**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:26-cv-00777

JOSE MILLAN OLIVAS,

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility;
ROBERT HAGAN, in his official capacity as Field Office Director, Denver Field Office of U.S. Immigration and Customs Enforcement;
TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
KRISTI NOEM, in her official capacity as Secretary of U.S. Department of Homeland Security; and
PAMELA BONDI, in her official capacity as Attorney General of the United States.

Respondents.

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**PETITION FOR WRIT OF HABEAS CORPUS**

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## INTRODUCTION

1. Petitioner, JOSE MILLAN OLIVAS, by and through undersigned counsel, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

2. This action challenges the lawfulness of Olivas's his continued detention over 48 hours following dismissal of his criminal case, his warrantless arrest by Respondents, and his ongoing confinement under an improper mandatory detention classification.

## CUSTODY

3. Respondents took custody of Olivas from the Laramie County, Wyoming Sheriff on or about February 5, 2026, following the dismissal of his criminal charges on February 2, 2026. Olivas has been in the custody of Respondents since February 5, 2026, and is currently detained

at the Denver Contract Detention Facility in Aurora, Colorado, under Respondents' direct physical control and supervision.

## JURISDICTION AND VENUE

4. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. § § 2201-02 (declaratory relief), and Article I, section 9, clause 2 of the U.S. Constitution (Suspension Clause), as Olivas is in custody and challenges his custody in violation of the Constitution and laws of the United States.

5. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by individuals challenging the lawfulness of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 678 (2001).

6. Venue is proper in this District under 28 U.S.C. § 1391 and 28 U.S.C. § 2242 because Olivas is confined in this District, at least one Respondent is in this District, Olivas's immediate physical custodian is in this District, and a substantial part of the events giving rise to the claims in this action occurred in this District. *See Trump v. J.G.G.*, 145 S. Ct. 1003, 1005–06 (2025) (per curiam) ("For core habeas petitions, jurisdiction lies in only one district: the district of confinement" (internal quotation marks and citation omitted)).

## HABEAS CORPUS

7. Challenges to immigration detention are properly brought directly through habeas. *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004). More specifically, 28 U.S.C. § 2241 "confers jurisdiction upon the federal courts to hear such cases." *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (citing 28 U.S.C. § 2241(c)(3)) (authorizing any person to claim in federal court that they are being held "in custody in violation of the Constitution or laws ... of the United States").

8. The fundamental purpose of § 2241 habeas proceeding is the same as that of § 2254 habeas and § 2255 proceedings: they are an attack by a person in custody upon the legality of that

custody, and that the traditional function of the writ is to secure release from illegal custody. *McIntosh v. U.S. Parole Com'n*, 115 F.3d 809, 811 (10th Cir. 1997) (quoting *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973)).

**NOTICE OF RELATED CASES**

9. Pursuant to D.C.COLO.LCivR 3.2 and in the interest of judicial economy, Olivas provides notice that this action is related to numerous habeas petitions recently adjudicated in this District involving the same Respondents, the same detention facility, and the same legal question concerning the scope of mandatory detention under 8 U.S.C. § 1225(b)(2)(A) as applied to long-term residents who are not presently seeking admission. *See Hernandez v. Baltazar*, No. 25-cv-03094-CNS, 2025 WL 2996643, at *3 (D. Colo. Oct. 24, 2025); *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 WL 2977650, at *6 (D. Colo. Oct. 22, 2025); *Mendoza Gutierrez v. Baltazar*, No. 25-cv-2720-RMR, 2025 WL 3251143 at *1 (D. Colo. Nov. 21, 2025); and *Garcia Cortes v. Noem*, No. 1:25-cv-02677-CNS, 2025 WL 2652880 (D. Colo. Sept. 16, 2025).

10. Most notably, two federal judges—including the Honorable Regina M. Rodriguez of this District—have conditionally certified class actions generally comprised of noncitizens newly subjected to detention under § 1225(b)(2)(A) pursuant to Respondents' new policy. *See Mendoza Gutierrez v. Baltazar*, No. 25-cv-2720-RMR, 2025 WL 3251143, at *1 (D. Colo. Nov. 21, 2025); *Bautista v. Noem*, --- F.R.D. ---, 2025 WL 3288403, at *1 (C.D. Cal. Nov. 25, 2025). Those class certification decisions are currently pending on appeal before the Tenth and Ninth Circuits, respectively.

11. Notwithstanding the conditional certification of those classes, Immigration Judges have continued to decline to conduct custody redetermination hearings for noncitizens who fall within the scope of the certified classes. Immigration Judges, pursuant to guidance from the

Executive Office for Immigration Review (EOIR), have taken the position that class certification alone does not displace *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and the Immigration Court lacks jurisdiction to make custody redeterminations.

12. These matters involve materially indistinguishable facts and the same core statutory question presented here. Olivas therefore requests that the Court order Respondents to show cause as to why the reasoning adopted in prior decisions of this District should not apply in this case.

13. Olivas was arrested in Wyoming and asserts additional, independent grounds challenging the legality of his arrest and detention—including regulatory violations arising from a warrantless arrest, the 48-hour detention hold, and due process deficiencies. He therefore brings this individual habeas action to secure relief tailored to his circumstances.

## PARTIES

### A. Petitioner

14. Petitioner Jose Millan Olivas was detained by Respondents on or about February 5, 2026, after he was transferred to their custody from the Laramie County Sheriff and has been detained at the Denver Contract Detention Facility in Aurora, Colorado, since that date. He is in the custody and direct control of Respondents and their agents.

### B. Respondents

15. Respondent Juan Baltazar is the Warden of the Denver Contract Detention Facility, a private, for-profit detention facility that contracts with ICE to detain individuals suspected of civil immigration violations. Respondent Baltazar has immediate physical custody of Olivas and is sued in his official capacity.

16. Respondent Robert Hagan is the Field Office Director of the U.S. Immigration and Customs Enforcement Denver Field Office. In this capacity, he is responsible for the administration of immigration laws and the execution of immigration enforcement and detention

policy within ICE's Denver Area of Responsibility, including the detention of Olivas. Respondent Hagan maintains an office and regularly conducts business in this district. Respondent Hagan is sued in his official capacity.

17. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. As the Senior Official performing the duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States; routinely transacts business in this District; and is legally responsible for any effort to detain and remove Olivas. Respondent Lyons is sued in his official capacity.

18. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security and has ultimate authority over DHS. In that capacity and through her agents, Respondent Noem has broad authority over and responsibility for the operation and enforcement of the immigration laws; routinely transacts business in this District; and is legally responsible for pursuing any effort to detain and remove Olivas. Respondent Noem is sued in her official capacity.

19. Respondent Pamela Bondi is the Attorney General of the United States and the most senior official of the U.S. Department of Justice (DOJ). In that capacity and through her agents, she is responsible for overseeing the implementation and enforcement of the federal immigration laws. The Attorney General delegates this responsibility to the EOIR, which administers the immigration courts and the Board of Immigration Appeals. Respondent Bondi is sued in her official capacity.

## FACTUAL ALLEGATIONS

20. Olivas is an 18-year-old male citizen and national of Mexico. He last entered the United States when he was only one (1) year-old through no voluntary act of his own. The United States is the only country he knows. Olivas has only been educated in the United States and

attended the Cheyenne, Wyoming, school system from kindergarten through high school, apart from grades four through six. He resides in Cheyenne, Wyoming, with his mother, father, and younger brother.

21. In addition to attending school full-time, Olivas was working as the night-shift manager at Domino's Pizza. He worked every day of the week, except Fridays and Sundays.

22. On Sunday, August 24, 2025, the night before Olivas was scheduled to begin his senior year of high school, he was encountered by Cheyenne, Wyoming Police Department.

23. Officers responded to a community welfare check after Olivas was observed asleep in his parked car at a gas station. The vehicle was turned off, and the keys were not in the ignition. After asking him to step out of the vehicle, officers placed Olivas into custody.

24. Since that initial custody on August 24, 2025, Olivas has remained in the custody of the Laramie County Sheriff. On the advice of prior immigration counsel (not undersigned), Olivas did not post criminal bond and remained detained during the pendency of his criminal case. *See Laramie County Sheriff, Booking Card, dated February 25, 2026, attached hereto as Attachment C.*

25. On February 2, 2026, nearly six months after his initial arrest, Olivas's criminal case was dismissed in its entirety. *See Cheyenne Municipal Court, Order Granting Motion to Dismiss, dated February 2, 2026, attached hereto as Attachment A.*

26. Despite the dismissal of all criminal charges, Olivas was not released from Laramie County custody.

27. More than forty-eight (48) hours after he was legally entitled to release following dismissal of his criminal charges, on or about February 5, 2026, Olivas was transferred to ICE custody. *See Attachment C, attached hereto.*

28. ICE arrested Olivas without a Form I-200, Warrant for Arrest of Alien.

29. DHS issued Olivas a Notice to Appear on February 5, 2026, alleging that he is "an alien present without admission or parole" in violation of INA § 212(a)(6)(A)(i). *See Notice to Appear, dated February 5, 2026, attached hereto as Attachment B.*

30. Olivas's removal proceedings remain pending, and he is scheduled for hearing on March 3, 2026. The lawfulness of his arrest and detention is not an abstract question; it directly affects the foundation of the Government's exercise of custody. Where detention is predicated on an ultra vires arrest, continued confinement cannot be sustained. A ruling from this Court would therefore have immediate and concrete legal effect.

## LEGAL FRAMEWORK

### I. Constitutional Limits on Civil Immigration Detention

31. Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

32. Because immigration detention is civil rather than criminal, it must comply with both substantive and procedural due process limitations.

33. Substantive due process requires that all forms of civil detention—including immigration detention—bear a "reasonable relation" to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 531 (2003).

34. Detention that is not reasonably related to either of those purposes violates substantive due process.

35. Procedural due process requires adequate procedural protections that ensure the government's justification for a noncitizen's physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint. *Zadvydas*, 533 U.S. at 690.

36. To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319, (1976). Pursuant to *Mathews*, courts weigh the following three factors: (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335.

## II. Immigration Detainers

37. Detaining an individual beyond their release date is an arrest under the Fourth Amendment. *See Cisneros v. Elder*, No. 18CV30549 (D. Colo., El Paso Cty. Dec. 6, 2018) (finding that Colorado law did not give local officers the authority to continue detaining people based on ICE detainers); *Morales v. Chadbourne*, 793 F.3d 208, 215 (1st Cir. 2015) ("It was thus clearly established well before [plaintiff] was detained in 2009 [on an immigration detainer] that immigration stops and arrests were subject to the same Fourth Amendment requirements that apply to other stops and arrests . . ."); *see also United States v. Brignoni-Ponce*, 422 U.S. 873, 886 (1975) (Fourth Amendment applies to immigration stops).

38. Because holding someone on an immigration detainer beyond their release date is a new arrest, the various requirements of the Fourth Amendment apply. This includes the requirement of probable cause, or a warrant issued by a neutral magistrate, and in the case of a

warrantless arrest, the requirement that the detainee be brought before a neutral magistrate within 48 hours of arrest. *See, e.g., Gerstein v. Pugh*, 420 U.S. 103, 116 n. 18, 117 (1975).

39. In addition, the Immigration and Nationality Act (INA) provides warrantless civil immigration arrest authority to immigration officials only when the individual is likely to escape before a warrant can be obtained. 8 U.S.C. § 1357(a); *Arizona v. United States*, 132 S.Ct. 2492, 2505-07 (2012).

40. An arrest pursuant to a detainer without a warrant and without a determination that the individual is likely to escape before a warrant can be obtained exceeds the statutory arrest limits Congress imposed.

41. Therefore, under the INA, ICE may only make warrantless arrests when (1) it has probable cause for the arrest and (2) it has determined the subject is likely to escape before a warrant can be obtained for his arrest. 8 U.S.C. § 1357(a)(2); *see also, De La Paz v. Coy*, 786 F.3d 367, 376 (5th Cir. 2015) ("[E]ven if an agent has reasonable belief, before making an arrest, there must also be "a likelihood of the person escaping before a warrant can be obtained for his arrest."); *United States v. Cantu*, 519 F.2d 494, 496-97 (7th Cir. 1975) (holding that the statutory requirement of likelihood of escape in 8 U.S.C. § 1357 "is always seriously applied"); *Mountain High Knitting, Inc. v. Reno*, 51 F.3d 216, 218 (9th Cir. 1995) (holding that the statute requires an individualized determination of flight risk); *Westover v. Reno*, 202 F.3d 475, 479-80 (1st Cir. 2000) (commenting that an immigration arrest was "in direct violation" of § 1357(a)(2) because "[w]hile INS agents may have had probable cause to arrest Westover by the time they took her into custody, there is no evidence that Westover was likely to escape before a warrant could be obtained for her arrest").

42. A person who is already detained in a secure jail facility is not "likely to escape before a warrant can be obtained." *Arizona*, 132 S.Ct. at 2505- 07. By definition, such an individual

cannot flee. Arresting a jailed individual without a warrant therefore exceeds the statutory authority granted under § 1357(a)(2). *Arizona*, 132 S.Ct. at 2505- 07. ICE cannot delegate arrest power to local law enforcement agencies that the agency itself does not have.

**III. Statutory Detention Framework**

43. The relevant detention statutes at issue here are 8 U.S.C. § 1225(b)(2), which requires mandatory detention "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that the alien seeking admission is not clearly and beyond a doubt entitled to be admitted," and 8 U.S.C. § 1226(a), which states that "an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § § 1225, 1226.

44. 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.

45. Following the enactment of the IIRIRA, 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").

46. Thus, in the decades that followed their enactment in 1996, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered eligible for release on bond and received bond hearings before an IJ,

unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

47. On July 8, 2025, ICE "in coordination with" the Department of Justice announced a new policy that rejected this 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 persons who entered the United States without admission or parole shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are subject to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

48. On September 5, 2025, the BIA adopted this same position in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). There, the Board held that all noncitizens who entered the United States without admission or parole are considered applicants for admission who are seeking admission and are ineligible for IJ bond hearings. *Id.*

## ARGUMENT

49. This case presents two distinct constitutional defects. First, Olivas was detained beyond the expiration of the 48-hour detainer period after dismissal of his criminal charges. Second—and independently—ICE arrested Olivas without a warrant while he was already secured in jail, despite lacking statutory authority to do so. Either violation warrants relief.

## I. THE DETENTION OF OLIVAS VIOLATED THE FIFTH AMENDMENT AND EXCEDED STATUTORY AUTHORITY.

50. When Olivas's criminal case was dismissed, he was legally entitled to release from county custody. Instead, he remained confined solely at the request of ICE. That continued confinement beyond his lawful release date constituted a new deprivation of liberty requiring independent legal authority and constitutional safeguards. After holding him beyond the regulatory 48-hour period, ICE then effectuated a civil immigration arrest without satisfying the narrow statutory requirements governing warrantless arrests. Each step independently violated federal law and together they render his detention unlawful.

51. Once the regulatory 48-hour period expired and Olivas remained incarcerated, he was subjected to a new civil deprivation of liberty. The adequacy of the procedures accompanying that deprivation must be evaluated under the framework set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

### A. Private Interest

52. Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action. *Foucha v. Louisiana,* 504 U.S. 71, 80 (1992).

53. After dismissal of his criminal case, Olivas was legally entitled to release. The only reason he remained incarcerated was ICE's intervention. An immigration detainer is a request, not an independent source of custody authority. Continued detention based solely on such a request constitutes a new deprivation of liberty. *See United States v. Abrego*, 787 F. Supp. 3d 830, 856 n.22 (M.D. Tenn. 2025) (citing *United States v. Aleman-Duarte*, No. 3:19-CR-149-PLR-DCP, 2020 WL 236870, at *3 (E.D. Tenn. Jan. 15, 2020)).

54. Here, Olivas remained in county jail custody despite the absence of any valid criminal basis for detention and without lawful federal arrest authority.

55. Responsibility for that unlawful detention rests with Respondents. The Cheyenne Sheriff continued to hold Olivas solely at ICE's request after the detainer expired. Respondents likewise share responsibility because Olivas was only held at the behest of ICE. If the United States had wanted to take Olivas into custody, it had 48 weekday hours to do so, and the action of no other court precluded ICE from taking custody of Olivas.

56. The private liberty interest implicated here—freedom from incarceration after dismissal of all criminal charges—is at its apex. Therefore, this factor strongly weighs in favor of Olivas.

**B. The Risk of Erroneous Deprivation of Liberty is High**

57. Under the second *Mathews* factor, a court must "assess whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Günaydin v. Trump,* 784 F. Supp. 3d 1175, 1187 (D. Minn. 2025). The procedures employed in Olivas's case created a substantial risk of erroneous deprivation of liberty.

58. Once Olivas's case was dismissed, he was legally entitled to release from county custody. Instead, he remained incarcerated solely because of ICE's intervention. The regulatory 48-hour detainer period expired, yet no independent judicial review occurred and no neutral decisionmaker assessed whether continued detention was lawful.

59. Olivas received no prompt probable cause determination, no opportunity to contest the legal basis for his continued detention, and no hearing before a neutral adjudicator. The absence

of any meaningful procedural safeguard created a substantial risk that he would remain confined without lawful authority.

60. Where an individual is held beyond the point at which he is legally entitled to release, and where no neutral review of that continued detention occurs, the risk of erroneous deprivation is at its highest. Liberty is restrained not because a lawful determination has been made, but because no determination has been made at all.

61. The additional safeguards required were minimal: timely release upon expiration of the detainer period or prompt judicial review of the continued confinement. Either would have eliminated the risk that Olivas would remain jailed without lawful authority.

62. Accordingly, this factor weighs strongly in his favor.

**C. Respondents' Interest**

63. The Government's interest in administrative efficiency does not outweigh the constitutional requirement that civil detention be lawfully authorized and accompanied by adequate safeguards.

64. Respondents had the ability to obtain a warrant in advance of dismissal or to assume custody within the regulatory window. Providing a prompt custody determination imposes minimal fiscal or administrative burden, as immigration courts already conduct routine bond hearings.

65. Where Respondents fail to comply with statutory arrest limits and regulatory safeguards, its interest in continued detention is diminished. Thus, this factor also weighs in favor of Olivas.

66. All three *Mathews* factors clearly support a finding that Olivas' detention beyond the 48-hour detainer period violated his due process rights. After dismissal of his criminal charges,

he was entitled to release. Instead, he remained incarcerated solely at ICE's request, without lawful arrest authority and without judicial review.

## II. THE DETENTION OF OLIVAS VIOLATED BINDING AGENCY REGULATION.

67. Even assuming arguendo that ICE was entitled to assume custody of Olivas after February 5, 2026, the manner in which it effected that custody independently violated federal law.

68. Under 8 U.S.C. § 1357(a)(2), immigration officers may arrest a noncitizen without a warrant only if two conditions are satisfied: (1) reason to believe the individual is removable, and (2) a determination that the individual "is likely to escape before a warrant can be obtained."

69. ICE did not obtain a Form I-200, Warrant for Arrest of Alien, prior to arresting Olivas. ICE therefore relied entirely on its purported warrantless arrest authority under § 1357(a)(2).

70. At the time ICE assumed custody, Olivas was confined in a secure county jail facility. He could not flee. He could not abscond. He could not evade arrest. By definition, a person already detained in a locked correctional facility is not "likely to escape before a warrant can be obtained." 8 U.S.C. § 1357(a)(2).

71. ICE cannot circumvent the limits Congress imposed by using a detainer to convert local custody into federal arrest authority. The statute does not permit warrantless arrest of individuals who are already securely confined and available to federal authorities. If ICE wished to arrest Olivas lawfully, it could have obtained a warrant, but it did not.

72. A transfer of custody under these circumstances constitutes a new civil arrest. Because ICE neither obtained a warrant nor made a lawful determination that Olivas was likely to escape, the arrest exceeded the authority Congress granted under § 1357(a)(2).

73. Where Respondents act outside the limits Congress imposed, detention becomes ultra vires and unconstitutional.

## III. THE PLAIN STATUTORY TEXT DEMONSTRATES OLIVAS IS DETAINED UNDER 8 U.S.C. § 1226(a), NOT § 1225(b)(2).

74. Even if Respondents could justify Olivas's initial transfer into ICE custody—which they cannot—the constitutional problem does not end there. Respondents assert that Olivas is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), a position that independently violates the governing statutory framework and due process. The Court must therefore examine whether Respondents have lawfully invoked § 1225(b).

75. Respondents have taken the position that a noncitizen who entered the country without inspection is always an 'applicant for admission' and subject to mandatory detention under § 1225, no matter how long the noncitizen has been present in the country. *See Loa Caballero v. Baltazar,* No. 25-cv-03120-NYW, 2025 WL 2977650, at *10-11 (D. Colo. Oct. 22, 2025).

76. Even if Olivas is an "applicant for admission," 8 U.S.C. § 1225(b)(2)(A) requires that he also be actively "seeking admission" for the mandatory detention provision to apply to him.

77. The weight of authority interpreting § 1225 has recognized that for § 1225(b)(2)(A) to even apply, several conditions must be met—in particular, an examining immigration officer must determine that the individual is: (1) an applicant for admission; (2) seeking admission; and (3) not clearly and beyond a doubt entitled to be admitted. *See Loa Caballero v. Baltazar,* No. 25-cv-03120-NYW, 2025 WL 2977650, at *6 (D. Colo. Oct. 22, 2025) (*citing Martinez v. Hyde*, No. 25-cv-11613-BEM, 2025 WL 2084238, at *2 (D. Mass. July 24, 2025).

78. "Seeking" means "try[ing] to acquire or gain." And "admission" is defined in the INA as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). Thus, the plain meaning of the phrase "seeking

admission" requires that the applicant must be presently and actively seeking lawful entry into the United States. *Loa Caballero,* 2025 WL 2977650, at *6 (internal citations omitted).

79. Noncitizens in Olivas' position, who entered the United States many years ago, are not "seeking admission" to the United States but are instead "seeking to remain in the United States." *Lepe v. Andrews*, -- F. Supp. 3d --, 2025 WL 2716910, at *5 (E.D. Cal. Sept. 23, 2025).

80. Other indicia bolster Olivas' plain text reading of the statute. First, Respondents' proffered interpretation of § 1225 appears facially inconsistent with related implementing regulations. The implementing regulation for § 1225(b) states that "any *arriving alien* who appears to the inspecting officer to be inadmissible, and who is placed in removal proceedings pursuant to section 240 of the Act shall be detained in accordance with section 235(b) of the Act." 8 C.F.R. § 235(c)(1) (emphasis added).

81. In this way, "[t]he regulation appears to contemplate that applicants *seeking admission* are a subset of applicants 'roughly interchangeable' with 'arriving aliens.'" *Cordero Pelico v. Kaiser,* 2025 WL 2822876, at *11 (N.D. Cal. Oct. 3, 2025) (quoting *Martinez v. Hyde,* 2025 WL 2084238, at *6 (D. Mass. July 24, 2025)) (emphasis in original). An "arriving alien" is defined under the regulatory scheme as "an applicant for admission coming or attempting to come into the United States at a port-of-entry." 8 C.F.R. § 1.2. "This plainly does not describe petitioners," like Olivas, who already "reside in the United States." *Kaiser,* 2025 WL 28227876, at *11.

82. Further to the same point, in the Notice to Appear DHS issued commencing removal proceedings against Olivas, the issuing officer retained the option to designate him as (1) "an arriving alien"; (2) "an alien present in the United States who has not been admitted or paroled"; or (3) a person who "ha[s] been admitted to the United States, but [is] removable for the

reasons stated below." In this case, the issuing officer chose the second—not the first—option to classify Olivas. *See Attachment A, attached hereto.*

83. Olivas has been present in the United States since approximately 2008. Therefore, notwithstanding any lack of lawful status, Olivas was not seeking lawful entry into the United States at the time he was detained—he was already here. He was thus not "seeking admission" and is not subject to § 1225(b)(2)(A)'s mandatory detention provision. *See Loa Caballero v. Baltazar,* No. 25-cv-03120-NYW, 2025 WL 2977650, at *16 (D. Colo. Oct. 22, 2025) (*citing Lepe v. Andrews*, F. Supp. 3d, 2025 WL 2716910, at *5 (E.D. Cal. Sept. 23, 2025) ("[P]etitioner is not actively 'seeking' 'lawful entry' because he already entered the United States—thirty-two years ago. If anything, petitioner is seeking to *remain* in the United States.").

## CLAIMS FOR RELIEF

### Count One
### Violation of the Fifth Amendment — Substantive Due Process

84. Olivas realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

85. After dismissal of his criminal case, Olivas remained incarcerated solely at the request of ICE, without lawful arrest authority and without a valid statutory basis for continued confinement.

86. Civil detention must bear a reasonable relation to ensuring appearance at proceedings or protecting the community. *Zadvydas v. Davis*, 533 U.S. 678, 690–92 (2001).

87. Once the criminal basis for confinement ended, and absent lawful federal arrest authority under 8 U.S.C. § 1357(a)(2), Olivas's continued incarceration ceased to serve a permissible civil purpose and became arbitrary.

88. Detention without statutory authority or constitutional justification violates substantive due process.

89. Accordingly, Olivas's continued detention violates the Due Process Clause of the Fifth Amendment and requires his immediate release as remedy.

**Count Two**
**Violation of the Fifth Amendment — Procedural Due Process**

90. Olivas realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

91. ICE regulations permit a detainer-based hold for no more than forty-eight (48) hours after the time the individual would otherwise be released from criminal custody. 8 C.F.R. § 287.7(d); *see Villars v. Kubiatowski*, 45 F. Supp. 3d 791, 807 (N.D. Ill. 2014) (holding that "nowhere does [the regulation] authorize the detention of an alien for 48 hours *after local custody over the detainee would otherwise end*") (emphasis in original).

92. After dismissal of his criminal case, Olivas was detained beyond the point at which he was legally entitled to release. During that period, he received no prompt judicial determination of probable cause, no service of a judicial warrant, and no opportunity to contest the legality of his confinement before a neutral decisionmaker.

93. Continued detention for a new purpose constitutes a new seizure and must comply with the Fourth and Fifth Amendments, including the requirement of a prompt probable cause determination following a warrantless arrest. *Gerstein v. Pugh*, 420 U.S. 103, 114–17 (1975).

94. By detaining Olivas without lawful arrest authority and without timely procedural safeguards, Respondents deprived him of liberty without due process of law in violation of the Fifth Amendment.

**Count Three**
**Violation of the Administrative Procedures Act and the *Accardi* Doctrine**

95. Olivas realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

96. Federal agencies are bound to follow their own regulations. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *see also Jagers v. Fed. Crop Ins. Corp.*, 758 F.3d 1179, 1186 (10th Cir. 2014) (quoting *United States v. Thompson*, 579 F.2d 1184, 1191 (10th Cir. 1978) (Seth, J., dissenting)).

97. Under 8 C.F.R. § 287.3, ICE must provide prompt procedural protections following a warrantless arrest, including an independent probable cause determination and a decision regarding issuance of a Notice to Appear.

98. ICE detained Olivas without a Form I-200, Warrant for Arrest of Alien, and without compliance with the safeguards required by § 287.3. S*ee Creedle v. Miami-Dade Cty.*, 349 F. Supp. 3d 1276, 1285 (S.D.Fla. 2018); *Moreno v. Napolitano*, 213 F. Supp.3d 999, 1006-08 (N.D. Ill. 2016) (rejecting, as inconsistent with the particularized inquiry demanded by the probable cause standard, DHS's blanket assertion that any suspected removable alien in state or local custody is likely to escape before a warrant can be obtained).

99. Agency action taken in violation of governing regulations is arbitrary, capricious, and contrary to law under the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (C).

100. Because Respondents are directly responsible for Olivas's current immigration detention as a result of their action in excess of statutory authority and in violation of binding regulations, it must be set aside. *See Creedle*, 349 F. Supp. 3d at 1297 (noting that "because 'immigration detainers are intended to — and actually do — induce law enforcement agencies to incarcerate individuals beyond the time they would otherwise be released,' the detention is 'directly

traceable to ICE'") (quoting *Gonzalez v. Immigration & Customs Enf't*, 2014 U.S. Dist. LEXIS 185097, at *5 (C.D. Cal. July 28, 2014)).

**Count Four**
**Violation of INA § 236(a), 8 U.S.C. § 1226(a)**

101. Olivas realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.

102. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Olivas who previously entered the country and has been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. He is subject to discretionary detention under § 1226(a).

103. The application of § 1225(b)(2) to Olivas is contrary to the plain statutory text and unlawfully mandates his continued detention.

104. His continued detention under the misapplied statutory provision violates the Immigration and Nationality Act and entitles him to habeas relief.

**PRAYER FOR RELIEF**

Petitioner JOSE MILLAN OLIVAS respectfully requests that this Court:

(1) Assume jurisdiction over this matter pursuant to 28 U.S.C. § 2241;

(2) Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243 directing Respondents to respond within three days as to why this Petition should not be granted;

(3) Grant the Petition for Writ of Habeas Corpus;

(4) Declare that Respondents' detention of Olivas violated the Fifth Amendment and exceeded statutory authority;

(5) Order Olivas's immediate release from unlawful detention, *see Patel v. Tindall*, No. 3:25-CV-373-RGJ, 2025 WL 2823607, at *6 (W.D. Ky. Oct. 3, 2025); *Barrera v. Tindall*, No. 3:25-

CV-541-RGJ, 2025 WL 2690565, at *7 (W.D. Ky. Sept. 19, 2025); *see also Roble v. Bondi,* No. 25-CV-3196 (LMP/LIB), 2025 WL 2443453, at *5 (D. Minn. Aug. 25, 2025);

(6) In the alternative, order that Respondents provide Olivas with a prompt individualized bond hearing before a neutral immigration judge at which the Government bears the burden of proving by clear and convincing evidence that continued detention is justified;

(7) Enjoin Respondents from re-detaining Olivas absent lawful statutory authority and constitutionally adequate process;

(8) Award Olivas reasonable attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412 upon the filing of a separate motion; and

(9) Grant any further relief the Court deems just and proper.

Dated this 25th day of February 2026.

Respectfully submitted,

*/s/ Skylar M. Larson*

Skylar M. Larson, Esq.
8275 E. 11th Ave. # 200176
Denver, CO 80220
Tel: (970) 692-3156
Email: skylarmlarsonesq@gmail.com

ATTORNEY FOR PETITIONER

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner, Jose Millan Olivas, because I am the attorney for Olivas. I have discussed with Olivas the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed on February 25, 2026, at Fort Collins, Colorado.

*/s/ Skylar M. Larson*
Skylar M. Larson, Esq.

ATTORNEY FOR PETITIONER

**CERTIFICATE OF SERVICE**

I hereby certify that service of the foregoing **Petition for Writ of Habeas Corpus and Attachments A-C** will be effectuated contemporaneously with the Court's issuance of an Order directing service pursuant to Federal Rule of Civil Procedure 4(i), at which time true and correct copies will be mailed to the following:

**JUAN BALTAZAR**, Warden of the Denver Contract Detention Facility
3130 N Oakland Street
Aurora, CO 80010
*Respondent*

**ROBERT HAGAN**, Field Office Director, Denver ICE Field Office
12445 E. Caley Avenue
Centennial, CO 80111
*Respondent*

**TODD LYONS**, Acting Director of U.S. Immigration and Customs Enforcement
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485
*Respondent*

**KRISTI NOEM**, Secretary of U.S. Department of Homeland Security
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485
*Respondent*

**PAMELA BONDI**, U.S. Attorney General, U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
*Respondent*

**KEVIN TRASKOS**, Chief, Civil Division
U.S. Attorney's Office District of Colorado
1801 California Street, Ste. 1600
Denver, CO 80202
*Attorney for Respondents*

*/s/ Skylar M. Larson*
Skylar M. Larson, Esq.

ATTORNEY FOR PETITIONER

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:26-cv-00777

JOSE MILLAN OLIVAS,

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility;
ROBERT HAGAN, in his official capacity as Field Office Director, Denver Field Office of U.S. Immigration and Customs Enforcement;
TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
KRISTI NOEM, in her official capacity as Secretary of U.S. Department of Homeland Security; and
PAMELA BONDI, in her official capacity as Attorney General of the United States.

Respondents.

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**ATTACHMENTS TO PETITION FOR WRIT OF HABEAS CORPUS**

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| | |
|---|---|
| ATTACHMENT A. | Cheyenne Municipal Court, Order Granting Motion to Dismiss, dated February 2, 2026 |
| ATTACHMENT B. | Notice to Appear, dated February 5, 2026 |
| ATTACHMENT C. | Laramie County Sheriff, Booking Card, dated February 25, 2026 |

# A

**IN THE MUNICIPAL COURT**
**FOR THE CITY OF CHEYENNE, WYOMING**

| | | |
|---|---|---|
| CITY OF CHEYENNE,<br>Plaintiff, | ) | |
| vs. | ) | Docket No. 2025-COM-991 |
| JOSE DANIEL MILLAN OLIVAS<br>Defendant. | ) | |

## ORDER GRANTING MOTION TO DISMISS

THIS MATTER, came before this Court upon the City's Motion to Dismiss. This Court has reviewed the pleadings, file, and is otherwise informed in this matter. For the reasons stated in the City's Motion to Dismiss, a dismissal is appropriate.

**IT IS SO ORDERED, ADJUDGED, AND DECREED,** this matter is hereby dismissed without prejudice.

**DATED** this 2 day of February, 2026.

MUNICIPAL COURT JUDGE

# B

DEPARTMENT OF HOMELAND SECURITY
**NOTICE TO APPEAR**

DOB: [redacted]
Event

**In removal proceedings under section 240 of the Immigration and Nationality Act:**

Subject ID: [redacted]

File No: [redacted]

In the Matter of:

Respondent: JOSE MILLAN-OLIVAS currently residing at:

[redacted]
(Number, street, city, state and ZIP code)

[redacted]
(Area code and phone number)

☐ You are an arriving alien.

☒ You are an alien present in the United States who has not been admitted or paroled.

☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;

2. You are a native of MEXICO and a citizen of MEXICO;

3. You entered the United States at or near Unknown location , on or about unknown date;

4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

3130 N OAKLAND ST, AURORA, COLORADO 80010. AURORA IMMIGRATION COURT
*(Complete Address of Immigration Court, including Room Number, if any)*

on February 17, 2026 *(Date)* at 8:00 am *(Time)* to show why you should not be removed from the United States based on the charge(s) set forth above.

ALEJANDRO PENA - (A) SDDO
*(Signature and Title of Issuing Officer)*

Date: February 5, 2026

Cheyenne, Wyoming
*(City and State)*

EOIR – 1 of 3

## Notice to Respondent

**Warning:** Any statement you make may be used against you in removal proceedings.

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

**One-Year Asylum Application Deadline:** If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

**Failure to appear:** You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at http://www.ice.gov/contact/ero, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

**Sensitive locations:** To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

## Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before: _____

*(Signature of Respondent)*

_____ Date: _____

*(Signature and Title of Immigration Officer)*

## Certificate of Service

This Notice To Appear was served on the respondent by me on February 5, 2026, in the following manner and in compliance with section 239(a)(1) of the Act.

☒ in person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail

☐ Attached is a credible fear worksheet.

☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the Spanish language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

Refused to Sign

*(Signature of Respondent if Personally Served)*

J. 15234 RECKKER - Deportation Officer

*(Signature and Title of officer)*

EOIR – 2 of 3

## Privacy Act Statement

**Authority:**
The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

**Purpose:**
You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

**Routine Uses:**
For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at https://www.dhs.gov/system-records-notices-sorns. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at https://www.justice.gov/opcl/doj-systems-records. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

**Disclosure:**
Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.