

1. Petitioner-Plaintiff (“Petitioner”) is a citizen of Venezuela, who has resided in the United States since October 11, 2022. On information and belief, U.S. Immigration and Customs Enforcement (“ICE”) re-detained Petitioner at his residence in El Paso,

Texas, on July 21, 2025.

2. Petitioner is currently detained at the El Paso Processing Center at 8915 Montana Ave., El Paso, Texas 79925.
3. On September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a precedential decision that unlawfully reinterpreted the Immigration and Nationality Act (“INA”). *See, Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Prior to this decision, noncitizens like Petitioner who had lived in the U.S. for many years and were apprehended by ICE in the interior of the country were detained pursuant to 8 U.S.C. § 1226(a) and eligible to seek bond hearings before Immigration Judges. Instead, in conflict with nearly thirty years of legal precedent, Petitioner is now considered subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and has no opportunity for release on bond while his removal proceedings are pending.
4. Petitioner’s detention pursuant to § 1225(b)(2)(A) violates the plain language of the INA and its implementing regulations. Petitioner, who has resided in the U.S. for over three years and who was apprehended in the interior of the U.S., should not be considered an “applicant for admission” who is “seeking admission.” Rather, he should be detained pursuant to 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond.
5. Petitioner seeks declaratory relief that he is subject to detention under § 1226(a) and its implementing regulations and asks this Court to order Respondents to release the Petitioner or grant him a bond hearing where the government bears the burden to establish that Petitioner is not a danger to the community or flight risk.

6. On February 6, 2026, the Fifth Circuit issued a decision in *Buenrostro-Mendez v. Bondi*, narrowing certain statutory avenues for release, but not eliminating constitutional protections. *Buenrostro-Mendez v. Bondi*, No. 25-20496, -----F.4th -- --, 2026 WL 323330 (5th Cir. Feb 6, 2026).
7. Petitioner's continued detention is not based on any finding that confinement is necessary to serve a legitimate governmental purpose. Petitioner argues in this petition that his due process rights under the Fifth Amendment of the United States Constitution have been violated, and requests the Court to issue his immediate release or a bond hearing in which the government bears the burden of demonstrating that continued detention is justified.

CUSTODY

8. Petitioner is currently in the custody of Immigration and Customs Enforcement ("ICE") at the El Paso Processing Center in El Paso, Texas. He is therefore in "'custody' of [the DHS] within the meaning of the habeas corpus statute." *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

9. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*
10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et*

seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

11. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging both the lawfulness and the constitutionality of their detention. *See, Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

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

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
13. Petitioner is “in custody” for the purpose of § 2241 because Petitioner was arrested and detained by Respondents.

VENUE

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

EXHAUSTION OF ADMINISTRATIVE REMEDIES

15. Administrative exhaustion is unnecessary as it would be futile. *See, e.g., Aguilar v. Lewis*, 50 F. Supp. 2d 539, 542–43 (E.D. Va. 1999).
16. It would be futile for Petitioner to seek a custody redetermination hearing before an Immigration Judge because of the BIA’s decision holding that anyone who has

entered the U.S. without inspection is now considered an “applicant for admission” who is “seeking admission” and therefore subject to mandatory detention under § 1225(b)(2)(A). *See, Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see, also Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (noting that BIA’s decision in *Yajure Hurtado* renders exhaustion futile). This holding was just affirmed by the Fifth Circuit in *Buenrostro-Mendez v. Bondi*, which agreed with the BIA’s statutory interpretation—further strengthening Petitioner’s futility argument.

17. Additionally, the agency does not have jurisdiction to review Petitioner’s claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies. *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) (finding exhaustion to be a “futile exercise because the agency does not have jurisdiction to review” constitutional claims).

PARTIES

18. Petitioner is a citizen of Venezuela and has resided in the U.S. since October 11, 2022.
19. Respondent Joel Garcia is sued in his official capacity as Field Office Director, El Paso Field Office, Enforcement and Removal Operations, ICE. In his official capacity, Respondent Garcia is the legal custodian of Petitioner.
20. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of

Petitioner.

21. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security. As the head of the U.S. Department of Homeland Security, the agency tasked with enforcing immigration laws, Secretary Noem is Petitioner's ultimate legal custodian.

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

LEGAL BACKGROUND AND ARGUMENT

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

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

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

26. Third, the INA authorizes detention of noncitizens who have received a final order

of removal, including those in withholding-only proceedings. *See*, 8 U.S.C. § 1231(a)–(b).

27. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104-208. Div. C, §§ 302-03, 110 Stat. 3009-546, 300-582 to 3009-583, 3009-585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

28. Following the enactment of the IIRIRA, the U.S. Department of Justice’s Executive Office of Immigration Review (“EOIR”) drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See, Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination”).

29. Thus, in the decades that followed, most people who entered without inspection and were thereafter detained and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an Immigration Judge, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were

entitled to a custody hearing before an Immigration Judge or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. *See*, 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

30. For decades, long-term residents of the U.S. who entered without inspection and were subsequently apprehended by ICE in the interior of the country have been detained pursuant to § 1226 and entitled to bond hearings before an Immigration Judge, unless barred from doing so due to their criminal history.

31. In July 2025, however, ICE began asserting that all individuals who entered without inspection should be considered “seeking admission” and therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

32. On September 5, 2025, the BIA issued a precedential decision adopting this interpretation, departing from the INA’s text, federal precedent, and existing regulations. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

33. Respondents’ new legal interpretation is plainly contrary to the statutory framework and its implementing regulations. Indeed, for decades, Respondents had applied § 1226(a) to people like the Petitioner.

34. Numerous federal courts, including courts within this District, have rejected this interpretation and instead have found that § 1226, not § 1225(b)(2), authorizes detention of noncitizens who entered without inspection and were later apprehended in the interior of the country. *See, e.g., Sampiao v. Hyde*, 2025 WL 2607924 (D.

Mass. Sept. 9, 2025) (noting court’s disagreement with BIA’s analysis in *Yajure Hurtado*); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *3 n.4 (E.D. Cal. Sept. 9, 2025); *see also Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO (HC) (E.D. Cal. Sept. 23, 2025); *Lopez v. Hardin*, No. 2:25-cv-830-KCD-NPM (M.D. Fla. Sept. 25, 2025); *Chafila v. Scott*, No. 2:25-cv-00437-SDN (D. Maine Sept. 21, 2025); *Lopez-Arevalo v. Ripa*, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Gonzalez Martinez v. Noem*, 2025 WL 2965859 (W.D. Tex. (El Paso Division) Oct. 21, 2025);

35. The statutory context and structure also make clear that § 1226 applies to individuals who have not been admitted and entered without inspection. In 2025, Congress added new mandatory detention grounds to § 1226(c) that apply only to noncitizens who have not been admitted. *See*, The Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3, 3 (2025) (8 U.S.C. § 1226(c)(1)(E)).

36. By specifically referencing inadmissibility for entry without inspection under 8 U.S.C. § 1182(6)(A), Congress made clear that such individuals are otherwise covered by § 1226(a). Thus, § 1226 plainly applies to noncitizens charged as inadmissible, including those present without admission or parole.

37. The Supreme Court has explained that § 1225(b) is concerned “primarily [with those] seeking entry,” and is generally imposed “at the Nation’s borders and ports

of entry, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 297, 297-98 (2018). In contrast, Section 1226 “authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings.” *Id.* at 289 (emphases added).

38. Furthermore, § 1225(b)(2) specifically applies only to those “seeking admission,” and the implementing regulations at 8 C.F.R. § 1.2 address noncitizens who are “coming or attempting to come into the United States.” The use of the present progressive tense would exclude noncitizens like Petitioner who are apprehended in the interior years after they entered, as they are no longer “seeking admission” or “coming [...] into the United States.” *See, Martinez v. Hyde*, 2025 WL 2084238 at *6 (D. Mass. July 24, 2025) (citing the use of present and present progressive tense to support conclusion that INA § 1225(b)(2) does not apply to individuals apprehended in the interior); *see also Al Otro Lado v. McAleenan*, 394 F. Supp. 3d 1168, 1200 (S.D. Cal. 2019) (construing “is arriving” in INA § 235(b)(1)(A)(i) and observing that “[t]he use of the present progressive, like use of the present participle, denotes an ongoing process”).

39. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to Petitioner, who had entered the U.S. over three years ago and was detained in the interior of the United States.

40. While Petitioner does not withdraw his statutory arguments, Petitioner argues that although the statutory path to release in Petitioner’s habeas case may be foreclosed

under *Buenrostro-Mendez* on statutory grounds, Petitioner's constitutional due process claims remain viable.

STATEMENT OF FACTS

41. Petitioner is a 47-year-old citizen of Venezuela. He first entered the United States without inspection on October 11, 2022, and was later granted parole into the United States pursuant to INA § 212(d)(5). Upon entry, Petitioner was detained by immigration authorities and placed in removal proceedings. On October 28, 2023, Petitioner filed Form I-821, Application for Temporary Protected Status (TPS), with U.S. Citizenship and Immigration Services (USCIS). USCIS approved Petitioner's TPS application on March 4, 2024. On August 16, 2024, Respondents moved to dismiss Petitioner's removal proceedings in light of the TPS approval, and the Immigration Judge granted the motion. On November 7, 2024, Petitioner married U.S. citizen Jennifer Danielle Perez. On February 24, 2025, Ms. Perez filed Form I-130, Petition for Alien Relative, on Petitioner's behalf; that petition remains pending with USCIS. Without cause and notice, Respondents re-detained Petitioner at his home at approximately 7:30 a.m., before he left for work.
42. On  Petitioner's spouse gave birth to their first child together. Petitioner was unable to be present for the birth because he has remained in custody since July 11, 2025, without the right to a bond hearing.
43. Petitioner has never been arrested, charged, or convicted of any crime in the United States or elsewhere.

44. The government previously determined that Petitioner was neither a danger nor a flight risk, released him, and moved to dismiss his removal proceedings. For two years, Petitioner remained protected from removal through Temporary Protected Status (TPS). Three months after Petitioner's TPS expired, Respondents re-detained him at his home without any individualized determination or procedural safeguards. Prior to the dismissal of his removal proceedings, Petitioner complied with all DHS and EOIR requirements for nearly two years, attended every scheduled hearing, and pursued relief before USCIS and EOIR. Respondents have identified no new facts, violations, or changed circumstances to justify re-detention. Petitioner had a legitimate reliance interest in the government's prior release determination.

45. Petitioner is currently detained by Respondents. Absent relief from this Court, Petitioner will remain subject to prolonged detention without any meaningful opportunity to seek release on bond and without the procedural protections the Due Process Clause guarantees. Without judicial intervention, Petitioner faces continued confinement based solely on categorical detention, rather than a determination of whether detention is necessary to prevent flight or danger to the community. This ongoing detention, without a prompt and constitutionally adequate process to test its necessity, violates Petitioner's rights under the United States Constitution.

COUNT I

Violation of Fifth Amendment Right to Substantive Due Process

46. Petitioner restates and realleges all preceding paragraphs as if fully set forth herein. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law. U.S. Const. amend. V.
47. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. *See, Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Even in the immigration context, civil detention is constitutionally permissible only where it is reasonably related to a legitimate governmental purpose and not excessive in relation to that purpose. *Id.* at 690–91.
48. Civil immigration detention is not intended to be punitive. Rather, the government may detain a noncitizen only for limited purposes, such as ensuring attendance at immigration proceedings or protecting the community from danger. *See, Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018); *Zadvydas*, 533 U.S. at 690.
49. Petitioner’s continued detention violates substantive due process because it is arbitrary and not reasonably related to any legitimate governmental purpose. Petitioner was previously released on his own recognizance, reflecting the government’s determination that he was not a danger to the community and not a flight risk. Respondents later re-detained Petitioner without any justification demonstrating that detention is necessary to serve a legitimate governmental objective.
50. Petitioner has no criminal history and has demonstrated compliance with DHS

requirements, including appearing for immigration proceedings and pursuing lawful immigration relief. Petitioner has also pursued immigration benefits before USCIS and EOIR, including TPS and adjustment of status through his spouse. In connection with these filings, Petitioner submitted extensive documentation and complied with DHS fingerprinting requirements.

51. Moreover, Petitioner has a clear and viable path to lawful permanent residence through his wife's family-based petition. Because Petitioner was granted parole, he is eligible to seek adjustment of status to lawful permanent resident once the underlying immigrant relative petition is approved. *See*, INA § 245(a). Petitioner has remained detained for more than seven months while awaiting USCIS adjudication of the petition. On December 2, 2025, USCIS issued a policy memorandum directing agency personnel to place a processing hold on pending immigration benefit requests for individuals who are citizens of—or were born in—certain designated “high-risk” countries, including Venezuela. As a result, absent an opportunity to seek release, Petitioner faces the prospect of prolonged—potentially indefinite—detention driven not by any individualized finding, but by an adjudicatory freeze outside his control.

52. Substantive due process does not permit the government to subject a noncitizen to prolonged civil detention when that detention is not justified by any determination of necessity and is not reasonably related to the government's legitimate interests. *See, Zadvydas*, 533 U.S. at 690–91.

53. Accordingly, Petitioner's continued detention violates the substantive component

of the Due Process Clause of the Fifth Amendment, and he is entitled to habeas relief ordering his immediate release or, in the alternative, a custody determination before a neutral decisionmaker with authority to order release.

COUNT II
Violation of Fifth Amendment Right to Procedural Due Process

54. Petitioner restates and realleges all preceding paragraphs as if fully set forth herein.

55. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. U.S. Const. amend. V. All persons within the United States, regardless of immigration status, are entitled to procedural due process protections when the government seeks to deprive them of physical liberty.

56. Procedural due process requires, at minimum, notice and a meaningful opportunity to be heard before a neutral decisionmaker at a meaningful time and in a meaningful manner. *See, Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Under *Mathews v. Eldridge*, courts evaluate: (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 and procedural safeguards”, and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail.” *Mathews*, 424 U.S. at 335, 96 S. Ct. 893; *see also Hernandez-Fernandez v. Lyons*, 2025 WL 2976923 at *8 (W.D. Tex. Oct. 21, 2025).

57. The first *Mathews* factor considers the private interest at stake—namely, the interest in freedom from physical detention, which the Supreme Court has described as “the

most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Noncitizens acquire a liberty interest when they spend years in the U.S. living and creating ties to their communities. *See, Martinez I*, 2025 WL 2965859 at *4, *also see Martinez v. Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025). Federal courts in Texas have found that noncitizens have a protected liberty interest in their freedom, regardless of citizenship status, when they have spent time living, working, or supporting a family in the interior of the United States. *See, e.g., López Miranda v. Flores*, No. EP-25-CV-584-KC, 2025 WL 3901908, at *3 (W.D. Tex. Dec. 10, 2025); *Chinchilla v. De Anda-Ybarra*, No. EP-25-CV-00548-DB, 2025 WL 3645178 (W.D. Tex. Dec. 16, 2025) (finding noncitizen has protectable liberty interest because he was “living in the United States for over four years and attends his local church”); *Hernandez-Fernandez*, 2025 WL 2976923 at *9 (“Because he spent nearly three years at liberty in the United States, [petitioner] possesses a cognizable interest in his freedom from detention.”).

58. Petitioner has lived in the interior of the United States for almost three years, developed strong family and community ties, maintained employment, and pursued lawful immigration relief. Petitioner therefore has a substantial liberty interest in avoiding continued detention.

59. The second *Mathews* factor considers the risk of erroneous deprivation. The government’s refusal to provide bond hearings creates a high risk of erroneous deprivation because the process afforded in removal proceedings does “not

ameliorate the risk that [a petitioner] will be erroneously deprived of his liberty while his removability is assessed.” *See, Rojas v. Noem*, 2025 WL 3038262 at *3-*4. Bond hearings that “conduct individualized custody determinations considering flight risk and dangerousness” are the precise “type of proceeding that would give [a noncitizen] an opportunity to be heard and to receive a meaningful assessment of whether he is dangerous or likely to abscond.” *Id.* at *4.

60. Petitioner was previously released on parole after Respondents determined that he did not pose a danger to the community and was not a flight risk. Moreover, Respondents dismissed Petitioner’s removal proceedings and permitted him to remain in the United States, where he married a U.S. citizen and became the father of a U.S. citizen daughter—whom he has been unable to watch grow due to his detention. Without identifying any new violation, arrest, failure to appear, or changed circumstance, Respondents re-detained and continue to deny Petitioner an opportunity to challenge that detention before a neutral decisionmaker.

61. Absent a bond hearing, there is no mechanism to test whether detention remains necessary to ensure appearance or protect the community. Removal proceedings themselves do not address custody or flight risk and therefore do not mitigate the risk of erroneous deprivation of liberty.

62. An bond hearing—at which the government bears the burden of justifying continued detention—would substantially reduce that risk by providing Petitioner a meaningful opportunity to contest the necessity of his confinement.

63. The third *Mathews* factor concerns the government’s interest. The government has

a legitimate interest in ensuring that noncitizens appear for removal proceedings and do not pose a danger to the community. However, those interests are adequately safeguarded through a bond hearing, which imposes minimal administrative burden and is consistent with longstanding practice under 8 U.S.C. § 1226(a).

64. Here, Respondents have made not shown that Petitioner poses a danger or a flight risk. Denying Petitioner any opportunity to seek a bond hearing is not narrowly tailored to advance the government's stated interests.

65. As courts in this District have recognized, the government's interest in ensuring appearance and protecting the community "would be squarely addressed through a bond hearing." *Id.* (citing *Martinez v. Noem*, 2025 WL 2598379, at *4 (W.D. Tex. Sept. 8, 2025)). In this case, Petitioner has diligently pursued immigration benefits before USCIS and EOIR, including TPS and relief through a family-based petition. In connection with these filings, Petitioner submitted extensive supporting documentation to USCIS and complied with DHS biometrics requirements, including fingerprinting, demonstrating sustained compliance with all DHS obligations. Absent an individualized review, Petitioner faces a substantial risk of prolonged—and potentially indefinite—detention, despite having no criminal convictions.

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

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

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

1. Petitioner restates and realleges all preceding paragraphs as if fully set forth herein.
2. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service ("INS") issued an interim rule implementing IIRIRA. Under the heading "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. 10312, 10323 (Mar. 6, 1997). The agencies thus clarified that individuals who entered without inspection remain eligible for consideration of release on bond and for bond redetermination hearings before Immigration Judges under 8 U.S.C. § 1226 and its implementing

regulations.

3. Applying § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT V
Violation of 8 U.S.C. § 1225(b)(2)
Unlawful Detention Under This Provision

1. Petitioner restates and realleges all preceding paragraphs as if fully set forth herein.
2. Title 8 U.S.C. § 1225(b) concerns primarily those seeking entry to the United States and is generally applied at the Nation's borders and ports of entry, where the Government determines whether a noncitizen seeking to enter the country is admissible.
3. Upon information and belief, Petitioner has resided in the United States since October 11, 2022. He is therefore neither an arriving alien nor a noncitizen who is presently seeking admission to the United States.
4. Because 8 U.S.C. § 1225(b) does not apply to Petitioner, Respondents' detention of him under this provision is unlawful.

CONCLUSION

The Constitution does not permit the government to revoke liberty without process. Petitioner was found not to be a danger or flight risk and released. Without any new circumstances, he was re-detained without notice, warrant, or hearing. Due process requires more.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court will:

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Respondents from transferring Petitioner outside of this District;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why his
Petition should not be granted within three days;
- (4) Declare that Petitioner's arrest and continued detention violate the Due Process
Clause;
- (5) Issue a Writ of Habeas Corpus directing Respondents to release Petitioner from
custody or, in the alternative, to provide him with a bond hearing pursuant to 8
U.S.C. § 1226(a), at which Respondents bear the burden of proving by clear
and convincing evidence that Petitioner poses a flight risk or a danger to the
community, within seven (7) days.
- (6) Grant him any further relief this Court deems just and proper.

Dated this 14th day of February of 2026

Respectfully Submitted,

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

I represent the Petitioner, Luis Ernesto Guevara Sánchez, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief under 28 U.S.C. § 2242 or under the U.S. Constitution are true and correct to the best of my knowledge.

Dated this 14th day of February of 2026

Respectfully Submitted,

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