UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALASAN COLLEY,

Petitioner,

v.

KEVIN RAYCRAFT, et al.,

Respondents.
_____/

CASE NO. 1:26-CV-00565

HON. ROBERT J. JONKER
U.S. District Court Judge

ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE RELIEF

Respondents, by and through their attorneys, answer the Petition for Writ of Habeas Corpus of Petitioner Alasan Colley as follows:

INTRODUCTION

1. This petition arises from the unlawful revocation by the Detroit ICE Field Office Director of Petitioner's Order of Supervision and Petitioner's continued detention thereafter.

ANSWER: This paragraph states a legal conclusion to which no response is required. To the extent a response is required, Respondents admit only that Petitioner is detained. Respondents deny any remaining allegations as untrue.

2. This petition also arises from the U.S. government's new policy—which contradicts both the plain language of the Immigration and Nationality Act (INA) and decades of agency practice—of erroneously interpreting the INA to mandate detention without the possibility of bond for noncitizens who entered the United States without inspection, even if they have been residing here for years.

ANSWER: This paragraph is a characterization of the Petition, and states a legal conclusion, to which no response is required. To the extent a response is required,

Respondents deny the allegations as untrue.

3. This policy has led to the unlawful detention of countless noncitizens nationwide. Dozens of habeas corpus petitions for their release have been filed in jurisdictions across the country, including many in the Western and Eastern Districts of Michigan. Virtually every merits decision in those cases has found for the petitioners, either granting them a bond hearing or ordering their immediate release.

ANSWER: Respondents admit only that habeas corpus petitions have been filed in jurisdictions across the country, including the Western and Eastern Districts of Michigan. Respondents deny the remaining allegations of this paragraph as untrue.

4. Petitioner Alasan COLLEY remains unlawfully detained. Petitioner fled his native Gambia in January of 2022 and entered the United States in July of 2022 without inspection.

ANSWER: Denied as untrue that Petitioner is unlawfully detained. Admitted only that Petitioner is a citizen of The Gambia and that, on or about July 10, 2022, Petitioner entered the United States without inspection. Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining factual allegations of this paragraph. Further answering, Respondents refer the Court to, and incorporate herein, the concurrently filed Response to Habeas Petition ("Response").

5. Petitioner was placed into removal proceedings and issued a Notice to Appear (NTA) on July 12, 2022, charging him as an alien present without admission or parole under 8 U.S.C. § 1182(a)(6)(A)(i). The NTA does not allege that Petitioner is an arriving alien.

ANSWER: Admitted.

6. Petitioner relocated to Michigan and was placed on an Order of Supervision by the Detroit ICE Field Office.

ANSWER: Admitted.

7. Petitioner filed an asylum application seeking protection from persecution on account of [redacted] After a series of hearings, on August 7, 2025, an Immigration Judge denied all forms of relief and ordered Petitioner removed to Gambia. On August 21, 2025, the BIA received Petitioner's Notice of Appeal. That appeal was pending on January 26, 2026, when Petitioner was detained by ICE and remains pending at the time of this filing.

ANSWER: Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph to the extent they concern the factual basis of Petitioner's asylum application. Respondents admit the remaining allegations of this paragraph.

8. On January 26, 2026, while driving to the Intensive Supervision Appearance Program (ISAP) office on Jefferson Avenue in Detroit for assistance reinstalling the ICE mobile check-in app on his new mobile phone, Petitioner inadvertently ended up at the entrance of the Windsor Tunnel. Petitioner was detained and moved the next morning to Calhoun County Jail in Battle Creek, Michigan, where he remains.

ANSWER: Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining factual allegations of this paragraph.

9. Petitioner remains in the physical custody of Respondents at the Calhoun County Jail in Battle Creek, Michigan, which falls under the purview of the Detroit Field Office of Immigration and Customs Enforcement (ICE), which has responsibility for immigration detention centers in Michigan and Ohio.

ANSWER: Admitted.

10. Under 8 C.F.R. § 241.13(i), Petitioner's Order of Supervision should be restored. That Order of Supervision has not been lawfully revoked. Petitioner's detention is unlawful.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph as untrue. Further answering, Respondents refer the Court to, and incorporate herein, their Response.

11. Under 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond, Petitioner is also entitled to a bond determination. That statute expressly applies to people who, like Petitioner, are residing in the United States but are charged as inadmissible for having initially entered the United States without inspection. In accordance with 8 U.S.C. § 1226(a), the Department of Homeland Security (DHS) and Executive Office of Immigration Review (EOIR) have for decades provided bond determinations and bond hearings to people like Petitioner who have been living in the United States but allegedly entered without inspection.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize a statute and defer to the text of the statute itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response.

12. However, pursuant to a new governmental policy announced on July 8, 2025,[1] Petitioner is now being unlawfully detained without bond. The new policy instructs all ICE

[1] ICE Memo: Interim Guidance Regarding Detention Authority for Applicants for Admission (Jul. 8, 2025), https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission [https://perma.cc/8SP7-TDDD].

employees to no longer apply 8 U.S.C. § 1226(a) to people charged with being inadmissible under § 1182(a)(6)(A)(i)—i.e., those who initially entered the United States without inspection. Instead, under the new policy, ICE employees are to subject people like Petitioner to mandatory detention without bond under § 1225(b)(2)(A)—a provision that has historically been applied only to recent arrivals at the U.S. border—no matter how long they have resided in the United States.

ANSWER: Respondents deny Petitioner's attempt to characterize an ICE Interim Guidance document and defer to the text of the document itself. Respondents deny the remaining allegations of this paragraph as untrue. Further answering, Respondents refer the Court to, and incorporate herein, their Response.

13. Detaining Petitioner without bond is plainly contrary to the statutory framework of the INA and contrary to both agency regulations and decades of consistent agency practice applying § 1226(a) to people like Petitioner. It is contrary to the Department's own charging document and prior release on bond. It also violates Petitioner's right to due process by depriving him of his liberty without any consideration of whether such a deprivation is warranted.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph as untrue. Further answering, Respondents refer the Court to, and incorporate herein, their Response.

14. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately released from custody unless Petitioner is provided with a bond hearing under § 1226(a) within seven days.

ANSWER: This paragraph contains a prayer for relief to which no response is required. To the extent it is deemed to allege facts to which a response is required,

Respondents deny the allegations as untrue.

15. Petitioner is not challenging any discretionary denial of bond; he is challenging his detention pursuant to an unlawful revocation of his Order of Supervision. The only appropriate remedy is immediate release.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph as untrue. Further answering, Respondents refer the Court to, and incorporate herein, their Response.

16. Petitioner is also challenging Respondents' legal determination that he is not eligible for bond under § 1226(a) and that instead Respondent's may detain him without access to bond under § 1225(b)(2)(A).

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph as untrue. Further answering, Respondents refer the Court to, and incorporate herein, their Response.

JURISDICTION

17. Petitioner Alasan COLLEY is in the physical and legal custody of Respondents. Petitioner is detained at the Calhoun County Jail in Battle Creek, Michigan.

ANSWER: Admitted.

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

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents do not contest jurisdiction in this case.

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.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny that the Court has jurisdiction over this case and deny the remaining allegations of this paragraph. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

VENUE

20. Venue is proper in the Western District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is physically detained in an immigration detention at the Calhoun County Jail in Battle Creek, Michigan, at the direction of, and is in the continued legal custody of, Respondent Kevin Raycraft in his capacity as Field Officer Director of Detroit ICE/ERO. *See Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).[2]

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents do not contest venue in this case.

[2] Petitioner respectfully asserts that on the basis of the Detroit ICE/ERO Field Office maintaining legal custody of Petitioner pursuant to *Rowman v. Ashcroft*, the Eastern District of Michigan has jurisdiction over this matter, but also concedes that by virtue of Petitioner being under the day-to-day physical control of the Warden of the North Lake Processing Center, the Western District of Michigan is also a proper venue for this Habeas petition.

21. Venue is also properly in this Court pursuant to 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 and relevant facts occurred in the Western District.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents do not contest venue in this case.

REQUIREMENTS OF 28 U.S.C. § 2243

22. The Court must grant the petition for a 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.*

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner's attempt to characterize a statute and defer to the text of the statute itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response.

23. 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). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner's attempt to characterize a Supreme Court decision and a federal circuit court decision and defer to the text of the decisions themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response.

PARTIES

24. Petitioner Alasan COLLEY is a citizen of Gambia who has resided in the United States continually since entering in July of 2022. He has been in immigration detention since January 26, 2026, and is currently detained at Calhoun County Jail in Battle Creek, Michigan.

ANSWER: Respondents admit that Petitioner is a citizen of The Gambia; that he has been in immigration detention since January 26, 2026; and that he is currently detained at Calhoun County Jail in Battle Creek, Michigan. Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

25. Respondent Kevin Raycraft is the Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Director Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

ANSWER: Admitted only that Kevin Raycraft is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division, which is charged with the detention and removal of an alien who falls under the jurisdiction of the Detroit Field Office. The remaining allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents lack knowledge or

information sufficient to form a belief as to the truth of the allegations of the third sentence of this paragraph and deny any remaining allegations as untrue.

26. Respondent Todd M. Lyons is the Acting Director of United States Immigration and Customs Enforcement (ICE), the federal agency responsible for enforcement of the INA, including apprehension, detention, and removal of noncitizens. As Acting Director of ICE, Respondent Lyons is responsible for implementation and enforcement of the INA and oversees the Detroit Field Office, which remains the legal custodian of Petitioner while detained.

ANSWER: Respondents admit that Todd Lyons is the Acting Director of United States Immigration and Customs Enforcement. The remaining allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents admit that ICE is the federal agency responsible for enforcement of the INA and Acting Director Lyons is responsible for the implementation and enforcement of the INA and oversees the Detroit Field Office. Respondents deny any remaining allegations of this paragraph as untrue.

27. 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. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

ANSWER: Respondents admit that Kristi Noem is the Secretary of the Department of Homeland Security. The remaining allegations of this paragraph states legal conclusions to which no response is required. To the extent a response is required, Respondents admit that Secretary Noem is responsible for the implementation and enforcement of the INA and oversees ICE. Respondents lack knowledge or information sufficient to form a belief as to

the truth of the allegations regarding the capacity in which Petitioner is suing Secretary Noem. Respondents deny the remaining allegations of this paragraph as untrue.

FACTS

Petitioner Alasan COLLEY

28. Petitioner Alasan COLLEY fled his native Gambia in January of 2022 and entered the United States in July of 2022. He was briefly detained at the border and then either released or paroled into the United States. **Exhibit A.**

ANSWER: Admitted only that Petitioner is a citizen of The Gambia; and that, on or about July 10, 2022, immigration officials encountered Petitioner near San Luis, Arizona; and that he entered the United States without inspection. Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining factual allegations of this paragraph.

29. Petitioner was placed into removal proceedings and issued a Notice to Appear (NTA) on July 12, 2022, charging him as an alien present without admission or parole under 8 U.S.C. § 1182(a)(6)(A)(i). The NTA does not allege that Petitioner is an arriving alien. **Exhibit B.**

ANSWER: Admitted.

30. Petitioner relocated to Michigan where he checked in with the Detroit ICE Field Office as required.

ANSWER: Respondents admit that Petitioner was required to check-in with the Detroit ICE Field Office as part of his Order of Release on Recognizance, but lack knowledge or information sufficient to form a belief as to the truth of the factual allegation concerning Petitioner's whereabouts prior to Detroit. Respondents deny the remaining allegation in this paragraph as untrue.

31. The Detroit ICE Field Office placed Petitioner on an Order of Supervision in July of 2022. **Exhibit C.**

ANSWER: Admitted.

32. Petitioner filed an asylum application seeking protection from persecution on account of [redacted] After a series of hearings, on August 7, 2025, an Immigration Judge denied all forms of relief and ordered Petitioner removed to Gambia. On August 21, 2025, the BIA received Petitioner's Notice of Appeal. That appeal was pending on January 26, 2026, when Petitioner was detained by ICE and remains pending at the time of this filing. **Exhibit D**.

ANSWER: Respondents lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph to the extent they concern the factual basis of Petitioner's asylum application. Respondents admit the remaining allegations of this paragraph.

33. Pursuant to his Order of Supervision, Petitioner is required to check-in with Supervision Appearance Program (ISAP) office in Detroit. Most check-ins are performed using an app on Petitioner's mobile phone. Sometime in the days or weeks prior to his detention on January 26, 2026, the screen on Petitioner's previous mobile phone failed and Petitioner replaced the phone and attempted to reinstall the ICE reporting app on his new phone but had difficulty logging in to the new app. In an effort to remain compliant with his order of supervision, Petitioner planned to drive to the ISAP reporting office on Jefferson Avenue in Detroit to ask for assistance installing the ICE reporting app on his new mobile phone. Petitioner set out for the ISAP office on January 26, 2026, *one day prior to his next required check-in date*.

ANSWER: Admitted only that Petitioner's Order of Supervision required check-ins with ICE in Detroit, Michigan, and that check-ins may use the SmartLINK Mobile

Application. Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining factual allegations of this paragraph.

34. However, on January 26, 2026, while using GPS on his phone to navigate to the ISAP office, Petitioner inadvertently ended up in a lane that took him to the entrance of the Windsor Tunnel. Petitioner explained to the first officer who approached him what had happened and that he was on his way to the ICE/ISAP office. Petitioner showed this first officer that the GPS directions on his phone were to the ISAP office on Jefferson. Petitioner hoped they would just assist him in returning to his route so he could continue on his way. Not so. Instead, Petitioner was told to get out of his car and enter the Border Patrol office with the now several officers. Petitioner did so, voluntarily. Petitioner had in his possession his Michigan driver's license and his blue ISAP ID card, both of which he tendered to the officers. As his English remains limited, Petitioner asked for an interpreter. After waiting several hours, with benefit of a translator, the Officers accused Petitioner of attempting to run to Canada. Petitioner denied this accusation, again informed the officers his mobile phone GPS clearly showed the address of the ISAP office, and that he had absolutely no personal belongings with him indicative of fleeing to Canada. The officers detained Petitioner. Petitioner recalls spending approximately 24 hours in ICE custody in Detroit before being moved the next morning to Calhoun County Jail in Battle Creek, Michigan, where he remains.

ANSWER: Admitted that immigration officials encountered Petitioner at the Detroit Windsor Tunnel on January 26, 2026, detained him, and that Petitioner is currently detained at the Calhoun County Jail in Battle Creek, Michigan. Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining factual allegations of this paragraph.

35. Petitioner remains in the physical custody of Respondents at the Calhoun County Jail in Battle Creek, Michigan, which falls under the purview of the Detroit Field Office of Immigration and Customs Enforcement (ICE), which has responsibility for immigration detention centers in Michigan and Ohio.

ANSWER: Admitted.

36. Petitioner's Order of Supervision was not properly revoked pursuant to 8 C.F.R. § 241.13(i). Petitioner's continued detention is unlawful.

ANSWER: Denied.

37. Petitioner is neither a flight risk nor a danger to the community, as demonstrated by the following, as demonstrated by Respondent's prior determination to release him into the community on an Order of Supervision.

ANSWER: Denied.

38. Without relief from this court, Petitioner faces the prospect of months—or even years—in immigration custody, separated from family, friends and community.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of this paragraph.

LEGAL FRAMEWORK

39. Throughout a noncitizen's removal proceedings – from apprehension and an initial custody determination, through removal proceedings, and then through any post-final-order removal period, they may be subject to detention by the ICE Field Office Director under the statutory provisions discussed at length in the following paragraphs, including 8 U.S.C. § 1226(a)

which provides access to a bond hearing and 1225(b)(2)(A) which authorizes mandatory detention without access to a bond hearing. When not detained, many noncitizens are released on an Order of Supervision by the Field Office Director. *See* 8 C.F.R. §§ 241.5 and 241.13.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner's attempt to characterize a statute and defer to the text of the statute itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

40. The INA does not prescribe any form of detention that is appropriate for a noncitizen who has been released from custody by the ICE Field Office Director on an Order of Supervision and who is in compliance with that Order of Supervision. The regulations do, however, provide a process by which release under an Order of Supervision may be revoked. 8 C.F.R. § 241.13(h) and (i). The Field Office Director has duties to the noncitizen under these provisions: "the alien will be notified of the reasons for revocation of his or her release" and "the Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification" Similarly, the noncitizen has rights under these same provisions, including that they " may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision." 8 C.F.R. § 241.13(i)(3).

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner's attempt to characterize a statute and defer to the text of the statute itself. Further answering,

Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

41. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner's attempt to characterize a statute and defer to the text of the statute itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

42. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens who are in removal proceedings. *See* 8 U.S.C. § 1229a. *See also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings"). Under § 1226(a), individuals who are taken into immigration custody pending a decision on whether they are to be removed can be detained but are generally entitled to seek release on bond.[3] The bond may be set by ICE itself as part of an initial custody determination, *see* 8 C.F.R. § 1236.1(c)(8), and/or the individual may seek a bond hearing in immigration court at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Section 1226(a) is the statute that, for decades, has been applied to people like Petitioner who have been living in the United States and are charged with inadmissibility under § 1182(a)(6)(A)(i).

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner's

[3] Section § 1226 contains an exception for noncitizens who have been arrested, charged with, or convicted of certain crimes, who are subject to mandatory detention without bond. 8 U.S.C. § 1226(c). That exception does not apply to Petitioner here.

attempt to characterize a statute and defer to the text of the statute itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

43. Second, the INA provides for mandatory detention of certain recently arrived noncitizens, namely those subject to expedited removal under 8 U.S.C. § 1225(b)(1), and other recent arrivals seeking admission under § 1225(b)(2). *See Jennings*, 583 U.S. at 287, 289 (explaining that § 1225(b)(2)'s mandatory detention scheme applies "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the United States."). Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Petitioner.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner's attempt to characterize a statute and federal court decision and defer to the text of the statute and decision themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

44. Third, the INA also provides for detention of noncitizens who have already been ordered removed, *see* 8 U.S.C. § 1231. Section 1231 is not relevant here.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner's attempt to characterize a statute and defer to the text of the statute itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

45. This case challenges Respondents' unlawful revocation of Petitioner's Order of Supervision and Respondents' erroneous decision that Petitioner is subject to mandatory detention without bond under §1225(b)(2), rather than being bond-eligible under § 1226(a).

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

46. In the three decades that followed the 1996 enactment of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), people who entered without inspection and were subsequently placed in removal proceedings received bond hearings if ICE chose to detain them, unless their criminal history rendered them ineligible.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner's attempt to characterize a statute and defer to the text of the statute itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

47. However, on July 8, 2025, ICE, "in coordination with" the Department of Justice, suddenly announced a new governmental policy that rejected the well-established understanding of the statutory framework and reversed decades of agency practice, claiming that all persons who entered the United States without inspection are subject to mandatory detention without bond under § 1225(b)(2)(A).

ANSWER: Respondents deny Petitioner's attempt to summarize an ICE Interim Guidance document and defer to the text of the document itself. Further answering,

Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

48. In decision after decision, federal courts—both nationwide and here in the Western District of Michigan—have rejected Respondents' sudden reinterpretation of the statutory scheme, and have instead held that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *See, Appendix 1.*

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner's attempt to characterize federal court decisions and defer to the text of the decisions themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

49. On September 5, 2025, the BIA issued a precedential decision that rejected the overwhelming consensus of the federal courts. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision held that all noncitizens who entered the United States without admission or parole are ineligible for bond hearings before an IJ. The *Yajure Hurtado* decision, like the government policy it seeks to uphold, defies the INA. The BIA's reasoning is unpersuasive and "at odds with every District Court that has been confronted with the same question of statutory interpretation." *Pizarro Reyes*, 2025 WL 2609425, at *7.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize a BIA decision and defer to the text of the decision itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

50. In a highly analogous case, certified as a class action, the U.S. District Court for the Central District of California issued a Motion for Summary Judgment (MSJ) Order which held that for individuals apprehended and detained in the interior of the country long after their entry, "that § 1226(a) is the governing authority and that they are not 'applicants for admission.'" *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al.*, No. 5:25-cv-01873 (C.D. Cal. November 25, 2025), ECF81 PageID.1444. That ruling rejected the Board of Immigration Appeals' reasoning in both *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and the predecessor July 8, 2025, ICE "Interim Guidance Regarding Detention Authority for Applicants for Admission" applying § 235(b)(2)(A) detention without bond to all persons who entered without admission/inspection. Subsequently, the *Maldonado Bautista* Court clarified that "[a]lthough the MSJ Order does not grant vacatur of *Yajure Hurtado* under the APA, *Yajure Hurtado* is no longer controlling; the legal conclusion underlying the decision is no longer tenable." *Maldonado Bautista*, No. 25-01873, ECF92 PageID.1726. **On February 18, 2026**, the *Maldonado Bautista* Court issued a further Order granting Petitioner's Motion to Enforce Judgement, in which Judge Sykes made unequivocally clear that "[t]he Court hereby **VACATES** *Matter of Yajure Hurtado* as contrary to law under the APA." *Maldonado Bautista*, No. 25-01873, ECF116 PageID.2090 (February 18, 2026) (emphasis in original).

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize federal court decisions and defer to the text of the decisions themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

51. As court after court has explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner and 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]."

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize federal court decisions and statutes and defer to the text of the decisions and statutes themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

52. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). 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*, 779 F. Supp. 3d at 1256-57 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize federal court decisions and statutes and defer to the text of the decisions and statutes themselves. Further

answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

53. 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.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize a statute and defer to the text of the statute itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

54. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. 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). *See Jennings*, 583 U.S. at 287 (explaining 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.").

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize a statute and federal court decision and defer to the text of the statute and decision themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

55. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people who have already entered and were long residing in the United States at the time they were apprehended by immigration authorities and detained. Because § 1226(a), not § 1225(b), is the applicable statute, Petitioner's detention without eligibility for bond is unlawful.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize a statute and defer to the text of the statute itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

56. Petitioner seeks relief from this Court because any months-long appeal to the BIA of an IJ's decision denying bond would be futile. First, the agency's position is clear: both IJs and future panels of the BIA must follow the *Yajure Hurtado* decision – despite clear class-action rulings from the Central District of California, now including *vacteur* of *Yajure Hurtado* **as of yesterday**. Further, the new governmental policy was issued "in coordination with DOJ," which oversees the immigration courts, including the BIA—up to and including the ability of the Attorney General to modify or overrule decisions of the BIA, *see* 8 C.F.R. § 1003.1(h). It is therefore unsurprising that the BIA has (erroneously) held that persons like Petitioner are subject to mandatory detention under § 1225(b)(2)(A), rather than being bond-eligible under § 1226(a). Moreover, in the numerous identical habeas corpus petitions that have been filed nationwide, EOIR and the Attorney General are often respondents and have consistently affirmed via briefing and oral argument that individuals like Petitioner are applicants for admission and subject to detention under § 1225(b)(2)(A). *See, e.g.,* Resp. to Pet., *Lopez Campos v. Raycraft*, No. 25-CV-12546 (E.D.

Mich. Aug. 9, 2025), Dkt. 9; Resp. to Pet., *Pizarro Reyes v. Raycraft*, No. 25-CV-12546 (E.D. Mich. Aug. 27, 2025), Dkt. 4.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize the BIA decision, government policy, and statute and defer to the text of the those decisions and statute themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

57. Second, by the time the BIA could even issue an appeal—a process that typically takes at least six months, *Rodriguez*, 779 F. Supp. 3d at 1245, and in many cases roughly a year, *id.*—the harm of Petitioner's unlawful detention will be impossible to remediate. Nor will the downstream effects of continued detention be remediable.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize a federal court decision and defer to the text of the decision itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

58. Third, neither IJs nor the BIA have the authority to decide constitutional claims. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006). Here, Petitioner claims not only that Respondents are unlawfully detaining him without bond hearings under an inapplicable statute, but also that such detention violates Petitioner's constitutional right to due process if the government seeks to deprive him of his liberty.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize a federal court decision and defer to the text of the decision itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

59. Due Process entitles Petitioner to release under the prior terms of his Order of Supervision. In the alternative and at a bare minimum, Due Process entitles Petitioner to a bond hearing. At the "heart" of the Fifth Amendment's due process clause is "the freedom from imprisonment—government custody, detention, and other forms of physical restraint." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Depriving a person of their liberty is only permissible as punishment for crimes, or in "certain special and narrow nonpunitive [i.e. civil] circumstances." *Id.* (quotation omitted). That due process guarantee extends to noncitizens regardless of "whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize the Constitution and defer to the text of the Constitution itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

60. Civil immigration detention is not punishment for a crime. Thus, it can only be justified "where a special [non-punitive] justification . . . outweighs the individual's constitutionally protected interest" in liberty—usually only by a finding that such detention is necessary to prevent their flight or protect against dangers to the community. *Zadvydas*, 533 U.S.

at 690 (cleaned up); *see also United States v. Salerno*, 481 U.S. 739, 750 (1987). A hearing on whether such a special justification necessitates civil detention is the most basic protection required by the Fifth Amendment. *See Zadvydas*, 533 U.S. at 690; *Foucha*, 504 U.S. at 79; *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997); *Addington v. Texas*, 441 U.S. 418, 428 (1979). And the nature of that hearing is governed by the classic balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976). That test weighs (1) the nature of "the private interest" being deprived; (2) "the risk of erroneous deprivation" and (3) the "fiscal and administrative burdens" posed by providing additional process. *Id.* All three *Mathews* factors favor Petitioner.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize federal court decisions and defer to the text of the decisions themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

61. In evaluating the *Mathews* factors in the context of removal proceedings the liberty interest of a noncitizen detained under section 1226(a), Courts "have concluded that the first *Mathews* factor indicates the government should bear the burden of proof at an initial section 1226(a) bond hearing even 'absent prolonged detention.'" *Soto-Medina v. Lynch*, Case No. 1:25-cv-01704 (W.D. Mich. January 21, 2026), ECF No. 8, PageID.82, *quoting Hernandez-Lara v. Lyons*, 10 F.4th 19, 29-30 (1st Cir. 2021). *See Alvarez Ortiz*, 2025 WL 3085032 at *12 (collecting cases); *see also Miranda v. Garland*, 34 F.4th 338, 378 (4th Cir. 2022) (Urbanski, J., concurring in part) (noting a "a growing chorus of decisions" by federal district and appellate courts "around the country" that have concluded the government should bear the burden of justifying the

continued detention of the noncitizen at Section 1226(a) bond redetermination hearings by clear and convincing evidence"). This District has also determined that "[p]lacing the burden on the government also satisfies the second *Mathews* factor, reducing the risk of erroneous deprivation." *Soto-Medina*, Case No. 1:25-cv-01704, PageID.83. The *Soto-Medina* decision concluded that, "[i]n sum, the *Mathews* factors establish that due process requires the government to bear the burden of demonstrating that Petitioner is a flight risk or danger to the community to deny bond. As noted above, a majority of federal courts, including both trial and appellate courts, have taken this position." *Soto-Medina*, Case No. 1:25-cv-01704, PageID.85, *citing Miranda v. Garland*, 34 F.4th at 378.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Respondents also deny Petitioner's attempt to characterize federal court decisions and defer to the text of the decisions themselves. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

ANSWER: Respondents adopt by reference their responses to all prior paragraphs as though fully incorporated herein.

63. On January 26, 2026, while on release by the Detroit ICE Field Office pursuant to an Order of Supervision with which he had complied in all respects, Petitioner was detained by the Detroit ICE Field Office.

ANSWER: Respondents admit that immigration officials detained Petitioner on January 26, 2026. Respondents deny the remaining allegations of this paragraph as untrue.

64. Petitioner does not have a final order of removal as his appeal remains pending at the Board of Immigration Appeals. Therefore, Petitioner is not subject to post-final-order detention as set forth in 8 C.F.R. §§ 241.1 through 241.4.

ANSWER: Admitted.

65. Respondents unlawfully revoked Petitioner's Order of Supervision in violation of the regulations at 8 C.F.R. § 241.13(i).

ANSWER: Denied.

66. The appropriate remedy is immediate release under the previous terms of Petitioner's Order of Supervision.

ANSWER: Denied.

67. Respondents' continued detention of Petitioner in violation of 8 C.F.R. § 241 violates the INA.

ANSWER: Denied.

COUNT II

Violation of the INA

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

ANSWER: Respondents adopt by reference their responses to all prior paragraphs as though fully incorporated herein.

69. Respondents are unlawfully detaining Petitioner without bond pursuant to the mandatory detention provision at 8 U.S.C. § 1225(b)(2).

ANSWER: Denied.

70. Section 1225(b)(2) does not apply to Petitioner, who previously entered the country and has long been residing in the United States prior to being apprehended and detained without bond by Respondents.

ANSWER: Denied.

71. Instead, Petitioner should be released immediately or, at a minimum, should be subject to the detention provisions of § 1226(a) and therefore entitled to a custody determination by ICE, and if custody is continued, to a custody redetermination (i.e., a bond hearing) by an immigration judge.

ANSWER: Denied.

72. Respondents' application of 8 U.S.C. § 1225(b)(2) to Petitioner results in Petitioner's unlawful detention without the opportunity for a bond hearing and violates the INA.

ANSWER: Denied.

COUNT III

Violation of Due Process

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

ANSWER: Respondents adopt by reference their responses to all prior paragraphs as though fully incorporated herein.

74. 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 the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner's attempt to characterize the Constitution and defer to the text of the Constitution itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

75. Petitioner has a fundamental interest in liberty and being free from official restraint.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny Petitioner's attempt to characterize the Constitution and defer to the text of the Constitution itself. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

76. This Court should find that continued detention without access to a constitutionally-adequate bond hearing under § 1226(a) is itself sufficient grounds for granting of this Petition on procedural Due Process grounds. Respondent respectfully asserts that his continued unlawful

detention without the opportunity for a bond hearing constitutes a violation of Due Process under the Fifth Amendment.

ANSWER: The allegations of this paragraph state legal conclusions to which no response is required. To the extent a response is required, Respondents deny the allegations of this paragraph. Further answering, Respondents refer the Court to, and incorporate herein, their Response, filed concurrently with this Answer.

The remainder of the Petition is a Prayer for Relief to which no response is required. To the extent that the Prayer for Relief is deemed to allege facts to which a response is required, Respondents deny the allegations.

Any allegation in the Petition that has not been expressly admitted is hereby denied.

Respectfully submitted,

TIMOTHY VERHEY
United States Attorney

Dated: March 20, 2026

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