

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

Civil Action No. 1:26-cv-00837

ARCHIVALDO MENDOZA,

Petitioner,

v.

JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility;
ROBERT HAGAN, in his official capacity as Acting 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.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, ARCHIVALDO MENDOZA, by and through undersigned counsel, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.
2. Mendoza is currently detained at the Denver Contract Detention Facility in Aurora, Colorado, under the custody and control of Respondents.
3. An Immigration Judge has already determined that Mendoza is eligible for release on bond and ordered his release upon payment of \$ 3,000.00. *See Order of the Immigration Judge Granting Bond, dated January 13, 2026, attached hereto as Attachment C.* Despite that determination, Respondents invoked the automatic stay regulation, 8 C.F.R. § 1003.19(i)(2), preventing his release and continuing his detention without any new individualized finding of

flight risk or danger. *See DHS Form EOIR-26, Notice of Appeal from a Decision of an Immigration Judge, dated January 28, 2026, attached hereto as Attachment D.*

4. As indicated in their appeal, Respondents maintain that Mendoza is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A), notwithstanding that he has resided in the United States for over 25 years and was not presently “seeking admission” within the meaning of the statute. *See Attachment D, attached hereto.*

5. This case presents two intertwined questions: (1) whether the automatic stay permits continued detention in violation of the Fifth Amendment and the statutory framework of 8 U.S.C. § 1226(a); and (2) whether Respondents may lawfully subject Mendoza to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A).

6. Mendoza’s continued detention lacks statutory authority and violates both procedural and substantive due process. Therefore, this Court should grant the Petition for Writ of Habeas Corpus and order Mendoza’s immediate release.

CUSTODY

7. Mendoza has been in the custody of Respondents since on or about November 30, 2025. He was arrested and detained in his home state of Wyoming and transferred to where he is currently detained at the Denver Contract Detention Facility in Aurora, Colorado, under Respondents’ direct physical control and supervision.

JURISDICTION AND VENUE

8. 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 Mendoza

is in custody and challenges his custody in violation of the Constitution and laws of the United States.

9. 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).

10. Venue is proper in this District under 28 U.S.C. § 1391 and 28 U.S.C. § 2242 because Mendoza is confined in this District, at least one Respondent is in this District, Mendoza'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)).

NOTICE OF RELATED CASES

11. Pursuant to D.C.COLO.LCivR 3.2 and in the interest of judicial economy, Mendoza 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 legality of the automatic stay provision and 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 Merchan-Pacheo v. Noem*, No. 1:25-cv-03860-SBP, 2026 WL 88526, at *1 (D. Colo. Jan. 12, 2026) (automatic stay provision) and *Balderas Rivas v. Baltazar*, No. 1:26-cv-00442-SKC (D. Colo. Feb. 17, 2026) (automatic stay provision); *Hernandez v. Baltazar*, No. 25-cv-03094-CNS, 2025 WL 2996643, at *3 (D. Colo. Oct. 24, 2025) (statutory detention framework); *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 WL 2977650, at *6 (D. Colo. Oct. 22, 2025) (statutory detention framework); *Mendoza Gutierrez v. Baltazar*, No. 25-cv-

2720-RMR, 2025 WL 3251143 at *1 (D. Colo. Nov. 21, 2025) (statutory detention framework); and *Garcia Cortes v. Noem*, No. 1:25-cv-02677-CNS, 2025 WL 2652880 (D. Colo. Sept. 16, 2025) (statutory detention framework).

12. In *Mendoza Gutierrez v. Baltazar* the Honorable Regina M. Rodriguez of this District conditionally certified a class of noncitizens 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). A similar case was certified in *Bautista v. Santacruz Jr et al.*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403, at *1 (C.D. Cal. 2025). Appeals in those matters are pending before the Tenth and Ninth Circuits, respectively.

13. Mendoza was granted a custody redetermination pursuant to *Bautista* and an Immigration Judge ordered his release on bond. Respondents thereafter invoked the automatic stay regulation, 8 C.F.R. § 1003.19(i)(2), thereby preventing his release.

14. Accordingly, although Mendoza has already obtained relief in the Immigration Court, the automatic stay has nullified that order and continued his detention. This case therefore presents the same procedural posture addressed in *Merchan-Pacheco v. Noem* and *Balderas Rivas v. Baltazar*.

15. In *Merchan-Pacheco*, Judge Prose was confronted with facts like those here, where an immigration judge found that the petitioner merited release upon posting a \$25,000 bond. Although the petitioner's family paid the bond, DHS then invoked the automatic stay provision in 8 C.F.R. § 1003.19(i)(2) so it could appeal the immigration judge's findings to the BIA. Judge Prose conducted a thorough analysis pursuant to *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), and concluded that the automatic stay provision violated the petitioner's procedural due process rights.

16. In *Balderas Rivas v. Baltazar*, Judge Krew relied on Judge Prose's analysis and specifically asked Respondents to show cause as to why Judge Prose's analysis should not be adopted in the case.

17. Each of these matters involves materially indistinguishable facts and the same core statutory question presented here. Mendoza therefore requests that the Court order Respondents to show cause as to why Judges Prose's and Judge Krew's analysis and relief should not be adopted in this case.

HABEAS CORPUS

18. 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").

19. 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)).

PARTIES

A. Petitioner

20. Petitioner Archivaldo Mendoza was detained by Respondents on or about November 30, 2025, in Wyoming and was transferred to the Denver Contract Detention Facility in Aurora, Colorado, on or about that date. He is in the custody and direct control of Respondents and their agents.

B. Respondents

21. 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 Mendoza and is sued in his official capacity.

22. 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 Mendoza. Respondent Hagan maintains an office and regularly conducts business in this district. Respondent Hagan is sued in his official capacity.

23. 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 Mendoza. Respondent Lyons is sued in his official capacity.

24. 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 Mendoza. Respondent Noem is sued in her official capacity.

25. 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 (BIA). Respondent Bondi is sued in her official capacity.

FACTUAL ALLEGATIONS

26. Mendoza is a 48-year-old male citizen and national of Mexico. He last entered the United States over 25 years ago on September 1, 1999. Mendoza is married and has three children—two of whom are U.S. citizens and the oldest is a lawful permanent resident. Mendoza has no criminal history. Mendoza is the sole financial support for his family. *See Bond Redetermination Request, dated December 22, 2025, attached hereto as Attachment B.*

27. Despite having no criminal history, on November 29, 2025, Mendoza was detained by Respondents following a traffic stop in Wyoming wherein Mendoza was a passenger in the vehicle. *See Attachment B, attached hereto.*

28. Mendoza has been gainfully employed with the same painting company since 2007. He has filed tax returns from 2000 through 2025. *See Attachment B, attached hereto.*

29. When Mendoza last entered the United States over 25 years ago, he was not encountered by immigration and had no contact with immigration authorities until his arrest on November 29, 2025. Following his arrest by Immigration and Customs Enforcement (ICE), he was subsequently transferred from Wyoming to Aurora, Colorado.

30. On November 30, 2025, Respondents placed Mendoza in removal proceedings pursuant to a Notice to Appear charging him as removable pursuant to INA § 212(a)(6)(A)(i) as

“an alien present in the United States who has not been admitted or paroled.” *See Notice to Appear, dated November 30, 2025, attached hereto as Attachment A.*

31. On December 22, 2025, Mendoza requested a bond hearing before an IJ. In support of his request, Mendoza submitted proof that his U.S. citizen son would serve as his sponsor for ongoing removal proceeds, dozens of letters from friends and family in support of Mendoza’s good moral character, and his application for relief. *See Attachment B, attached hereto.*

32. On January 13, 2026, he was granted bond in the amount of \$ 3,000.00. Despite that Order granting bond and his family’s attempt to pay the bond, Mendoza has remained in custody since January 13, 2026. *See Attachment C, attached hereto.*

33. On January 14, 2026, DHS filed a Notice of Intent to Appeal Custody Redetermination, and on January 28, 2026, perfected the automatic stay by filing an appeal with the BIA. *See Attachment D, attached hereto.*

34. DHS’s stated reason for appealing was that the Immigration Judge erred in finding Mendoza eligible for bond pursuant to 8 U.S.C. § 1226(a) and in the alternative, erred in finding that he was not a flight risk. *See Attachment D, attached hereto.*

35. On February 5, 2026, Mendoza submitted his arguments in response to DHS’s appeal. *See Mendoza’s Response to DHS Appeal, dated February 5, 2026, attached hereto as Attachment E.*

36. Mendoza’s bond case remains pending a decision by the BIA. Until that decision is issued, or until April 14, 2026, when the 90 days of the automatic stay expires, Mendoza will continue to languish in custody.

LEGAL FRAMEWORK

I. Constitutional Limits on Civil Immigration Detention

37. 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).

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

39. 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).

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

41. 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.

42. 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. Automatic and Discretionary Stay Regulations

43. When an Immigration Judge orders release on bond and the government appeals, the regulations provide two mechanisms to stay that custody order: a discretionary or automatic stay.

44. Under the discretionary stay mechanism, DHS must file a motion and persuade the BIA that a stay is warranted. 8 C.F.R. § 1003.19(i)(1). The BIA serves as a neutral adjudicator and weighs the merits of DHS’s position. DHS did not use that mechanism here.

45. Instead, DHS invoked the automatic stay regulation. This mechanism involves no neutral adjudicator considering the merits, and instead, allows the prosecutor—who lost before the IJ—to unilaterally stay the IJ’s decision. *See* 8 C.F.R. § 1003.6.

46. Regulations provide that DHS’s automatic stay will lapse in 90 days on April 14, 2026, absent a BIA decision on the appeal. 8 C.F.R. § 1003.6(c)(4). But there are multiple avenues for extension. For example, if the BIA does not issue a decision in the 90-day window, DHS can then seek an additional discretionary stay from the BIA. 8 C.F.R. § 1003.6(c)(5). The automatic stay remains in effect for another 30 days while the BIA decides whether to grant a discretionary stay. *Id.*

47. Likewise, even if the BIA rules in favor of Mendoza on appeal and authorizes his release on bond, that release is automatically stayed for five more business days to give DHS a chance to refer the case to the Attorney General. 8 C.F.R. § 1003.6(d). Then, if DHS refers the case to the Attorney General, the automatic stay is extended for another 15 days. *Id.* The Attorney General may then stay release for the pendency of the case. *Id.* There is no prescribed time limit

for final resolution of the custody determination, meaning an individual may remain in detention indefinitely.

48. In sum, Mendoza has no way of knowing how long this automatic stay will last and has no opportunity to challenge the stay. In practice, the automatic stay regulation renders the IJ's custody decision ineffectual: if DHS disagrees with a custody decision, it can keep Mendoza detained for a minimum of 90 days, without a truly discernable end point.

III. Statutory Detention Framework

49. 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.

50. 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.

51. 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").

52. 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)).

53. 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.

54. 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.

55. 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.*

ARGUMENTS

I. THE AUTOMATIC STAY REGULATION VIOLATES MENDOZA'S FIFTH AMENDMENT RIGHT TO DUE PROCESS.

56. Government detention violates the Due Process Clause unless in certain special and non-punitive circumstances “where a special justification, ... outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

57. Immigration detention is permissible only insofar as it reasonably serves the limited civil purposes of ensuring appearance at proceedings or protecting the community from danger. *Demore v. Kim*, 538 U.S. 510, 527-28 (2003).

58. Here, an Immigration Judge conducted an individualized bond hearing and determined that Mendoza was neither a danger to the community nor a flight risk. *See Attachment C, attached hereto*. That determination eliminated the only constitutionally permissible bases for continued civil detention.

59. The automatic stay regulation nevertheless allowed DHS—without any neutral adjudication—to nullify that reasoned decision and continue detention automatically.

60. When promulgated in October 2001, the Attorney General justified the automatic stay regulation as an emergency response to the September 11 terrorist attacks. The articulated bases for the necessity of the automatic stay provision were: (1) a concern that with the passage of time, there would be an increased risk that a dangerous alien may be released; (2) the need to avoid a case-by-case determination of whether a stay should be granted in cases in which DHS had already determined that the alien should be kept without bail or with bail in excess of \$10,000; and, (3) a concern that the time difference between the east and west coast would permit the release of a dangerous alien after the BIA had closed for the day, effectively eliminating the opportunity

for an emergency appeal of the immigration judge's release order. *Executive Office of Immigration Review; Review of Custody Determination*, 66 Fed. Reg. 54909, 54910 (Oct. 31, 2001).

61. The concern was, therefore, to afford DHS the time necessary to ensure that potentially dangerous alien did not flee and to protect the public from an alien “that it believes is a threat to national security or the public safety.” *Executive Office of Immigration Review; Review of Custody Determination*, 66 Fed. Reg. 54909, 54910 (Oct. 31, 2001).

62. Those justifications are absent here. An Immigration Judge has already determined—after an adversarial hearing—that Mendoza poses no threat to public safety and no meaningful risk of flight. *See Attachment C, attached hereto*.

63. The automatic stay thus authorizes continued detention without any current finding that detention serves a permissible civil purpose. Detention untethered to flight risk or dangerousness ceases to be regulatory and becomes punitive in effect.

64. Multiple courts have concluded that such unilateral detention after a neutral adjudicator has ordered release fails to satisfy substantive due process. *See Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1077 (N.D. Cal. 2004); *Ashley v. Ridge*, 288 F. Supp. 2d 662, 669 (D.N.J. 2003); *Mayo Anicasio v. Kramer*, No. 4:25cv3158 (D. Neb. Aug. 14, 2025).

65. Because no “special justification” outweighs Mendoza’s fundamental liberty interest, his continued detention pursuant to the automatic stay violates substantive due process.

66. Even if continued detention could theoretically serve a permissible purpose, the procedures employed must satisfy constitutional requirements under *Mathews v. Eldridge* and here, each factor favors Mendoza.

A. Private Interest

67. "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).

68. Despite not being accused of any crime, Mendoza is being held in a detention facility that "strongly resemble[s] penal confinement," *Arostegui-Maldonado v. Baltazar*, 794 F. Supp. 3d 926, 940 (D. Colo. 2025). He is away from his family and is unable to maintain his employment.

69. Therefore, the first *Mathews* factor strongly weighs in favor of Mendoza.

B. The Risk of Erroneous Deprivation of Liberty is High

70. Under the second *Mathews* factor, the Court must assess whether the challenged procedure creates a risk of erroneous deprivation and whether additional safeguards would reduce that risk. *See Gunaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), 2025 WL 1459154, at *9 (D. Minn. May 21, 2025).

71. The automatic stay mechanism permits DHS to nullify a reasoned bond determination issued by an Immigration Judge without any neutral review at the time the stay is imposed. The unilateral override poses a substantial risk of erroneous deprivation.

72. Respondents appealed the IJ's determination that 8 U.S.C. § 1226(a) applies to Mendoza in the first place. But this District has already rejected Respondents' interpretation of 8 U.S.C. §§ 1225 and 1226 in numerous cases, *see supra* Notice of Related Cases. Where the underlying legal question has already been repeatedly resolved against Respondents' position, the risk that continued detention rests on an incorrect statutory premise is heightened.

73. The risk that his continued detention rests on an impermissible basis is especially heightened because Respondents rely on factual assertions in their appeal that are demonstrably inaccurate and, in several instances, internally contradictory. For example, Respondents stated that Mendoza is “a citizen and native of Honduras.” *See Attachment D, attached hereto*. He is not from Honduras; he is from Mexico. *See Attachments A and B, attached hereto*. Respondents stated that Mendoza “married a lawful permanent resident and has two United States citizen children.” *See Attachment D, attached hereto*. That is incorrect. Mendoza’s wife does not have status, his daughter, is a lawful permanent resident, and he has two U.S. citizen children. *See Attachment B, attached hereto*. Respondents stated that the IJ erred in granting bond in the “amount of \$ 5,000.00,” but Mendoza was granted bond in the amount of \$ 3,000.00. *See Attachments C and D, attached hereto*. Respondents argued that Mendoza “has yet to file [his] relief application itself,” thereby increasing his flight risk while the sentence before stating that Mendoza “filed an application for cancellation of removal for certain nonpermanent residents.” *See Attachment D, attached hereto*. When Respondents’ justification for continued detention rests on facts that do not accurately describe the detainee—or that contradict the record within the same filing—the risk of erroneous deprivation of liberty is extraordinarily high. If the foundation of the appeal is this unstable, Mendoza’s detention cannot be considered reliably or lawfully grounded.

74. But even setting aside the specific factual defects of Respondents’ appeal, the constitutional problem of the automatic stay regulation is structural. The automatic stay authorizes continued detention without any neutral review at the moment liberty is withdrawn, without any intervening independent review. The automatic stay regulation is only triggered after an individual has prevailed at a bond hearing. *See Martinez v. Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *3 (W.D. Tex. Sept. 8, 2025). By design, then, the regulation therefore applies

exclusively to individuals whom an Immigration Judge has already determined are appropriate candidates for release. The automatic stay thus suspends the considered judgment of a neutral decisionmaker and replaces it with unilateral executive detention, heightening the constitutional concern at the very point where due process protections should be at their apex.

75. The regulation allows the prosecuting agency to override the IJ's decision without presenting evidence, demonstrating likelihood of success, or establishing irreparable harm. This structure collapses the roles of prosecutor and adjudicator, heightening the risk of error. *See Marcello v. Bonds*, 349 U.S. 302, 305-06 (1955) (holding that the special inquiry officer adjudicating over an immigration case cannot also undertake the functions of prosecutor in the same matter).

76. Accordingly, the second *Mathews* factor weighs in favor of Mendoza.

C. Respondents' Interest

77. Respondents' interest carries little weight in comparison to Mendoza's continued deprivation of liberty.

78. The Immigration Judge's bond redetermination already accounted for flight risk and public safety concerns. If DHS believes the IJ erred, it can seek an emergency stay under 8 C.F.R. § 1003.19(i)(1), which requires a showing of likelihood of success and irreparable harm.

79. That mechanism fully protects Respondents' legitimate interests without authorizing unilateral detention.

80. The burden to Respondents, particularly where it does not necessitate the creation of an additional administrative framework, is minimal.

81. Thus, this *Mathews* factor also weighs in favor of Mendoza.

* * *

82. All three *Mathews* factors clearly support a finding that Mendoza's detention violated his due process rights.

83. The automatic stay regulation authorizes detention without an individualized determination that continued confinement serves a permissible civil purpose and without constitutionally adequate procedural safeguards.

84. Mendoza is therefore detained in violation of the Fifth Amendment.

85. As remedy for this Constitutional violation, Mendoza must be released immediately or upon posting of the \$ 3,000.00 bond ordered by the Immigration Judge.

II. THE AUTOMATIC STAY REGULATION IS ULTRA VIRES AND THEREFORE INVALID.

86. To the extent the challenged regulation permitting an automatic stay goes beyond the authority of the statutory framework of 8 U.S.C. § 1226(a) by eliminating the discretionary authority of immigration judges to determine whether an individual maybe released, it is invalid. *See Romero v. INS*, 39 F.3d 977, 980 (9th Cir. 1994) (holding that immigration regulation that is inconsistent with the statutory scheme is invalid).

87. The plain language of 8 U.S.C. § 1226(a) states that the determination as to whether an individual should be detained during removal proceedings is discretionary. Under subsection (a), Congress has vested the authority in the immigration court to, in the exercise of its discretion, determine whether release may be appropriate.

88. The automatic stay regulation disrupts the structure of the statute by allowing DHS to unilaterally stay an IJ's bond order simply by filing a notice of appeal, the regulation nullifies the exercise of discretion that § 1226(a) requires.

89. Although styled as a temporary procedural measure, the automatic stay operates in practice as mandatory detention. Once DHS files an appeal, detention continues automatically, without any showing of likelihood of success, irreparable harm, flight risk, or danger.

90. This mechanism converts what Congress designed as a discretionary custody scheme into a regime of de facto mandatory detention for a new class of individuals: those who prevailed at bond hearings but whose release DHS opposes. Congress did not authorize mandatory detention for that class.

91. An agency may not use regulation to accomplish indirectly what Congress chose not to authorize directly. By permitting DHS to override an Immigration Judge's discretionary bond determination and impose continued detention automatically, the regulation exceeds statutory authority.

92. Because the automatic stay regulation eliminates the meaningful operation of § 1226(a)'s discretionary release framework and effectively creates a new mandatory detention category not enacted by Congress, it is ultra vires and invalid.

93. In Mendoza's case, DHS has invoked the automatic stay to override a lawful discretionary bond determination and impose continued detention without statutory basis. Congress did not authorize DHS to convert § 1226(a) discretion into mandatory detention. Where continued custody derives from an ultra vires regulation rather than an act of Congress, habeas relief is required.

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

94. In the event the BIA vacates the IJ's order based on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), Mendoza submits this additional argument that he is detained under 8

U.S.C. § 1226(a) and not § 1225(b) and his immediate release whether upon payment of ordered bond amount or not remains an appropriate remedy.

95. 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).

96. 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)).

97. “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).

98. Thus, even if Mendoza 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.

99. Noncitizens in Mendoza’s 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).

100. Other indicia bolster Mendoza’s 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).

101. 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 Mendoza, who already “reside in the United States.” *Kaiser*, 2025 WL 2822876, at *11.

102. Furthermore, in the Notice to Appear DHS issued commencing removal proceedings against Mendoza, 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 Mendoza. *See Attachment A, attached hereto.*

103. Mendoza has been present in the United States since approximately 1999. Therefore, notwithstanding any lack of lawful status, Mendoza 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.”)).

104. Even if the BIA vacates the Immigration Judge’s bond order in reliance on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), Mendoza’s continued detention would then rest on § 1225(b)(2)(A) and would remain unlawful. As demonstrated above, the plain statutory text forecloses application of § 1225(b)(2)(A) to noncitizens who are not actively “seeking admission.” An agency interpretation cannot manufacture mandatory detention where the statute does not authorize it. Accordingly, vacatur of the bond order would not cure the illegality of Mendoza’s detention, and habeas relief would remain warranted.

CLAIMS FOR RELIEF

Count One

Violation of the Fifth Amendment – Substantive Due Process

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

106. Civil immigration detention is constitutionally permissible only insofar as it reasonably serves the non-punitive purposes of preventing flight or protecting the community.

107. An Immigration Judge has determined that Mendoza is neither a danger to the community nor a flight risk that cannot be mitigated by bond.

108. The automatic stay regulation nevertheless permits continued detention without any new individualized determination that detention serves a permissible civil purpose.

109. Continued detention under these circumstances is not narrowly tailored to any compelling governmental interest and is therefore punitive in effect.

110. Mendoza's detention pursuant to the automatic stay violates substantive due process and warrants habeas relief.

Count Two
Violation of the Fifth Amendment – Procedural Due Process

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

112. Due process requires the opportunity to be heard at a meaningful time and in a meaningful manner.

113. The automatic stay regulation permits continued detention without any neutral adjudicator reviewing whether detention remains justified, thereby creating a substantial risk of erroneous deprivation of liberty.

114. Under the balancing framework of *Mathews v. Eldridge*, Mendoza's liberty interest is profound, the risk of erroneous deprivation under the automatic stay is significant, and the government's interests can be fully protected through existing discretionary stay procedures.

115. By authorizing unilateral continued detention after an Immigration Judge has ordered release on bond, the automatic stay regulation violates Mendoza's procedural due process rights.

116. Mendoza is therefore detained in violation of the Fifth Amendment and is entitled to habeas relief.

Count Three
Ultra Vires Agency Action

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

118. Congress gave the Attorney General authority to detain or release aliens pending their removal proceedings, who in turn has delegated that authority to Immigration Judges.

119. The automatic stay regulation at 8 C.F.R. § 1003.19(i)(2) exceeds the authority given to DHS by Congress by giving them unilateral authority to override the IJ's decision, making it unlawful and *ultra vires*.

120. Because Mendoza's continued detention rests on an unauthorized regulatory expansion of statutory authority, it is unlawful.

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

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

122. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Mendoza 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).

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

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

PRAYER FOR RELIEF

Petitioner ARCHIVALDO MENDOZA 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 Court should not adopt the analysis set forth in

Merchan-Pacheo v. Noem, No. 1:25-cv-03860-SBP, 2026 WL 88526 (D. Colo. Jan. 12, 2026), and grant the Petition on that basis;

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

(4) Declare that Respondents' continued detention of Mendoza pursuant to the automatic stay regulation is unlawful;

(5) Declare that Mendoza is not subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A) and enjoin Respondents from re-detaining him under that provision;

(6) Order Respondents to give immediate effect to the Immigration Judge's bond determination and release Mendoza upon payment of the \$ 3,000.00 bond previously set, or otherwise order his immediate release from custody;

(7) Award Mendoza reasonable attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, upon the filing of a timely Motion with the Court; and

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

Dated this 2nd day of March 2026.

Respectfully submitted,

/s/ Skylar M. Larson

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ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing **Petition for Writ of Habeas Corpus and Attachments A-E** will be effectuated contemporaneously with the Court's issuance of an Order directing service, at which time true and correct copies will be served 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
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Washington, DC 20528-0485
Respondent

KRISTI NOEM, Secretary of U.S. Department of Homeland Security
245 Murray Lane, SW
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Respondent

PAMELA BONDI, U.S. Attorney General, U.S. Department of Justice
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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-00837

ARCHIVALDO MENDOZA,

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.

ATTACHMENTS TO PETITION FOR WRIT OF HABEAS CORPUS

ATTACHMENT A.	Notice to Appear, dated November 30, 2025
ATTACHMENT B.	Bond Redetermination Request, dated December 22, 2025
ATTACHMENT C.	Order of the Immigration Judge Granting Bond, dated January 13, 2026
ATTACHMENT D.	DHS Form EOIR-26, Notice of Appeal from a Decision of an Immigration Judge, dated January 28, 2026
ATTACHMENT E.	Mendoza's Response to DHS Appeal, dated February 5, 2026