

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

CRISTIAN SOEL GARCIA GAMARRO,)
A )

Petitioner,)

v.)

Civil Action No. CV 526-260)

TONY NORMAND, Warden, Folkston)
ICE Processing Center; and GEORGE)
STERLING, Deputy Field Office)
Director, Atlanta Field Office, U.S.)
Immigration and Customs)
Enforcement,)

Respondents.)

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
UNDER 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Cristian Soel Garcia Gamarro is a 22-year-old citizen of Guatemala who has lived in the United States since he was 15 years old. He entered the United States with his father in March 2019, was detained at the border, and was released from custody on April 4, 2019. The U.S. Department of Homeland Security (“DHS”) placed Mr. Garcia Gamarro in removal proceedings and then terminated those proceedings after his release. For nearly seven years, Mr. Garcia Gamarro resided in the United States, applied for asylum, received employment authorization from DHS, and lived with his sister and brother-in-law in the community. He has no criminal history.

2. On January 23, 2026, U.S. Immigration and Customs Enforcement (“ICE”) arrested Mr. Garcia Gamarro in Savannah, Georgia. ICE served him with a new Notice to Appear (“NTA”) and re-initiated removal proceedings against him. Upon information and belief, ICE now asserts that Mr. Garcia Gamarro is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) as an “applicant for admission” who is “seeking admission” to the United States. This classification strips Mr. Garcia Gamarro of any right to a custody redetermination hearing before an Immigration Judge.

3. Mr. Garcia Gamarro’s detention is unlawful for multiple independent reasons.

4. The plain text and structure of the Immigration and Nationality Act (“INA”) foreclose the government’s position. Section 1225 governs the inspection and processing of individuals arriving at or seeking entry to the United States. Section 1226 governs the apprehension and detention of individuals already present in the United States who are placed in removal proceedings. Mr. Garcia Gamarro has been present in the United States since 2019. He is not “seeking admission”—he has been living in this country for nearly seven years. The statutory framework, the implementing regulations, and decades of agency practice all confirm that § 1226(a) governs his detention.

5. Upon information and belief, DHS previously released Mr. Garcia Gamarro on conditional parole under § 1226(a)(2)(B). The government cannot now retroactively reclassify him under the mandatory detention scheme of § 1225(b)(2)(A).

Having exercised its authority under § 1226(a) and released Mr. Garcia Gamarro for nearly seven years, the government's reclassification is ultra vires and contrary to the INA. Furthermore, upon information and belief, Respondents never formally revoked Mr. Garcia Gamarro's parole before re-detaining him. The plain text of § 1226(b) requires that, before re-arresting an individual previously released under § 1226(a), the government must revoke the individual's parole and rearrest them pursuant to a warrant. 8 U.S.C. § 1226(b); 8 C.F.R. § 1236.1(c)(9). Respondents did neither.

6. The government's re-detention of Mr. Garcia Gamarro violates his right to due process under the Fifth Amendment. After releasing him and permitting him to reside in the community since he was 15 years old—the government re-detained him without notice, without a hearing, without an individualized determination of flight risk or dangerousness, and without any changed circumstances to justify revocation of his release.

7. The government's position rests on a July 8, 2025 DHS policy and the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which together claim that all individuals who entered the United States without inspection are subject to mandatory detention under § 1225(b)(2)(A). On February 18, 2026, the U.S. District Court for the Central District of California vacated *Yajure Hurtado* under the Administrative Procedure Act as contrary to law. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026).

8. This Court and others have already rejected the government's interpretation. *See Aguirre Villa v. Normand*, 2025 U.S. Dist. LEXIS 224656 (S.D. Ga. Nov. 14, 2025) (Wood, J.) (adopting R&R, finding noncitizen who were residing in the United States at the time of detention subject to discretionary detention under § 1226(a) and granting habeas relief); *J.A.M. v. Streeval*, 2025 U.S. Dist. LEXIS 215437 (M.D. Ga. Nov. 1, 2025) (Land, J.) (same). The overwhelming majority of federal district courts to consider this question have reached the same conclusion. *See, e.g., Lopez v. Hardin*, No. 2:25-cv-830-KC-NPM, 2025 U.S. Dist. LEXIS 212865 (M.D. Fla. Oct. 29, 2025); *Puga v. Assistant Field Office Dir.*, No. 25-24535-CIV, 2025 U.S. Dist. LEXIS 203222, at *10 (S.D. Fla. Oct. 15, 2025); *Patel v. McShane*, No. 25-5975, 2025 U.S. Dist. LEXIS 228258, at *1 (E.D. Pa. Nov. 20, 2025) (noting "at least 282" district court decisions rejecting the government's interpretation of § 1225).

9. Accordingly, Petitioner seeks a writ of habeas corpus requiring his immediate release from unlawful detention or, in the alternative, a custody redetermination hearing under § 1226(a) and the implementing regulations, at which the government must demonstrate by clear and convincing evidence that he is a flight risk or danger to the community.

JURISDICTION

10. This action arises under the U.S. Constitution and the INA, 8 U.S.C. § 1101 *et seq.*

11. 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 U.S. Constitution (the Suspension Clause).

12. 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.

VENUE

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

14. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, or agents of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of Georgia.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

15. There is no statutory exhaustion requirement for habeas challenges under 28 U.S.C. § 2241. In the absence of a statutory exhaustion requirement, “sound judicial discretion governs.” *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). Petitioner has not yet sought a bond hearing before an Immigration Judge because any such request would be futile. The BIA’s binding decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), compels Immigration Judges to deny bond to individuals in Petitioner’s circumstances. *See Puga*, 2025 U.S. Dist. LEXIS 203222,

at *7 (finding that the BIA's decision in *Yajure Hurtado* renders exhaustion futile). Although *Yajure Hurtado* was recently vacated by the Central District of California, see *Maldonado Bautista*, 2026 WL 468284, it remains unclear whether all Immigration Judges will adhere to that order.

16. Similarly, it would be futile for Petitioner to seek review of his claim of unlawful detention in violation of his due process rights because Immigration Courts and the BIA are unable to grant relief on constitutional claims. *Carr v. Saul*, 593 U.S. 83, 93 (2021) (“It makes little sense to require litigants to present claims to adjudicators who are powerless to grant the relief requested.”)

REQUIREMENTS OF 28 U.S.C. § 2243

17. 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, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

PARTIES

18. Petitioner Cristian Soel Garcia Gamarro is a 22-year-old native and citizen of Guatemala. He entered the United States in March 2019 at or near the southern border when he was 15 years old. DHS released him from custody on April 4, 2019. Petitioner resided in the United States for nearly seven years, applied for asylum, received employment authorization from DHS, and lived with his sister and brother-in-law. He has no criminal history. ICE arrested Petitioner in Savannah,

Georgia on January 23, 2026. He is currently detained at the Folkston ICE Processing Center in Folkston, Georgia.

19. Respondent Tony Normand is sued in his official capacity as Warden of Folkston ICE Processing Center. He is the individual in charge of the facility where Petitioner is currently detained. He has immediate physical custody over Petitioner, and in conjunction with DHS, ICE, and their agents, has the authority to release him

20. Respondent George Sterling is sued in his official capacity as Deputy Field Office Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations division. As such, he is a legal custodian of Petitioner with the authority to release Petitioner from ICE custody.

FACTS

21. Petitioner Cristian Soel Garcia Gamarro was born on  and is a citizen of Guatemala.

22. On or about March 2019, Mr. Garcia Gamarro entered the United States at or near the southern border with his father. He was 15 years old at the time. Mr. Garcia Gamarro and his father were briefly detained by immigration authorities upon their entry.

23. On March 15, 2019, DHS served Mr. Garcia Gamarro with a Notice to Appear, commencing removal proceedings under 8 U.S.C. § 1229a.

24. Mr. Garcia Gamarro's removal proceedings were subsequently terminated.

25. On April 4, 2019, DHS released Mr. Garcia Gamarro from custody. Upon information and belief, DHS released Mr. Garcia Gamarro on conditional parole under 8 U.S.C. § 1226(a)(2)(B).

26. Even if Mr. Garcia Gamarro was released on humanitarian parole under 8 U.S.C. § 1182(d)(5)(A) rather than conditional parole, he was not “seeking admission” at the time ICE detained him in January 2026 and had already been residing in the United States for nearly seven years. His recent arrest and detention does not fall within § 1225(b)(2)(A)’s framework, which contemplates inspection and screening for admission, typically at U.S. borders and ports of entry.

27. Following his release, Mr. Garcia Gamarro settled in the United States and has lived here continuously since April 2019. He resides with his sister and his brother-in-law.

28. Mr. Garcia Gamarro applied for asylum with U.S. Citizenship and Immigration Services. DHS granted Mr. Garcia Gamarro employment authorization in connection with his pending asylum application.

29. Mr. Garcia Gamarro has no criminal history. He is neither a flight risk nor a danger to the community.

30. On January 23, 2026, ICE arrested Mr. Garcia Gamarro in Savannah, Georgia. He was driving home when he was pulled over by a police officer because the light that illuminates his license plate was burnt out. Mr. Garcia Gamarro’s driver’s license had expired, so he was taken to the Chatham County Sheriff’s Office and then taken into ICE custody. ICE served Mr. Garcia Gamarro with a new NTA on the same

date, charging him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as a noncitizen present in the United States without being admitted or paroled, and under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an immigrant not in possession of a valid entry document.

31. ICE now misclassifies Mr. Garcia Gamarro's detention under 8 U.S.C. § 1225(b)(2)(A) and asserts that he is an "applicant for admission" subject to mandatory detention without any right to a bond hearing before an Immigration Judge.

32. Upon information and belief, Respondents never formally revoked Mr. Garcia Gamarro's parole before his re-detention.

33. Mr. Garcia Gamarro's master calendar hearing is scheduled for March 10, 2026. He has not been afforded a bond hearing.

34. Without relief from this Court, Mr. Garcia Gamarro faces the prospect of months, or even years, in immigration custody, separated from his sister and community—a young man who came to this country as a child and has known no other home for the past seven years.

LEGAL FRAMEWORK

Statutory Authority for Immigration Detention

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

36. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who

have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).

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

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

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

40. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, individuals 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).

41. Thus, in the decades that followed, most individuals who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C.

§ 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an 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)).

42. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all individuals who entered the United States without inspection shall now be subject to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of when an individual is apprehended or how they were released from initial detention and affects those who have resided in the United States for months, years, and even decades.

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

Why § 1226(a) Governs Petitioner’s Detention

44. Section 1226(a) creates a discretionary framework regarding the arrest and detention of noncitizens upon a “warrant issued by the Attorney General.” 8 U.S.C. § 1226(a). Under this framework, DHS “may continue to detain the arrested alien” or release them under bond or conditional parole. *Id.* When a noncitizen was

previously in custody and released on conditional parole, DHS, in the discretion of certain specified officials, may revoke parole, “rearrest the alien under the original warrant, and detain the alien.” *Id.* § 1226(b); 8 C.F.R. § 1236.1(c)(9). Thus, for a noncitizen previously released under § 1226(a) conditional parole, statute and regulation require lawful revocation of parole and a warrant for re-arrest to justify re-detention. 8 U.S.C. § 1226(b); 8 C.F.R. § 1236.1(c)(9); *Chogllo Chafila v. Scott*, 804 F. Supp. 3d 247, 264 (D. Me. 2025).

45. The text of § 1226 explicitly applies to individuals 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 individuals makes clear that, by default, such individuals are afforded a bond hearing under subsection (a). As one district court explained, “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.” *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

46. Since the government adopted its new policies, this Court and others have rejected the government’s novel interpretation of the INA’s detention authorities and the BIA’s reasoning in *Matter of Yajure Hurtado*. In *Aguirre Villa*, this Court concluded that “[u]nder the plain language of the relevant statutes,” Petitioner’s detention was “governed by § 1226(a), not § 1225(b)(2)(A).” 2025 U.S. Dist. LEXIS 224656, at *21–22. The Court found that the cases cited by Respondents in support of the government’s position were “either unpersuasive or distinguishable”

and that “none of the cases Respondents cite present compelling reasons to conclude that Petitioner Villa is subject to mandatory detention under § 1225.” *Id.* at *23–24.

47. In *J.A.M. v. Streeval*, Judge Land in the Middle District of Georgia conducted a thorough textual analysis and reached the same conclusion. The court observed that § 1225(b)(2)(A) does not mandate detention of all “applicants for admission” but narrows mandatory detention to “aliens seeking admission.” 2025 U.S. Dist. LEXIS 215437, at *7. The court explained that “[s]eeking admission” is a “participial phrase that modifies the noun alien” and that “[s]eek” is “an active verb, not a type of status.” *Id.* at *8. Reading §§ 1226(a)(2) and 1225(b)(2)(A) harmoniously and in context, Judge Land concluded that “for an alien seeking admission upon his arrival to the United States or at some later time, Congress has determined that his detention is mandatory,” but “for aliens who are found in the country unlawfully and are arrested, an immigration officer or immigration judge has the discretion” to grant release on bond. *Id.* at *10–11.

48. While most courts agree that interpreting §§ 1226 and 1225 this way is consistent with the statutory framework, a small number of courts, and recently the Fifth Circuit, have agreed with the government’s interpretation, finding that the term “applicant for admission” necessarily includes “seeking admission” regardless of length of presence in the United States, subjective intent, or whether apprehension occurred as part of the inspection and screening framework established in § 1225. *See, e.g., Morales v. Noem*, No. 25-62598-CIV-SINGHAL, 2026 WL 236307, at *5 (S.D.

Fla. Jan. 29, 2026) (Singhal, J.); *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330, at *4 (5th Cir. Feb. 6, 2026).

49. The interpretation followed by this Court and the overwhelming majority of courts across the country is persuasive for several reasons. First, it gives independent meaning to Congress's deliberate use of both "applicant for admission" and "seeking admission" in § 1225(b)(2)(A), rather than treating one phrase as surplusage in violation of fundamental canons of construction. *Aguirre Villa*, 2025 U.S. Dist. LEXIS 224656, at *24. Second, it aligns with the statutory definition of "admission" in § 1101(a)(13)(A) as "lawful entry . . . after inspection and authorization," reading "seeking admission" to refer to noncitizens actively pursuing this process at or near the border. *Id.* at *23. Third, it respects the Supreme Court's distinction in *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018), between § 1225(b), which applies to "aliens seeking admission into the country," and § 1226, which governs "aliens already in the country." *Id.* at *21 n.4. Finally, it avoids rendering the recently enacted Laken Riley Act and other § 1226(c) provisions largely superfluous, as would result if all inadmissible noncitizens in the interior were already subject to mandatory detention under § 1225(b)(2)(A). *Puga*, 2025 U.S. Dist. LEXIS 203222, at *11.

The Government Cannot Reclassify Petitioner's Detention

50. The detention framework Congress established in the INA does not permit ICE to initially release a person under § 1226(a) and then later switch the detention classification to § 1225(b)(2)(A) upon re-detention. The government made

its classification determination at the time of initial processing in 2019. Having exercised its authority under § 1226(a)—which provides for discretionary detention—the government cannot retroactively recharacterize Petitioner as an “applicant for admission” subject to mandatory detention under § 1225(b).

51. While Respondents have unilaterally changed Petitioner’s detention authority, they cannot “cite authority supporting the idea that they possessed that unilateral right.” *Loa Caballero v. Baltazar*, No. 25-CV-03120-NYW, 2025 WL 2977650, at *8 (D. Colo. Oct. 22, 2025). Just as “a noncitizen cannot switch detention from § 1225(b) to § 1226,” *Castillo v. De Anda-Ybarra*, No. 25-1074 JB/JFR, 2026 WL 413407, at *18 (D.N.M. Feb. 13, 2026), nothing in the detention framework permits the government to switch from discretionary to mandatory detention after it affirmatively elects to apply § 1226(a). *See Singh v. Bondi*, No. 1:25-CV-02101-SEB-TAB, 2025 WL 3029524, at *6 (S.D. Ind. Oct. 30, 2025); *Tanchez v. Noem*, No. 2:25-CV-1150, 2026 WL 125184, at *17 (D. Utah Jan. 16, 2026) (“it is not clear whether DHS can switch horses midstream without disturbing the framework of rights and responsibilities that Congress intended.”).

Due Process Principles

52. The Supreme Court has made clear that the protections of the Due Process Clause extend to all persons within the United States, including noncitizens, regardless of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (reiterating the well-established rule that

noncitizens, even those without legal status, are entitled to due process of law requiring “notice and an opportunity to be heard.”).

53. The Supreme Court established in *Mathews v. Eldridge*, 424 U.S. 319 (1976), a balancing test to evaluate the adequacy of procedures used before deprivation of a liberty interest, which consider: (1) the private interest affected; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value of additional procedural safeguards; and (3) the government’s interest, including the administrative burden that additional procedures would impose. *Mathews*, 424 U.S. at 335.

54. Application of this framework to Petitioner’s circumstances compels the conclusion that Respondents violated his constitutional rights by re-detaining him following nearly seven years of release—without ever affording him any due process. Petitioner came to this country as a child at the age of 15. He grew up here. Together with his father, he applied for asylum and received work authorization. The government permitted him to live freely in the community for the entirety of his transition from adolescence to adulthood. The abrupt termination of that liberty through re-detention and reclassification into mandatory detention—with no ability to seek custody redetermination—constitutes a severe deprivation of liberty.

55. Petitioner’s situation is materially indistinguishable from the parolee in *Morrissey v. Brewer*. In that case, the Supreme Court recognized that parole enables a person to reside at home, work, support their family, and maintain long-term personal relationships. 408 U.S. 471, 482–84 (1972). Petitioner’s liberty interest

extended beyond a brief or temporary release, establishing a protected right to remain free unless proper constitutional revocation procedures are followed. *Young v. Harper*, 520 U.S. 143, 147–49 (1997).

56. The risk of erroneous deprivation is high because Respondents deny Petitioner any “opportunity to challenge the legal basis for his detention or its necessity.” *See Perez v. Mordant*, No. 2:25-CV-00947-SPC-DNF, 2025 WL 3466956, at *4 (M.D. Fla. Dec. 3, 2025). Notice and a hearing are meaningful procedures that would protect Petitioner’s liberty interest and ensure that detention complies with the INA and due process.

57. Civil immigration detention must be “nonpunitive in purpose and effect” and is only justified when a noncitizen presents a risk of flight or danger to the community. *Zadvydas*, 533 U.S. at 690. In releasing Petitioner, DHS necessarily determined that Petitioner was neither a flight risk nor a danger to the community. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017). Thus, any governmental interest in detaining Petitioner is low and can be served by the procedures he seeks. Affording Petitioner notice and a pre-deprivation hearing imposes only a minimal burden and cost on the government. DHS and immigration courts frequently perform such custody redetermination hearings for individuals in detention. *See* 8 C.F.R. § 1236.1(d)(1).

58. Petitioner remains in unlawful detention because Respondent continues to apply an impermissibly broad reading of § 1225 to him. His detention without notice, explanation, or individualized assessment violates the INA and the Due

Process Clause of the Fifth Amendment. Without relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his sister and family.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA | 8 U.S.C. § 1226 and Implementing Regulations

61. Petitioner incorporates by reference all preceding paragraphs.

62. Mandatory detention under 8 U.S.C. § 1225 applies only to narrowly defined categories of noncitizens who have not been admitted or paroled into the United States and who are encountered as part of the inspection and screening framework established in § 1225 or subject to expedited removal.

63. Mr. Garcia Gamarro was released from custody in April 2019 under the discretionary detention framework of § 1226(a). DHS maintained Mr. Garcia Gamarro's release under that framework for nearly seven years. The government's election to apply discretionary detention forecloses retroactive application of § 1225(b)(2)'s mandatory detention provision.

64. When ICE detained Mr. Garcia Gamarro in January 2026, he had been residing in the United States for nearly seven years.

65. Even if Petitioner was released on humanitarian parole rather than conditional parole, he was not seeking admission at the time ICE detained him and had already been residing in the United States for nearly seven years. His recent arrest and detention do not fall within § 1225(b)(2)(A)'s inspection framework, which

contemplates inspection and screening for admission, typically at U.S. borders and ports of entry.

66. Any purported revocation of Mr. Garcia Gamarro's conditional parole and re-detention required a warrant under § 1226(b) and compliance with 8 C.F.R. § 1236.1(c)(9). Respondents did not revoke conditional parole, did not obtain a warrant, and did not comply with the applicable statute or regulations.

67. Respondents re-detained Mr. Garcia Gamarro without notice or individualized assessment as to his dangerousness or flight risk, despite DHS's previous determination that he posed neither.

68. The application of § 1225(b)(2) to Mr. Garcia Gamarro unlawfully mandates his continued detention and violates the INA.

COUNT II

Procedural Due Process Violation | Fifth Amendment

69. Petitioner incorporates by reference all preceding paragraphs.

70. The Supreme Court has long established that noncitizens are afforded due process rights. *Reno v. Flores*, 507 U.S. 292, 306 (1993); *Zadvydas*, 533 U.S. at 690.

71. Mr. Garcia Gamarro has a fundamental interest in liberty and being free from official restraint. Freedom from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

72. Mr. Garcia Gamarro possessed a protected liberty interest arising from the nearly seven years he lived freely in the United States. During this time, he lived with his sister, received employment authorization from DHS, applied for asylum,

and never committed any crimes. He grew from adolescence to adulthood in this country.

73. Mr. Garcia Gamarro's ability to live freely within his community is similar to the conditional liberty described in *Morrissey*, 408 U.S. at 482–84. Mr. Garcia Gamarro's liberty interest extended beyond a brief or temporary release, establishing a protected right to remain free unless proper constitutional revocation procedures are followed. *Young v. Harper*, 520 U.S. at 147–49.

74. Respondents detained Mr. Garcia Gamarro without affording him any pre-deprivation procedures whatsoever. Furthermore, the government's overly broad interpretation of § 1225 seeks to deny him a bond hearing altogether. The risk of erroneous deprivation is high because Respondents deny Mr. Garcia Gamarro an "opportunity to challenge the legal basis for his detention or its necessity." *Perez*, 2025 WL 3466956, at *4. Notice and a hearing are meaningful procedural safeguards that would protect Petitioner's liberty interest and ensure that detention complies with the INA and due process.

75. Civil immigration detention must be "nonpunitive in purpose and effect" and is only justified when a noncitizen presents a risk of flight or danger to the community. *Zadvydas*, 533 U.S. at 690. In releasing Mr. Garcia Gamarro, DHS necessarily determined that Petitioner was neither a flight risk nor a danger to the community. Thus, any governmental interest in detaining Mr. Garcia Gamarro is low and can be served by the procedures he seeks.

76. The government's summary detention of Petitioner without a custody redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

77. Core habeas relief is appropriate when, as is the case here, detention is the result of a constitutional violation based on categorical revocation of an individual's liberty. Immediate release is the necessary remedy to end the ongoing unlawful deprivation of liberty.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the U.S. District for the Southern District of Georgia while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring Respondents to release Petitioner immediately;
- e. Declare that Petitioner's detention under 8 U.S.C. § 1225(b)(2)(A) is unlawful and violates the INA and/or the Due Process Clause of the Fifth Amendment;
- f. In the alternative, order Respondents to provide Petitioner with a custody redetermination hearing under 8 U.S.C. § 1226(a) and the

relevant regulations, where the government must demonstrate by clear and convincing evidence before a neutral decisionmaker that Petitioner is a flight risk or danger to the community, such that his physical detention is legally justified;

- g. Order that Respondents are enjoined and restrained from re-detaining Petitioner unless the government demonstrates by clear and convincing evidence at a pre-deprivation bond hearing before a neutral decisionmaker that Petitioner is a flight risk or danger to the community, such that his physical detention is legally justified;
- h. If a bond hearing is ordered, direct Respondents to file a written status report with this Court within a time set by the Court, stating the outcome of the bond hearing, the bond amount and conditions if granted, and a summary of the reasons stated on the record for the custody determination, so as to ensure compliance with statutory and constitutional due process requirements;
- i. Award Petitioner's attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- j. Grant any other and further relief that this Court deems just and proper.

Date: February 24, 2026

Respectfully submitted,

/s/ Alexis Ruiz

Alexis Ruiz (GA 419757)

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Attorney for Petitioner

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

I represent Petitioner, Cristian Soel Garcia Gamarro, and submit this verification on his behalf. Based on my conversation with Mr. Garcia Gamarro and my review of his documents, I verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus and the documents submitted in support thereof are true and correct to the best of my knowledge.

Date: February 24, 2026

/s/ Alexis Ruiz
Alexis Ruiz
aruiz@ruizimmigrationlaw.com
Attorney for Petitioner