has changed since his TPS was last granted. USCIS's decision to grant Petitioner's TPS, therefore, necessarily involved the determination that he posed no flight or public safety risk. See 8 C.F.R. § 244.4(a) (rendering persons convicted of any felony or two or more misdemeanors ineligible for TPS); 8 C.F.R. § 244.15(b) (providing that failure to obtain advance parole prior to a TPS recipient's departure from the United States may result in withdrawal of TPS); see also *Velasco Lopez*, 978 F.3d at 854 (holding that "the Attorney General's discretion to detain individuals under [Section 1226(a)] is valid where it advances a legitimate governmental purpose," such as "ensuring that noncitizen[s] do not abscond and ... ensuring they do not commit crimes"); *Lopez Benitez*, 795 F. Supp. 3d at 496. The statement from ORR that Petitioner's case for reunification with his children after diligent inspection by ORR employees and contractors was being sent for approval is further support that Petitioner did not present any threat to the community. Respondents therefore fail to demonstrate that ICE's detention of Petitioner without any notice or opportunity to be heard advances any legitimate government interests.

50. Weighing all of the *Mathews v. Eldridge* factors—the significant liberty interest at stake, the high risk of erroneous deprivation, and Respondents' failure to demonstrate that Petitioner's detention was required to advance any legitimate government interest in preventing danger to the community or ensuring appearance at removal proceedings—Respondents' detention of Petitioner with no notice or opportunity to be heard and no showing of changed material circumstances following the most recent approval of his TPS, violates his Fifth Amendment rights

to procedural due process. See, e.g., *Rodriguez-Acurio*, 2025 WL 3314420, at *25–31; *Lopez Benitez*, 795 F. Supp. 3d at 496; *Huamani Tumba v. Francis*, No. 25-cv-6065, 2025 WL 3079014, at *9 (E.D.N.Y. Nov. 28, 2025).

II. Overreaching the Detention Authority under the INA

51. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens “already in the country.” See *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Section 1226(a) “sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of a[] [noncitizen] ‘pending a decision on whether the [noncitizen] is to be removed from the United States.’” *Id.* at 288 (quoting § 1226(a)). “Issuance of a warrant is a necessary condition to justify discretionary detention under section 1226(a).” *Chogllo Chafila v. Scott*, ___ F. Supp. 3d ___, No. 25-cv-437, 2025 WL 2688541, at *11 (D. Me. Sept. 21, 2025), appeal filed (1st Cir. Nov. 6, 2025). “[I]t follows that absent a warrant a noncitizen may *not* be arrested and detained under section 1226(a).” *Id.* (emphasis in original); see also *Ahmed M. v. Bondi*, No. 25-cv-4711, 2026 WL 25627, at *3 (D. Minn. Jan. 5, 2026) (collecting cases). Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention. See § 1226(a)(2); 8 C.F.R. §§ 1003.19(a), § 1236.1(c)(8), (d)(1); *Silva v. Bondi*, No. 25-cv-2155, 2026 WL 90060, at *5 (W.D. Tex. Jan. 12, 2026) (“[Section] 1226(a), the ‘discretionary detention statute,’ allows for release on bond and provides ‘procedural protections that are not afforded under the mandatory detention statute, such as the right to a bond re-determination hearing in front of an Immigration Judge and a right to appeal any custody determination.’” (citation omitted)).

52. Section 1226(c) “carves out a statutory category” of noncitizens from § 1226(a) for whom detention is mandatory, which includes individuals who are inadmissible to the United

States because they have committed certain “enumerated ... criminal offenses [or] terrorist activities.” *Jennings*, 583 U.S. at 289 (citing § 1226(c)(1)); see 8 U.S.C. § 1226(c)(1)(A), (D), (E).

53. Second, the INA provides for mandatory detention of certain categories of noncitizens under 8 U.S.C. § 1225(b). *Jennings*, 583 U.S. at 297; see § 1225(b) (“Inspection of applicants for admission”).

54. In *Jennings*, the Supreme Court explained that this mandatory 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.” 583 U.S. at 287 (emphasis added). Noncitizens subject to mandatory detention under § 1225 may not be released except “for urgent humanitarian reasons or significant public benefit” under the parole authority provided by 8 U.S.C. § 1182(d)(5)(A). *See id.* at 300.

55. Section 1225 is split into two categories. Section 1225(b)(1) provides for mandatory detention of noncitizens charged with enumerated grounds of inadmissibility and placed in expedited removal proceedings. 8 U.S.C. § 1225(b)(1)(A)(i). Meanwhile, § 1225(b)(2) applies to “applicants for admission” who are “seeking admission.”

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

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

58. Respondents have recently taken various steps seeking to expand their use of mandatory detention under § 1225(b)(2).

59. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice. *See* U.S. Immigration and Customs Enforcement, Interim Guidance Regarding Detention

Authority for Applicants for Admission (July 8, 2025), <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>; *see also* U.S. Customs and Border Protection, Detention of Applicants for Admission (July 10, 2025), <https://www.cbp.gov/document/foia-record/detention-applicants-admission>.

60. The new policy claims that because all noncitizens who entered the United States without inspection are deemed “applicants for admission” under 8 U.S.C. § 1225, they are subject to mandatory detention under § 1225(b)(2). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, or even decades.

61. On September 5, 2025, the BIA issued a published decision adopting this same position. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025). That decision holds that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bond hearings.

62. On November 20, 2025, the district court in *Maldonado Bautista v. Santacruz* granted partial summary judgment and declaratory relief in favor of individual plaintiffs on their argument that DHS’s policy that all “applicants for admission” are subject to mandatory detention under § 1225(b)(2) was unlawful. *Maldonado Bautista v. Santacruz*, No. 25-cv-1873, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025).

63. Five days later, the court certified a nationwide class and extended the same declaratory relief to the certified class. *Maldonado Bautista*, 2025 WL 3288403, at *9.

64. The court defined a “Bond Eligible Class” as:

All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under

8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Id.

65. Then, on December 18, 2025, the court entered a partial final judgment that included its declaratory relief, as well as vacatur of that policy. *Maldonado Bautista*, 2025 WL 3713987. On February 6, 2026, the Fifth Circuit issued a decision in *Buenrostro-Mendez* in which a divided panel agreed with the Government's interpretation of § 1225(b)(2). *See* 2026 WL 323330.

66. Petitioner continues to disagree with the government's interpretation of § 1225, and with the Fifth Circuit's decision in *Buenrostro-Mendez*, as set forth more fully in Section IV below. Although *Buenrostro-Mendez* binds this Court unless or until it is subsequently vacated or abrogated, it does not dictate the result in this case because of the factual distinctions that exist. Petitioner's grant of TPS, which has been wrongly revoked, his grant of a work permit, his presumptive grant or entitlement to reunification with his children, which is unclear, and because of his membership in the *Maldonado Bautista* class—both factors that were not considered or addressed in *Buenrostro-Mendez*—Petitioner is entitled to release from detention.

Petitioner's Case is Distinct from Recent Rulings

67. Petitioner anticipates Respondents may argue that he has no due process rights beyond what is afforded by Section 1225, likely citing the Supreme Court decision in *DHS v. Thuraissigiam*, 591 U.S. 103 (2020), and the Fifth Circuit's decision in *Buenrostro-Mendez*. That is incorrect. Petitioner has been living in the United States continuously since around September 2022. USCIS granted him status pursuant to the 2023 Venezuela TPS, and during his residence in the United States, Petitioner has developed deep community ties in this country, where he has worked upon the authorization of the United States to do so. Further, he seeks to reunite with his

children who are currently in ORR custody in Texas after an extraordinarily long period of separation and following months of extreme vetting by the government. Accordingly, the scope of Petitioner's rights to procedural due process are not analogous to those of the petitioner in *Thuraissigiam*, who was stopped within 25 yards of the border. *Thuraissigiam*, 591 U.S. at 111.

68. As the government explained at oral argument in *Buenrostro-Mendez*, the only issue before the Fifth Circuit in that case was the government's statutory authority under § 1225(b)(2). See Oral Arg. Tr. at 44:50-45:12. In both cases, the district court had declined to reach procedural due process claims after ruling against the government on statutory grounds. *Buenrostro-Mendez v. Bondi*, No. 25-cv-3726, 2025 WL 2886346, at *3 n.4 (S.D. Tex. Oct. 7, 2025); *Covarrubias v. Vergara*, No. 25-cv-112, 2025 WL 2950097, at *5 n.3 (S.D. Tex. Oct. 8, 2025). Moreover, both petitioners were Mexican citizens who had entered without inspection. The opinion or underlying district court opinions did not note that they had been granted any immigration status or benefits, unlike the Petitioner here who was paroled into the country, granted TPS, and granted a work permit. Accordingly, Petitioner's procedural due process claim remains fully live and unaffected by the Fifth Circuit's *Buenrostro-Mendez* decision.

69. Just as multiple courts have held, even assuming or accepting the correctness of the government's interpretation of § 1225(b)(2) adopted in *Buenrostro-Mendez*, its application to a noncitizen who has previously been released and granted TPS and a work permit, and for whom there is no administrative warrant, individualized bond hearing, or indication of changed circumstances violates due process. See *Lopez-Arevelo*, 801 F. Supp. 3d at 687 ("Because all three Mathews factors support Lopez-Arevelo's position, the Court finds that detaining him without any individualized assessment of his flight risk and dangerousness deprives him of his constitutional right to procedural due process under the Fifth Amendment of the United States Constitution.");

Destino v. Berlin, No. 1:25-cv-374-SE-AJ, 2025 WL 4010424, at *14 (D.N.H. Dec. 24, 2025); *Espinoza v. Kaiser*, No. 1:25-cv-01101 2025 WL 2581185, at *11-12 (E.D. Cal. Sept. 5, 2025).

III. Petitioner Is Entitled to Relief as a Member of the *Maldonado-Bautista* Class

70. Petitioner is also entitled to release or, at minimum, an individualized bond hearing because he qualifies as a member of the class that was certified in *Maldonado Bautista* and that received a partial final judgment that DHS's policy treating all "applicants for admission" as subject to mandatory detention under § 1225(b)(2) was unlawful. *See* 2025 WL 3713987, at *32.

71. Again, the "Bond Eligible Class" is defined as:

All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Id.; *see supra* ¶ 42.

72. Petitioner meets these criteria. First, he entered the United States without inspection. Second, as relevant to his current detention, he was apprehended in New Mexico after having been released from immigration custody with parole for over three years, not upon arrival in the country. Third, he is not subject to detention under § 1226(c), § 1225(b)(1), or § 1231, nor has the government ever claimed that he is.

73. As a member of the Bond Eligible Class, Petitioner is entitled to the application of the law as stated in the binding final judgment issued in *Maldonado Bautista*. Secretary Noem is a defendant in *Maldonado Bautista* and are thus bound in this case by the declaratory judgment in that case, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). It is a "basic proposition that all orders and judgments of courts must be complied with promptly," *Maness v. Meyers*, 419 U.S. 449, 458 (1975), and thus, in "suits against government officials and

departments, [courts] assume that they will comply with declaratory judgments,” *United Aeronautical Corp. v. United States Air Force*, 80 F.4th 1017, 1031 (9th Cir. 2023). This is because declaratory judgments like the one in *Maldonado Bautista* have “the same effect as an injunction in fixing the parties’ legal entitlements.” *Florida ex rel. Bondi v. U.S. Dep’t of Health & Hum. Servs.*, 780 F. Supp. 2d 1307, 1316 (N.D. Fla. 2011). This understanding of declaratory judgments—and thus the binding nature of the declaratory judgment in *Maldonado Bautista* on Respondents in this case—is consistent with the decisions of many courts. *See, e.g., Sanchez-Espinoza v. Reagan*, 770 F.2d 202, 208 n.8 (D.C. Cir. 1985) (Scalia, J.) (“[T]he discretionary relief of declaratory judgment is, in a context such as this where federal officers are defendants, the practical equivalent of specific relief such as injunction or mandamus, since it must be presumed that federal officers will adhere to the law as declared by the court.”), *abrogated on other grounds by Schieber v. United States*, 77 F.4th 806 (D.C. Cir. 2023); *Smith v. Reagan*, 844 F.2d 195, 200 (4th Cir. 1988) (describing declaratory relief as “the functional equivalent of a writ of mandamus”); *Pub. Citizen v. Carlin*, 2 F. Supp. 2d 18, 20 (D.D.C. 1998) (“The government’s decision to appeal this Court’s ruling does not affect the validity of the declaratory judgment unless and until the judgment is reversed on appeal or the government seeks and is granted a stay pending appeal.”), *rev’d on other grounds*, 184 F.3d 900 (D.C. Cir. 1999).

74. Because the government may not lawfully adhere to the policy of treating all applicants for admission as detainable under § 1225(b) with respect to a member of the *Maldonado Bautista* class, even if it otherwise is statutorily authorized to do so, *see Buenrostro-Mendez*, 2026 WL 323330, and because Respondents appear unlikely to be able to offer any other basis for detaining Petitioner without a bond hearing or warrant, Petitioner is entitled to release.

IV. The Government's Interpretation of § 1225(b)(2) Is Incorrect

75. Petitioner should still not be subject to mandatory detention under § 1225(b)(2) if that statutory provision is correctly understood. Petitioner acknowledges that the Fifth Circuit has reached a contrary conclusion, *see Buenrostro-Mendez*, 2026 WL 323330, which currently precludes the Court from accepting this argument. Petitioner nonetheless continues to preserve the argument for appeal or in the event that the *en banc* Fifth Circuit or Supreme Court vacate or abrogate the divided Fifth Circuit panel decision.

76. The government's interpretation that all undocumented noncitizens who entered without inspection are subject to mandatory detention under § 1225(b)(2)(A) is incorrect. Instead, the statutory text, the statutory framework, Congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation—including in this District—limit § 1225(b)(2)'s scope to recently arrived noncitizens seeking admission at a border or port of entry.

77. The text of § 1225, along with its placement in the overall detention scheme of the INA, make clear that the term “seeking admission” in § 1225(b)(2) does not include individuals who have previously entered without inspection and are apprehended when already inside the United States.

78. The statutory framework further reinforces the conclusion that § 1225(b)(2) does not apply to noncitizens, like Petitioner, who were apprehended while residing within the United States. The INA's entire framework is premised on § 1225 governing detention of noncitizens “seeking admission” while § 1226 “applies to noncitizens ‘already in the country.’” *Granados v. Noem*, No. 25-ca-1464, 2025 WL 3296314, at *6 (W.D. Tex. Nov. 26, 2025); *see also Vega-Vega v. Bondi*, No. 25-cv-1869, 2026 WL 93979, at *5 (W.D. Tex. Jan. 6, 2026); *Martinez v. Hyde*, 792

F. Supp. 3d 211, 222 (D. Mass. 2025) (“The idea that a different detention scheme would apply to non-citizens ‘already in the country,’ as compared to those ‘seeking admission into the country,’ is consonant with the core logic of our immigration system” (cleaned up) (citing *Jennings*, 583 U.S. at 289)).

79. Congressional intent and longstanding historical practice underscore Petitioner’s reading of the statute. The current detention system has been in place since the passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. In the almost twenty years since, most noncitizens who entered without inspection and were apprehended inside the United States were detained under § 1226(a) and received bond hearings, unless their criminal history rendered them ineligible under § 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 immigration judge 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)).

80. Numerous federal courts, including in this District, have agreed with Petitioner’s interpretation. *See Cardona-Lozano v. Noem*, No. 25-cv-1784, 2025 WL 3218244, at *6 (W.D. Tex. Nov. 14, 2025) (collecting cases).⁸

81. Petitioner’s detention is not authorized under § 1225(b)(2), if that provision is correctly understood, contrary to *Buenrostro-Mendez*. Lacking any statutory basis for his detention, Respondents must release Petitioner.

⁸ This case and others throughout this Section that hold that § 1225(b)(2) is limited in this fashion have been abrogated by *Buenrostro-Mendez* (to the degree they arise from within the Fifth Circuit) or otherwise cannot currently be followed within the Fifth Circuit (to the degree they arise from other courts).

EXHAUSTION OF REMEDIES

82. No statutory requirement of administrative exhaustion applies to Petitioner's case. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144-45 (1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).

83. In particular, the government has taken the position that a noncitizen like Petitioner, who entered without inspection, is not eligible for bond, regardless of membership in the *Maldonado Bautista* class.

84. According to DHS, such noncitizens are subject to mandatory detention under 8 U.S.C. § 1225(b)(2), and the Executive Office for Immigration Review ("EOIR") has affirmed that view. In a published decision, the Board of Immigration Appeals ("BIA") recently held that "Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission." *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025). Under the BIA's interpretation, Petitioner is ineligible for bond as a noncitizen who entered the United States without inspection. Accordingly, there are no administrative remedies that he could exhaust before seeking habeas relief. See, e.g., *Arenas-Santoyo v. Dickey*, No. 25-cv-5555, 2025 WL 3724557, at *3 (S.D. Tex. Dec. 23, 2025) ("[R]equiring [Petitioner] to attempt to exhaust a nonexistent remedy is neither required, prudent, nor legally supportable."); *Cabanas v. Bondi*, No. 25-cv-4830, 2025 WL 3171331, at *3 (S.D. Tex. Nov. 13, 2025) (finding exhaustion would be futile because "[n]othing in the record suggests that the BIA would reconsider [the

Yajure Hurtado] decision, given its recency”); *Singh v. Lewis*, No. 25-cv-96, 2025 WL 2699219, at *2 (W.D. Ky. Sept. 22, 2025) (“The United States has made clear their position on Section 1225, and it is being applied at all levels within the DHS. Therefore, it is unlikely that any administrative review would lead to the United States changing its position and precluding judicial review.”).

85. Moreover, the EOIR’s Chief Immigration Judge has issued guidance to immigration judges directing them not to grant bond hearings in reliance on *Maldonado Bautista*, making exhaustion of Petitioner’s claim under *Maldonado Bautista* futile as well. See Am. Immigration Lawyers Ass’n, *Practice Alert: EOIR Issues Nationwide Guidance on Maldonado Bautista* (Jan. 16, 2026), <https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista>.

86. Further, Immigration Judges and the BIA generally lack authority to rule on a petitioner’s constitutional claims. See *Falek v Gonzales*, 475 F.3d 285, 291 n.4 (5th Cir. 2007) (“[T]here is no dispute that the BIA has no power to adjudicate constitutional claims.”); *Matter of R-A-V-P-*, 27 I&N Dec. 803, 804 n.2 (B.I.A. 2020) (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C--*, 20 I&N Dec. 529, 532 (B.I.A. 1992) (“[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations.”); *Mudric v. Att’y Gen.*, 469 F.3d 94, 98 (3d Cir. 2006) (“[D]ue process claims are generally exempt from the exhaustion requirement because the BIA does not have jurisdiction to adjudicate constitutional issues.”); *Cabanas*, 2025 WL 3171331, at *3 (finding that petitioner’s challenge to her detention “on constitutional grounds ... falls outside the jurisdiction of the BIA”). Petitioner’s constitutional claims are therefore ripe for judicial review. *Cf. Cruz Rodriguez v. Garland*, 993 F.3d 340, 345 (5th Cir. 2021) (per curiam) (“Since

this constitutional challenge was not raised before the BIA, *and the BIA could do something to remedy the alleged injury ...*, this issue is not yet ripe for disposition, and we lack jurisdiction to review it.” (emphasis added)); *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 680-81 (W.D. Tex. 2025) (finding petitioner’s claim “properly before the court” because exhaustion was required only “for appeals on final orders of removal” and requiring petitioner to wait “would exacerbate his alleged constitutional injury”).

CLAIMS FOR RELIEF

COUNT I

Violation of Procedural Due Process

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

88. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

89. Petitioner has a fundamental constitutional interest in liberty and being free from official restraint and, in light of his prior release, in not being detained without a determination of changed circumstances. Moreover, that is so regardless of whether the government has statutory authority to subject him to mandatory detention. Respondents’ detention of Petitioner without an administrative warrant and a bond hearing establishing changed circumstances violates his right to due process.

90. Similarly, Petitioner has a fundamental constitutional interest protecting his right to his TPS designation and his work permit, protecting him from the revocation of both without notice and due process of law. Respondents’ revocation of Petitioner’s TPS and his detention without

bond violate his right to due process.

91. Petitioner has a fundamental right to reunify with his children. Petitioner completed all requirements for reunification. Despite that, Petitioner has been detained under the ruse of reunification with his children, violating his fundamental constitutional right to do so and his right to due process.

COUNT II

Enforcement of *Maldonado Bautista* Judgment

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

93. Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*.

94. That class received a partial final judgment that included declaratory relief that DHS's policy that all "applicants for admission" are subject to mandatory detention under § 1225(b)(2) was unlawful and the vacatur of that policy.

95. Respondents accordingly are barred from detaining Petitioner under that policy or § 1225(b)(2), even if they would otherwise have statutory authority to do so.

96. And because Respondents cannot establish any other basis for detaining Petitioner without an administrative warrant and bond hearing, Petitioner is entitled to release or, at minimum, an individualized bond hearing.

COUNT III

Violation of the INA

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

98. Properly understood, the mandatory detention provision at 8 U.S.C. § 1225(b)(2)

does not apply to those who previously entered the country and had been residing in the United States prior to being detained, let alone noncitizens like Petitioner who have been released into the United States on their own recognizance. *But see Buenrostro-Mendez*, 2026 WL 3233330.

99. The purported application of § 1225(b)(2) to Petitioner therefore violates the INA. *But see Buenrostro-Mendez*, 2026 WL 3233330.

100. Petitioner's detention also cannot be justified under § 1226(a), because the government has provided neither an administrative warrant nor an individualized bond hearing, both of which Petitioner would be entitled to if detained under that provision of the INA.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Declare that Petitioner's arrest, revocation of TPS, detention, and denial of the right to reunify with his children violate the Due Process Clause of the Fifth Amendment;
- c. Declare that Petitioner's arrest and detention violate the partial final judgment in *Maldonado Bautista*, which is binding here because Petitioner is a member of the Bond Eligible Class in *Maldonado Bautista*;
- d. Declare that Petitioner's arrest and detention violate the INA. *But see Buenrostro-Mendez*, 2026 WL 3233330.
- e. Issue a writ of habeas corpus requiring that, within one day, Respondents release Petitioner, under the same conditions as existed prior to his detention;
- f. Issue a Temporary Restraining Order prohibiting Respondents from transporting Petitioner out of this jurisdiction during the pendency of this petition;
- g. Issue an Order to Show Cause ordering Respondents to explain why this Petition should not be granted within three days, and, if the Court deems a hearing on this Petition necessary or useful, set such hearing within five days of the return, as required by 28 U.S.C. § 2243;

h. Issue an Order prohibiting Respondents from re-detaining Petitioner without a pre-deprivation hearing before this Court where the government bears the burden of justifying re-detention by clear and convincing evidence;

i. Grant any other and further relief that this Court deems just and proper.

Dated: February 13, 2026

Respectfully submitted,

/s/ Elizabeth Sanchez Kennedy
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**Verification of Someone Acting on
Petitioner's Behalf Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I, Elizabeth Sanchez Kennedy, and others working under my supervision have discussed with Petitioner the events described in the Petition. I hereby certify that the statements made in this attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/ Elizabeth Sanchez Kennedy

Date: February 13, 2026