

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
Valdosta Division**

AMANDEEP AMANDEEP,

Petitioner,

v.

KRISTI NOEM, *Secretary of Homeland Security,*

TODD LYONS, *Acting Director, U.S. Immigration
and Customs Enforcement,*

GEORGE STERLING, *Director, Atlanta ICE
Field Office*

PAMELA BONDI, *Attorney General, U.S.
Department of Justice*

DAVID PAULK, *Warden, Irving County
Detention Center*

Respondents.

Civil Action No. _____

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Amandeep¹ (A ) is a native and citizen of India. He entered the United States in or about August 2023. Shortly after entry, Petitioner was apprehended by immigration authorities and then subsequently released on his own recognizance pursuant to 8 U.S.C. § 1226(a). On about February 18, 2026, Petitioner was arrested by ICE, under facts and circumstances that place him squarely within ICE's general detention authority 8 U.S.C. § 1226(a). Under that statute, Petitioner is eligible to seek discretionary release on bond from an Immigration Judge ("IJ"). However, due to a new policy announced by ICE in July 2025, and a September 2025

¹ Petitioner has only one name. *See* Ex. 4 (containing Petitioner's Employment Authorization Document).

Board of Immigration Appeals (BIA) decision that overturns decades of settled law, Respondents contend that Petitioner is detained under 8 U.S.C. § 1225(b)(2). While § 1225(b) requires mandatory detention and does not allow release on bond, it only applies to noncitizens apprehended at the border “seeking admission.” Petitioner therefore brings this action to enjoin Respondents from subjecting him to mandatory detention under 8 U.S.C. § 1225(b)(2) and seeking an order to release Petitioner from custody and that Respondents provide him a discretionary bond hearing pursuant to § 1226(a) before an IJ within 7 days.

JURISDICTION AND VENUE

1. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

2. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act, and the Court’s inherent equitable powers, as well as issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

3. Venue lies in this District because Petitioner is currently detained in the custody of U.S. Immigration and Custom Enforcement (ICE) at the Irwin County Detention Center in Ocilla, Georgia, within the Middle District of Georgia; and each Respondent is an officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1). In addition, the Field Office Director for the Atlanta ICE Field Office, maintains their principal place of business in Atlanta, Georgia.

THE PARTIES

4. Petitioner Amandeep (A# ) is a native of India, who resides in North Carolina. He is currently detained by Respondents at the Irwin County Detention Center in Ocilla, Georgia.

5. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

6. Respondent Todd Lyons is the Acting Director of ICE. He is the head of the federal agency responsible for all immigration enforcement in the United States.

7. Respondent George Sterling is the Director of the Atlanta ICE Field Office. He is responsible for overseeing ICE operations pertaining to noncitizens within his territorial jurisdiction, such as Petitioner, including detentions, enforcement, and removal operations. He is Petitioner's immediate legal custodian for purposes of a federal habeas petition.

8. Respondent Pamela Bondi is the Attorney General of the United States. The immigration judges who decide removal cases and applications for relief from removal do so as her designees.

9. Respondent David Paulk is the Warden of the Irwin County Detention Center in Ocilla, GA. He is the immediate custodian who is currently holding Petitioner in physical custody. He is sued in his official capacity.

10. All government Respondents are sued in their official capacities.

LEGAL BACKGROUND

A. Immigration Detention Legal Framework

11. When a noncitizen is alleged to have violated immigration laws, they are generally placed into traditional removal proceedings, during which an immigration judge will determine whether they are removable and then whether they have a legal basis to remain in the United States. 8 U.S.C. § 1229a.

12. Detention is authorized for “certain aliens already in the country pending the outcome of removal proceedings under § 1226(a) and 1126(c).” *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). The statute provides that an individual may be subject to either discretionary detention under 8 U.S.C. § 1226(a) generally, or mandatory detention under 8 U.S.C. § 1226(c) if they have been arrested or convicted of certain crimes. Discretionary detention under § 1226(a) has been described as the “default” provision for immigration detention for those subject to traditional removal proceedings. *Id.* at 288. Under § 1226(a), “[e]xcept as provided in subsection (c) of this section, the Attorney General ‘may release’ an alien detained under § 1226(a) ‘on ...bond’ or ‘conditional parole.’” *Id.*

13. Alternatively, mandatory detention is authorized for “certain aliens seeking admission into the country under §§ 1225(b)(1) and 1225(b)(2),” [emphasis added]. *Jennings*, 583 U.S. at 289. Individuals inspected under § 1225(b) and determined to be “applicants for admission” may be subject to mandatory detention under two separate subsections. Applicants for admission include someone:

“present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for the purposes of this chapter to be an applicant for admission.”

§ 1225(a)(1).

14. The first subset, under 8 U.S.C. § 1225(b)(1), may be subject to expedited removal and mandatory detention if they are determined to be an “arriving alien,” and if they have not been physically present in the United States continuously for a two-year period immediately prior.

Regulations define an “arriving alien” as:

“an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to a designated port-of-entry, and regardless of the means of transport.”

8 C.F.R. § 1.2.

15. Otherwise, 8 U.S.C. § 1225(b)(2) provides for the detention of “applicant for admission” specifically when “the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title,” i.e. for traditional removal proceedings [emphasis added].

16. An “arriving alien” or an applicant for admission “seeking admission” may only be released from detention on parole (which is a form of release on recognizance), under 8 U.S.C. § 1182(d)(5). *Jennings*, 583 U.S. at 288. There is no bond available to an arriving alien or applicant for admission seeking admission. *Id.* There is no such thing as a “parole bond” – a release must be either parole under § 1182(d)(5) or a bond (conditional parole) under § 1226(a). *Id.*

17. For a noncitizen subject to discretionary detention under 8 U.S.C. § 1226(a), ICE makes an initial custody determination to either set a bond or hold the individual at no bond. The noncitizen may then seek a review of ICE’s initial custody determination before the IJ (a “custody review hearing”), who has the authority to modify ICE’s custody determination and set bond in a

case in which ICE has designated no bond, lower bond when ICE has set a cash bond amount, or deny bond completely. 8 C.F.R. § 1003.19.

18. Custody review hearings are separate from hearings in the underlying removal proceedings. 8 C.F.R. § 1003.19(d). If a noncitizen is granted bond by the IJ, he must still appear in immigration court for the IJ to determine his removability and hear any claim for relief from removal. At a custody review hearing, once jurisdiction over bond is established, the IJ's inquiry is limited to whether the detainee is a danger to the community or a flight risk, and bond may only be granted when an IJ has determined that the detainee meets his burden of proof that he is neither. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

19. For decades, it has been Respondents' practice to afford § 1226(a) discretionary bond hearings and custody review hearings to those individuals who have been encountered neither at a point of entry nor seeking admission to the United States. *See Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099, at *10 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted sub nom. Rocha Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) ("Respondents' proposed application of § 1226 is also belied by the Department of Homeland Security's 'longstanding practice' of treating noncitizens taken into custody while living in the United States, including those detained and found inadmissible upon inspection and then released into the United States with the government's acquiescence, who have committed no crime after release, as detained under § 1226(a)." citing *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024)).

B. BIA Decision *Matter of Matter of Q. Li*

20. On May 15, 2025, the BIA issued its decision in *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), which held that an applicant for admission "who was arrested without a warrant

while arriving in the United States and thereafter placed in removal proceedings, is detained under section 235(b)(2)(A), until the conclusion of removal proceedings.” *Id.* at 71.

21. Q. Li was encountered upon entry into the United States, she was arrested by immigration officers, and paroled into the U.S. under 8 U.S.C. § 1182(d)(5). *Id.* at 67. Part of the condition of her §1182(d)(5) parole was to report regularly to ICE. *Id.* Following a subsequent alert as to an international arrest warrant, she was taken back into custody, issued a Notice to Appear commencing removal proceedings, and issued a new Notice of Custody Determination and detained. *Id.* She requested a custody redetermination before an IJ and was denied for lack of jurisdiction, because she was subject to mandatory detention under § 1225(b)(2). *Id.*

22. In particular, the BIA reasoned that the termination of parole restored Q. Li to her prior custody status. *Id.* at 69. (“When parole granted by DHS is terminated, “the alien shall forthwith return or be returned to the custody from which he was paroled.” INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i).”). Additionally, Q. Li had been arrested without a warrant, and had never been subject to 8 U.S.C. § 1226(a) authority. *Id.* at 70. Ultimately, the BIA agreed that she was subject to § 1225(b)(2) and ineligible for bond. *Id.* at 71.

23. While Respondents have attempted to apply *Q. Li* more broadly to individuals encountered at the interior of the country – or in the absence of a parole under § 1182(d)(5) – this argument has been consistently rejected. *See Valerio v. Joyce*, No. CV 25-17225 (ZNQ), 2025 WL 3251445, at *3 (D.N.J. Nov. 21, 2025); *Diaz Rudecindo v. Florentino*, No. CV 25-16942 (ES), 2025 WL 3470299, at *2 (D.N.J. Dec. 3, 2025); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025, at *9-11 (D. Md. Aug. 24, 2025); *Vasque Romero v. Noem*, No. CV 3:25-524, 2026 WL 116379, at *1 (W.D. Pa. Jan. 15, 2026); and *Hasan v. Crawford*, 800 F. Supp. 3d 641, 657, n.11 (E.D. Va. 2025).

C. New ICE memo reinterpreting 8 U.S.C. § 1225(b)(2)

24. On July 8, 2025, Respondent ICE issued new interim guidance that announced a breathtakingly broad interpretation of 8 U.S.C. § 1225(b)(2). *See* ICE memorandum “Interim Guidance Regarding Detention Authority for Applications for Admission.”² This memo concerns the detention of “applicants for admission” as defined by § 1225(a)(1). “Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)(2)] and may not be released from ICE custody except by INA § 212(d)(5) [8 U.S.C. § 1182(d)(5)].” *Id.* DHS is explicit that this new policy is a marked deviation from prior interpretation and treatment of affected noncitizens. *Id.* (“For custody purposes, these aliens are now treated in the same manner that “arriving aliens” have historically been treated.”)

25. In addition to the announcement re-interpreting § 1225(b)(2), the memo further clarifies that “[t]he only aliens eligible for a custody determination and release on recognizance, bond or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237 [8 U.S.C. § 1227], with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)].” *Id.*

26. Moreover, ICE maintains that “DHS does not take the position that prior releases of applicants for admission pursuant to INA § 236(a) were releases on parole under INA § 212(d)(5) based on this change in legal position.” *Id.* ICE fails to clarify under what legal authority, then, those prior releases were effectuated. Rather, ICE signals the resulting lack of “correct” paperwork is nonetheless permissible. *Id.* (“Accordingly, ERO and HIS are not required to ‘correct’ the release paperwork by issuing INA § 212(d)(5) parole paperwork.”)

² Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission> (last accessed February 19, 2026).

27. Nationwide implementation of the ICE § 1225(b)(2) mass detention policy ensued.

D. BIA decision *Matter of Yajure Hurtado*

28. On September 5, 2025, the Board of Immigration Appeals (BIA), which oversees all appeals of IJ decisions including custody redeterminations, upheld ICE's re-interpretation of § 1225(b)(2). *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

29. The BIA held that the respondent was an "applicant for admission" within the scope of § 1225(b), and therefore subject to mandatory detention.

30. The BIA characterized the issue before it as "one of statutory construction: Does the INA require that *all* applicants for admission, even those like the respondent who have entered without admission or inspection and have been residing in the United States for years without lawful status, be subject to mandatory detention for the duration of their immigration proceedings, and thus the Immigration Judge lacks authority over a bond request filed by an alien in this category?" [emphasis added]. *Id.* at 220.

31. The BIA reasoned that individuals "who surreptitiously cross into the United States remain applicants for admission until and unless they are lawfully inspected and admitted by an immigration officer." *Id.* at 228.

32. The BIA acknowledged the decades of precedent preceding its decision that authorized release of individuals present without having been inspected and admitted or paroled under § 1226(a). *Id.* at 225, FN6 ("We acknowledge that for years Immigration Judges have conducted bond hearings for aliens who entered the United States without inspection. However, we do not recall either DHS or its predecessor, the Immigration and Naturalization Service, previously raising the current issue that is before us. In fact, the supplemental information for the 1997 Interim Rule titled '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), reflects that the Immigration and Naturalization Service took the position at that time that ‘[d]espite 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.’”)

33. Ultimately, the BIA upheld the decision that the IJ lacked jurisdiction under 8 U.S.C. § 1225(b)(2) to consider the respondent for discretionary bond. *Id.* at 229.

34. The BIA decision is binding on all immigration judges nationwide.

35. Respondents’ new policy and interpretation of 8 U.S.C. § 1225(b)(2) stand to sweep millions of noncitizens into mandatory detention, without any consideration for release on bond (regardless of their ties to their community or lack of dangerousness or flight risk). *Rosado*, 2025 WL 2337099, at *11 (“It has been estimated that this novel interpretation would require the detention of millions of immigrants currently residing in the United States.”)

36. Though the Fifth Circuit affirmed *Yajure Hurtado* in its decision in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026), that decision is neither binding in authority on this Court nor persuasive in reasoning.³ See *Buenrostro-Mendez*, 166 F.4th at 508–21 (Douglas, J., dissenting) (explaining how the majority opinion creates surplusage in statutory language, renders other parts of the Immigration and Nationality Act superfluous, ignores constitutionally significant differences between a noncitizen caught at the border and a noncitizen who has spent

³ Moreover, *Buenrostro-Mendez* is distinguishable from this case in that *Buenrostro-Mendez* dealt with noncitizens whom DHS encountered for the first time more than a decade after their entry into the United States, while in this case, DHS encountered Petitioner at the border, arrested him pursuant to an administrative warrant, released him under its authority under Section 1226, and then re-arrested him more than two years later. Compare *Buenrostro-Mendez*, 2026 WL 323330 at *3 with *Complaint* ¶¶ 38–44.

years in the United States prior to apprehension, and hinges its interpretation of “seeking admission” on a logically tenuous comparison to applying to college). Furthermore, the Court has rejected *Yajure Hurtado* for “lack of persuasiveness” because that decision “largely ignores [8 U.S.C.] § 1226 and fundamental canons of statutory interpretation that require consideration of the relevant context within which the statute exists.” See *J.A.M. v. Streeval*, 2025 WL 3050094, at *4 (M.D. Ga. Nov. 1, 2025).

37. Moreover, on February 18, 2026, the District Court for the Central District of California vacated *Yajure Hurtado* as part of its granting of the plaintiffs’ motion to enforce in *Maldonado-Bautista v. Santacruz*. See 2026 WL 468264 at *10 (S.D. Cal. Feb. 18, 2026) (vacating *Yajure Hurtado* “under the APA [Administrative Procedure Act]”). Though the Government has since appealed that decision on February 23, 2026, see *Bautista v. DHS*, 26-1044 (9th Cir. Feb. 23, 2026), to date, the District Court’s decision has not been stayed, vacated, or modified by the District Court, the Ninth Circuit, or the U.S. Supreme Court.

FACTS

38. Petitioner Amandeep was born in 1988 in India. He entered the United States without inspection on or about August 22, 2023, and was encountered by U.S. immigration officials shortly thereafter. See Ex. 1, Notice to Appear.

39. On August 23, 2023, DHS issued him a Notice to Appear (“NTA”). See *id.* The NTA charges Petitioner with removability under 8 U.S.C. § 1182(a)(6)(A)(i), thereby initiating removal proceedings pursuant to 8 U.S.C. § 1229a. *Id.* Petitioner is charged as an alien present in the United States without having been admitted or paroled and is not designated as an arriving alien. *Id.*

40. Additionally, on the same day, DHS issued him with a Form I-220A, Order of

Recognizance. *See* Ex. 2 at 1 (containing Petitioner's Form I-220A, Order of Release on Recognizance). The Form I-220A expressly states that Petitioner was being released "in accordance with Section 236 of the Immigration and Nationality Act [8 U.S.C. § 1226]." *Id.* There is no evidence, nor allegation that he was paroled into the United States.

41. Petitioner went to live with family friends in Burlington, North Carolina. During this period, he complied with all DHS requirements, including consistent reporting. Petitioner has work authorization in the form of an Employment Authorization document until August 2029. *See* Ex. 4.

42. On August 19, 2024, Petitioner filed a Form I-589, Application for Asylum and for Withholding of Removal. *See* Ex. 3, Form I-589 Receipt Notice.

43. Petitioner was instructed to report to the ICE Enforcement and Removal Operations ("ERO") office in Charlotte, North Carolina for a February 18, 2026, check-in appointment. Petitioner attended the appointment, only for DHS to detain him without prior notice of DHS' intention. He has remained continuously detained since that date.

44. Petitioner remains in removal proceedings before the Immigration Court.⁴ His matter is currently calendared for a Master Calendar Hearing on September 29, 2027, and proceedings therefore remain pending. He is not subject to a final order of removal. *See* EOIR Automated Case Information (available at <https://acis.eoir.justice.gov/en/caseInformation> (last visited on March 2, 2026):

⁴ Petitioner's case is distinguishable from the case of the petitioner in *P.R.S. v. Streeval*, whose habeas corpus petition the Court denied because DHS had the authority to detain that petitioner under 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). *See* 2025 WL 3269947, at *2 (M.D. Ga. Nov. 24, 2025). Like Petitioner, the *P.R.S.* petitioner was detained shortly after his illegal entry and released from detention pending a decision on his asylum application. *See id.* Unlike Petitioner, however, the *P.R.S.* petitioner had his asylum application dismissed and was found to lack a credible fear of persecution.

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Automated Case Information

Name: AMANDEEP, AMANDEEP | A-Number:  | Docket Date:
9/14/2023

Next Hearing Information

Your upcoming **MASTER** hearing is **INTERNET-BASED** on **September 29, 2027** at **1:00 PM**.

JUDGE

Nance, Jeffery R.

WEBEX ADDRESS

<https://eoir.webex.com/meet/IJ.Nance>

Court Decision and Motion Information

This case is pending.

BIA Case Information

No appeal was received for this case.

Court Contact Information

If you require further information regarding your case, or wish to file additional documents, please contact the immigration court.

COURT ADDRESS

5701 EXECUTIVE CENTER DR. #400
CHARLOTTE, NC 28212

PHONE NUMBER

45. Prior to his detention, Petitioner was employed as a cook and was financially self-sufficient while also contributing to the support of family members abroad. His sudden detention resulted in the immediate loss of income, causing financial strain and significant emotional distress, particularly to his elderly mother overseas. In addition, Petitioner has established deep and meaningful ties to his community in the United States. Petitioner has a history of elevated blood pressure for which he takes prescribed medication. During the period he waited outside the

Charlotte DHS office prior to his detention—overnight and in cold weather conditions—his blood pressure increased significantly due to stress, exposure to the elements, and limited access to food and rest. At the time of his detention, Petitioner requested access to his prescribed medication.

46. Despite this consistent compliance over the course of years, Petitioner was nonetheless taken into custody and now remains detained at the Irwin County Detention Center, as of the time of filing this Petition. See ICE Detainee Locator (*available at <https://locator.ice.gov/odls/#/details>* (last visited on March 2, 2026)).

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Facility Page

Detention Information For:

AMANDEEP AMANDEEP

Country of Birth: India

A-Number: 



Current Detention Facility:

IRWIN COUNTY DETENTION CENTER
132 COTTON DRIVE

NA

OCILLA, GA 31774

Visitor Information: (229) 468-4121

MORE INFORMATION >

ERO Office Information

Family members and legal representatives may be able to obtain additional information about this individual's case by contacting this ERO office:

ATLANTA, GA, DOCKET CONTROL OFFICE

Phone Number: (404) 893-1210

47. All Respondents consider that Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2). *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025). Accordingly, it would be futile for

Petitioner to request a bond from an Immigration Judge. Exhaustion of administrative remedies would therefore be futile.

**FIRST CLAIM FOR RELIEF:
No-Bond Detention in Violation of 8 U.S.C. § 1226(a)**

48. Petitioner re-allege and incorporate by reference the preceding paragraphs 1–47.

49. Since Petitioner is not an applicant for admission “seeking admission” or “an arriving alien” subject to 8 U.S.C. §§ 1225(b)(1) or (b)(2), and has no disqualifying criminal arrests or convictions subject to 8 U.S.C. § 1226(c), he is entitled to a bond redetermination hearing by an immigration judge pursuant to 8 U.S.C. § 1226(a).

50. Respondents’ actions, as set forth herein, violate Petitioner’s statutory right to a bond redetermination hearing in front of an immigration judge.

**SECOND CLAIM FOR RELIEF:
Detention in Violation of Due Process**

51. Petitioner re-alleges and incorporates by reference paragraphs 1–47.

52. Immigration detention is civil, not criminal, in nature. There are only two permissible reasons for immigration detention: to avoid flight risk, and to avoid danger to the community.

53. While the government’s authority to revoke a conditional parole is in their sole discretion, it must still comport with due process. Immigration detention is civil, not criminal, in nature. There are only two permissible reasons for immigration detention: to avoid flight risk, and to avoid danger to the community. “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*.” *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 685 (W.D. Tex. 2025) (citing 424 U.S. 319 (1976)).

54. After entering the United States, Petitioner went on to develop ties to the community over the course of years. Petitioner is therefore a “person” within the meaning of the

Due Process Clause of the Fifth Amendment to the U.S. Constitution, and have a liberty interest in freedom from physical restraint.

55. Petitioner has a strong private interest in his liberty at stake. As held in *Lopez-Arevalo*, another case involving a detainee who was rearrested following a prior release, “the interest in being free from physical detention by [the] government” is “the most elemental of liberty interests[.]” 801 F. Supp. 3d at 685 (quoting *Martinez v. Noem*, 2025 WL 2598379, at *2 and *Hamdi v. Rumsfeld*, 542 U.S. 507, 529) (2004). Moreover, “it is well-established that parolees have a strong interest in their conditional release, ... and courts have held they cannot be re-arrested without a due process hearing in which they can challenge their reincarceration.” *Rodriguez Diaz v. Kaiser*, No. 25-CV-05071-TLT, 2025 WL 3011852, at *9 (N.D. Cal. Sept. 16, 2025), citing *Morrissey v. Brewer*, 408 U.S. 471, 481-2 (1972). Petitioner was released on recognizance by ICE. Accordingly, his liberty interest is *at least as great* as those serving criminal sentences on parole. *Id.* Moreover, Petitioner’s liberty interest has only grown in the time since his prior immigration detention in 2023. *Id.* at *10. *See also Lopez Arevalo*, 801 F. Supp. 3d at 686 (same).

56. Next, the risk of erroneous deprivation of said liberty to Petitioner is high. Respondents have not provided a reason for Petitioner’s rearrest nor do they believe they are required to do so. *See* July 2025 ICE Memo, *supra* at ¶¶ 22-25. *See also Rodriguez Diaz*, 2025 WL 3011852, at *11, citing *Guillermo M.R. v. Kaiser*, No. 25-cv-05436-RFL, 2025 WL 1983677, at *8 (N.D. Cal. Jul. 17, 2025). (“Respondents’ new position would grant ICE unlimited authority to disregard any bond determination made by an IJ for any reason, which is ‘a recipe for arbitrary and erroneous deprivations of liberty.’”). Moreover, seeking a bond hearing before an immigration judge without a ruling from this Court would be equally as futile as appeal to the BIA, as it is sure

to be denied for lack of jurisdiction. *Lopez Arevalo*, 801 F. Supp. 3d at 686. (“[G]iven the BIA’s interpretation of mandatory detention in *Yajure Hurtado*, that appeal is almost certainly a futile exercise.”); *see also Rodriguez-Diaz*, 2025 WL 3011852, at *12 (same).

57. The government could only present minimal interests in continuing to detain Petitioner without affording him a bond hearing. There is no current evidence that Petitioner is a flight risk or that he is a danger to the community. Any resource arguments fall flat because the cost of a mere bond hearing is surely dwarfed by accruing expenditures to finance his ongoing detention. *Lopez-Arevalo*, 801 F. Supp. 3d at 687. Moreover, the costs of a bond hearing are those that the government has allotted for decades without issue in these contexts. *Id.* Most importantly, “Petitioner-Plaintiff is not asking the Court to enjoin detention altogether, he only requests that Respondents justify his re-detention at a pre-deprivation hearing.” *Rodriguez-Diaz*, 2025 WL 3011852, at *13. The same is true here.

58. Accordingly, all *Mathews* factors militate in favor of Petitioner, and Respondents’ actions in detaining Petitioner without a bond hearing before a neutral and detached magistrate have therefore deprived Petitioner of his rights without due process of law.

REQUEST FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

- a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner’s detention in fact and in law, forthwith;
- b) Enjoin Respondents from holding Petitioner is subject to detention under 8 U.S.C. § 1225(b)(2) and denying them a bond hearing on that basis;
- c) Enjoin Respondents from re-arresting Petitioner subject to § 1225(b)(2);

- d) Order Petitioner's immediate release from custody;
- e) Order, in the alternative, Petitioner's immediate release and that Respondents conduct a bond hearing for Petitioner pursuant to 8 U.S.C. § 1226(a) within 7 days;
- f) Retain jurisdiction over this matter to ensure Respondents' compliance with the Court's orders;
- g) Grant the writ of habeas corpus and order Respondents to release Petitioner forthwith, upon payment of the bond as ordered by the Immigration Judge; and
- h) Grant any other relief that this Court deems just and proper.

Respectfully submitted,

Dated: March 3, 2026

/s/ Benjamin Osorio
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Georgia State Bar no. 194702
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Fairfax, Virginia 22030
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Facsimile: 703-763-2304
benjamin@murrayosorio.com

Counsel for Petitioner

LIST OF EXHIBITS

Ex. 1) Notice to Appear;

Ex. 2) Order of Release on Recognizance;

Ex. 3) I-589 Receipt Notice;

Ex. 4) Petitioner's Employment Authorization Document.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

Civil Process Clerk
U.S. Attorney's Office for
the Middle District of Georgia
300 Mulberry Street, 4th Floor
Macon, GA 31902

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW, Mail Stop 0485
Washington, DC 20528-0485

Pamela Bondi
Attorney General of the United States
950 Pennsylvania Avenue,
NW Washington, DC 20530-0001

Office of the Principal Legal Advisor
U.S. Immigration and Customs
Enforcement
500 12th Street SW, Mail Stop 5902
Washington, DC 20536-5902

Warden David Paulk
Irwin County Detention Center
132 Cotton Drive
Ocilla, GA 31774

Respectfully submitted,

Dated: March 3, 2026

/s/ Benjamin Osorio
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