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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

Roberto BONAT HERNANDEZ,

Petitioner,

v.

BRUCE SCOTT, Warden, Northwest
Immigration and Customs Enforcement
Processing Center;

PAMELA BONDI, Attorney General of
the United States;

TODD LYONS, Acting Director of
Immigration and Customs Enforcement;

CHARLES NEIL FLOYD, US Attorney
for Western District of Washington
Department of Justice; and

EOIR Tacoma Immigration Court

Respondents.

Case No.

**PETITION FOR WRIT OF HABEAS
CORPUS**

Expedited Hearing Requested

INTRODUCTION

1. This habeas corpus action challenges the unlawful seizure and continued detention of Petitioner Roberto Bonat Hernandez by federal immigration authorities. Petitioner is a Cuban national who lawfully entered the United States through Miami International Airport in October 2023 and was paroled into the country pursuant to statutory authority. (See Exhibit A – copy of Petitioner’s Birth Certificate with English Translation, Cuban Passport, Notice to Appear (NTA), I-94 Record of Admission (Parole Document), and Cuban Passport with Parole entry stamp). After his release, he resided and worked in the United States for more than two years with the Government’s knowledge and authorization, obtained lawful employment authorization, and pursued adjustment of status under the Cuban Adjustment Act (CAA). (See Exhibit B-C – copy of Petitioner’s I-485, Application to Register Permanent Residence or Adjust Status, pursuant to CAA, Receipt Notice, copy of Petitioner’s Employment Authorization Document (EAD), valid from 01/02/2025 to 01/01/2030).

2. In December 2025, Immigration and Customs Enforcement (ICE) agents stopped Petitioner in the interior of the United States while he was traveling to work and took him into custody without a judicial warrant and without articulating reasonable suspicion of criminal activity or an immigration violation. (See Exhibit D – Petitioner’s Detention Information). ICE subsequently classified Petitioner as an “applicant for admission” and subjected him to mandatory detention under 8 U.S.C. § 1225(b), despite the fact that he had already been inspected, paroled into the United States, and living in the interior for years. See Exhibit A.

3. Respondents’ actions exceed their statutory authority and violate fundamental constitutional protections. The Fourth Amendment prohibits unreasonable seizures in the interior of the United States, and civil immigration enforcement does not create an exception to that rule.

Moreover, the Government's reliance on § 1225(b) is legally misplaced. That provision governs detention during border inspection, not the re-detention of individuals who have already been paroled and released into the country. Once a noncitizen has been released into the interior, subsequent arrest and detention are governed by 8 U.S.C. § 1226, which requires individualized custody determinations rather than mandatory confinement.

4. Petitioner's continued detention therefore rests on an ultra vires interpretation of the immigration statutes and violates the Fifth Amendment's guarantee of due process. Having been released into the United States and permitted to live and work here for years, Petitioner possesses a cognizable liberty interest in his freedom from arbitrary detention. The Government's decision to seize and incarcerate him without a pre-deprivation hearing, individualized findings, or lawful statutory basis constitutes an unconstitutional deprivation of liberty.

5. Through this petition, Petitioner invokes this Court's habeas jurisdiction under 28 U.S.C. § 2241 to challenge the legality of his custody. Because Respondents lack lawful authority to detain him under § 1225(b), the Court should grant the writ and order his immediate release. In the alternative, the Court should hold that Petitioner's detention is governed by 8 U.S.C. § 1226(a) and order an immediate custody redetermination hearing before an Immigration Judge.

JURISDICTION

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 (INA § 101) *et seq.*

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

1 8. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*,
2 the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

3 **VENUE**

4 9. Venue is proper because Petitioner is detained at the Northwest Immigration and
5 Customs Enforcement Processing Center in Tacoma, Washington which is within the jurisdiction
6 of this District.

7 10. Venue is proper in this District because Respondents are officers, employees, or
8 agencies of the United States and the Petitioner resides in this District and no real property is
9 involved in this action. 28 U.S.C. § 1391(e).

10 **REQUIREMENTS OF 28 U.S.C. § 2243**

11 11. The Court must grant the petition for writ of habeas corpus or issue an order to show
12 cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C.
13 § 2243. If an order to show cause is issued, the Court must require respondents to file a return
14 “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.”
15 *Id.* (emphasis added).

16 12. Courts have long recognized the significance of the habeas statute in protecting
17 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
18 important writ known to the constitutional law of England, affording as it does a *swift* and
19 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400
20 (1963) (emphasis added).

21 **PARTIES**

22 13. Mr. Bonat Hernandez is a Cuban national who was paroled into the United States and
23 is currently detained at the Northwest Immigration and Customs Enforcement Processing Center

1 in Tacoma, Washington. He is presently in the custody, and under the direct control, of
2 Respondents and their agents.

3 14. Respondent Bruce Scott is the Warden of Northwest Immigration and Customs
4 Enforcement Processing Center, and he has immediate physical custody of Petitioner pursuant to
5 the facility's contract with ICE to detain noncitizens and is a legal custodian of Petitioner.
6 Respondent Scott is a legal custodian of Petitioner.

7 15. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of
8 the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity,
9 she has the authority to adjudicate removal cases and to oversee the Executive Office for
10 Immigration Review (EOIR), which administers the immigration courts and the Board of
11 Immigration Appeals (BIA). Respondent Bondi is a legal custodian of Petitioner.

12 16. Respondent Todd Lyons is sued in his official capacity as the Acting Director of ICE,
13 a component agency of DHS. In that capacity, he is responsible for the administration and
14 oversight of ICE's enforcement and detention operations nationwide, including the custody and
15 detention of noncitizens held pending removal proceedings. As Acting Director, Respondent
16 Lyons exercises supervisory authority over the officers and officials responsible for Petitioner's
17 detention and is therefore a legal custodian of Petitioner.

18 16. Defendant Charles Neil Floyd is the United States Attorney for Western District of
19 Washington Department of Justice and is sued in his official capacity only.

20 17. Respondent EOIR, Tacoma Immigration Court, is the administrative tribunal within
21 the DOJ responsible for conducting Petitioner's removal proceedings. The Tacoma Immigration
22 Court exercises authority over the adjudication of immigration cases for individuals detained at
23 the Northwest Immigration and Customs Enforcement Processing Center in Tacoma, Washington.

1 In that capacity, EOIR Tacoma Immigration Court has jurisdiction over Petitioner's removal
2 proceedings and related custody determinations.

3 **STATEMENT OF FACTS**

4 18. Petitioner Roberto Bonat Hernandez is a citizen and national of Cuba.

5 19. On October 9, 2023, Petitioner lawfully entered the United States through Miami
6 International Airport in Miami, Florida, and was paroled into the country pursuant to the Cuban
7 Humanitarian Parole (CHP) program. See Exhibit A.

8 20. Since his parole, Petitioner has continuously resided in the United States and has
9 pursued lawful permanent residence pursuant to the CAA. See Exhibit B.

10 21. Petitioner has been authorized to work in the United States and possesses a valid EAD
11 issued by DHS, valid from January 2, 2025 through January 1, 2030. See Exhibit C.

12 22. Upon information and belief, on December 17, 2025, ICE officers detained Petitioner
13 in the parking lot of his workplace in Beaverton, Oregon, after agents followed his vehicle while
14 he was traveling to work and identified him by name.

15 23. At the time of the stop and arrest, Petitioner was not committing any criminal offense,
16 was not subject to a judicial warrant, and had not been provided any prior notice or pre-deprivation
17 hearing.

18 24. Following his arrest, Petitioner was placed into immigration detention and is currently
19 confined at the Northwest Immigration and Customs Enforcement Processing Center in Tacoma,
20 Washington. See Exhibit D.

21 25. Respondents purport to detain Petitioner under 8 U.S.C. § 1225(b) as an "applicant for
22 admission" subject to mandatory detention.

1 26. That classification is legally incorrect. Petitioner was previously inspected and paroled
2 into the United States through a port of entry and has lived in the interior of the country for more
3 than two years prior to his arrest.

4 27. Petitioner's seizure by ICE officers occurred in the interior of the United States without
5 a warrant and without reasonable suspicion or probable cause, in violation of the Fourth
6 Amendment.

7 28. Respondents' continued detention of Petitioner under 8 U.S.C. § 1225(b) exceeds
8 statutory authority and violates the Due Process Clause of the Fifth Amendment.

9 29. At a minimum, Petitioner is entitled to individualized custody review pursuant to 8
10 U.S.C. § 1226(a), rather than mandatory detention under § 1225(b).

11 **LEGAL FRAMEWORK AND ANALYSIS**

12 **I. Prudential Exhaustion is not required because Petitioner raises constitutional claims**
13 **and administrative remedies are inadequate or futile.**

14 30. Although courts sometimes require prudential exhaustion in immigration habeas cases,
15 exhaustion is not jurisdictional. The Western District of Washington recognizes that exhaustion
16 may be excused where the claims presented are constitutional in nature, where administrative
17 remedies are inadequate, or where exhaustion would be futile. See *Aden v. Nielsen*, 409 F. Supp.
18 3d 998, 1021 (W.D. Wash. 2019).

19 31. Petitioner's claims fall squarely within those exceptions. First, he challenges the
20 constitutionality of the stop, seizure, and continued detention under the Fourth and Fifth
21 Amendments. Administrative officers lack authority to adjudicate constitutional claims. See *Nat'l*
22 *Lab. Rels. Bd. v. N. Mountain Foothills Apartments*, 157 F.4th 1089, 1097 (9th Cir. 2025). Second,
23 Respondents have taken the position that Petitioner is subject to mandatory detention, thereby
24 foreclosing any meaningful bond hearing or individualized custody review. Third, Petitioner's

1 continued detention inflicts irreparable injury in the form of ongoing deprivation of liberty.
2 Because no administrative mechanism exists to remedy the constitutional defects asserted here,
3 and because Respondents have already denied requests for release on parole or bond, further
4 exhaustion would be futile and is therefore excused.

5 **II. Respondents' Reliance on 8 U.S.C. § 1225(b) Is Ultra Vires Because Petitioner Is**
6 **Not Subject to Mandatory Detention as an "Applicant for Admission."**

7 32. Respondents appear to justify Petitioner's detention under 8 U.S.C. § 1225(b), the
8 statute governing inspection and detention of applicants for admission. That reliance is legally
9 misplaced. Petitioner lawfully entered the United States on October 9, 2023, through Miami
10 International Airport and was granted parole under INA § 212(d)(5). See Exhibit A. He has
11 remained physically present in the United States since then. He is presently pursuing lawful
12 permanent residency under the CAA. See Exhibit B. At the time of his arrest in December 2025,
13 he was on his way to his place of employment and was not committing any traffic or criminal
14 violation. See Exhibit C. Section 1225(b) governs the initial inspection of individuals seeking
15 admission at a port of entry or those encountered near the border who have not yet been admitted.
16 8 U.S.C. § 1225. The statutory scheme contemplates detention during inspection and immediate
17 removal proceedings. It does not authorize the Executive to re-characterize a long-present parolee
18 as though he were again standing at the border years after lawful inspection and release.

19 33. Although parole does not constitute "admission," it is nonetheless a lawful status
20 authorized by statute. 8 U.S.C. § 1182(d)(5)(A). Congress provided parole authority under INA §
21 212(d)(5) to allow individuals to enter and remain temporarily in the United States for urgent
22 humanitarian reasons or significant public benefit. *Id.* Petitioner's parole was not a sham entry; it
23 was an authorized act of the Executive permitting his physical presence in the United States. For
24

1 more than two years, the Government acquiesced in his presence, authorized his employment, and
2 permitted him to pursue adjustment of status.

3 34. To now invoke § 1225(b) as a basis for mandatory detention ignores both statutory
4 structure and constitutional limits. Section 1225(b) speaks in mandatory language during
5 inspection. It does not authorize perpetual classification of a parolee as perpetually “arriving” for
6 purposes of re-detention at any time in the interior. To interpret the statute otherwise would grant
7 the Executive boundless authority to detain any parolee years after lawful entry, without an
8 individualized determination, and without regard to reliance interests or liberty interests that have
9 attached.

10 35. Such an interpretation would render meaningless Congress’s distinction between §
11 1225 and § 1226. Section 1226 governs arrest and detention of noncitizens already present in the
12 interior. 8 U.S.C. § 1226. By contrast, § 1225 governs border inspection. 8 U.S.C. § 1225. The
13 Government’s attempt to collapse those provisions into one another violates fundamental
14 principles of statutory construction and exceeds statutory authority.

15 36. Accordingly, Petitioner’s continued detention under § 1225(b) is ultra vires, contrary
16 to law, and must be set aside under 5 U.S.C. § 706(2).

17 **III. The Doctrine of Constitutional Avoidance Requires a Narrow Reading of § 1225(b)**
18 **that Excludes Long-Released Parolees Seized in the Interior.**

19 37. Even if this Court were to conclude that the text of 8 U.S.C. § 1225(b) could plausibly
20 be read to encompass Petitioner’s detention, the doctrine of constitutional avoidance requires the
21 Court to reject that interpretation. The Ninth Circuit adheres to a textualist methodology, but
22 textualism does not require courts to adopt expansive constructions that generate grave
23 constitutional concerns when narrower readings are available. To the contrary, the canon of
24 constitutional avoidance is itself a deeply rooted interpretive principle that instructs courts to

1 construe statutes, where fairly possible, to avoid serious constitutional infirmities. See *Jennings v.*
2 *Rodriguez*, 583 U.S. 281, 286, (2018) (reaffirming constitutional avoidance as a background
3 interpretive canon); see also *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001) (narrowly construing
4 immigration detention statute to avoid serious due process concerns).

5 38. The Government’s anticipated interpretation of § 1225(b) would authorize the
6 Executive Branch to treat any parolee who was never formally “admitted” as perpetually subject
7 to mandatory detention, regardless of how many years have elapsed since lawful parole and release
8 into the interior. Under that interpretation, a parolee who has lived, worked, raised a family, and
9 relied upon governmental authorization for a decade could be seized at any time and detained
10 without individualized hearing, solely because he was not technically “admitted” at entry. That
11 construction would produce profound constitutional difficulties under both the Fourth and Fifth
12 Amendments.

13 39. The Fifth Amendment protects against arbitrary deprivations of liberty. The Supreme
14 Court in *Zadvydas v. Davis* emphasized that physical detention lies at the core of the liberty
15 protected by due process. 533 U.S. 678, 690 (2001). Although Congress possesses broad authority
16 over immigration, that authority does not eliminate constitutional constraints once an individual is
17 physically present inside the United States. If § 1225(b) were interpreted to authorize mandatory
18 detention untethered to the temporal context of inspection, it would allow indefinite executive
19 detention without individualized findings of flight risk or danger, triggered solely by historical
20 classification. Such a reading would raise grave due process concerns.

21 40. Moreover, interpreting § 1225(b) to apply years after inspection would permit
22 executive detention flowing from interior seizures conducted without a warrant or probable cause.
23 The Fourth Amendment protects against unreasonable seizures within the sovereign territory of
24

1 the United States. In *United States v. Brignoni-Ponce*, the Supreme Court held that roving
2 immigration patrol stops in the interior must be supported by reasonable suspicion. 422 U.S. 873,
3 883 (1975). A construction of § 1225(b) that enables mandatory detention following any interior
4 stop—regardless of whether the stop itself satisfies Fourth Amendment standards—would
5 entangle the statute in serious constitutional conflict.

6 41. The canon of constitutional avoidance requires this Court to adopt a narrower
7 interpretation that harmonizes § 1225(b) with both statutory structure and constitutional limits.
8 The statutory text itself supports that narrower reading. Section 1225(b) speaks in the present tense,
9 addressing individuals “arriving” in the United States or those “who have not been admitted.” The
10 structure of § 1225 as a whole concerns inspection at ports of entry and determinations made
11 contemporaneously with arrival. Nothing in the statutory text expressly states that § 1225(b)’s
12 mandatory detention authority extends indefinitely into the future after parole and release. When
13 Congress intends detention authority to extend to individuals arrested in the interior, it uses
14 different language, as it did in § 1226.

15 42. The Ninth Circuit’s textualist approach reinforces this structural reading. Textualism
16 does not isolate words from context; it interprets statutory language in light of surrounding
17 provisions and overall statutory design. Reading § 1225(b) to displace § 1226 for long-released
18 parolees would collapse the carefully drawn statutory scheme. Courts are obligated to avoid
19 interpretations that render neighboring provisions redundant or meaningless. A narrower
20 reading—that § 1225(b) governs detention during inspection and immediate removal processing—
21 preserves the distinct function of § 1226 as the statute governing interior arrests and custody
22 determinations.

1 43. Respondents may argue that parolees are technically still “applicants for admission”
2 and therefore remain within § 1225(b)’s reach. Even if that classification applies for purposes of
3 removability, it does not compel application of mandatory detention in perpetuity. Classification
4 and detention authority are analytically distinct. A noncitizen may be removable as an applicant
5 for admission while nonetheless falling under § 1226 for purposes of custody after release into the
6 interior. Nothing in the statutory text requires the most constitutionally aggressive interpretation
7 of detention authority.

8 44. Furthermore, interpreting § 1225(b) to authorize mandatory detention years after parole
9 would create retroactive consequences that implicate reliance interests. Petitioner entered through
10 a port of entry and was granted parole pursuant to statutory authority. He was released and
11 permitted to reside and work in the United States. He pursued lawful permanent residence under
12 the CAA. To reinterpret his status years later as a permanent gateway to mandatory detention
13 would transform parole from a temporary humanitarian mechanism into a latent detention trigger.
14 Courts should avoid statutory constructions that produce such destabilizing and constitutionally
15 problematic consequences absent clear congressional command.

16 45. The Supreme Court’s reasoning in *Zadvydas v. Davis* is instructive. There, the Court
17 rejected the Government’s literal reading of a detention statute that would have permitted
18 indefinite detention, reasoning that Congress must speak clearly if it intends to authorize serious
19 constitutional intrusions. *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001). The same principle applies
20 here. If Congress intended to authorize mandatory detention of parolees at any time in the interior
21 regardless of elapsed years, it would have spoken with unmistakable clarity. The absence of such
22 language confirms that the narrower interpretation is not only plausible but compelled.

1 46. The Ninth Circuit has consistently held that when statutory language is susceptible to
2 multiple readings, courts must adopt the one that avoids serious constitutional doubt. *United States*
3 *v. Metcalf*, 156 F.4th 871, 881 (9th Cir. 2025). That principle does not subordinate textualism; it
4 operates within it. The question is whether the statute clearly requires the broader, constitutionally
5 problematic interpretation. Section 1225(b) does not clearly require the Government's expansive
6 reading. Because a narrower, constitutionally sound construction is available, this Court must
7 adopt it.

8 47. Under that narrower construction, § 1225(b) applies during inspection and initial
9 removal processing. Once an individual has been paroled and released into the interior for an
10 extended period, any subsequent arrest and detention fall under § 1226. Section 1226(a) provides
11 discretionary detention authority and contemplates individualized custody determinations.
12 Applying § 1226 to Petitioner avoids the grave constitutional concerns posed by indefinite
13 mandatory detention and preserves the statutory distinction Congress created.

14 48. In sum, even if ambiguity exists in § 1225(b), constitutional avoidance requires the
15 Court to construe the statute not to authorize mandatory detention of long-released parolees seized
16 in the interior. The Government's contrary interpretation would raise serious Fourth and Fifth
17 Amendment concerns, disrupt statutory structure, and convert temporary parole into perpetual
18 detention vulnerability. Because the narrower construction is textually permissible and
19 constitutionally necessary, this Court should adopt it and hold that Petitioner is not subject to
20 mandatory detention under § 1225(b).

21 **IV. Respondents Violated the Administrative Procedure Act (APA) and the Accardi**
22 **Doctrine by Failing to Follow Their Own Custody and Parole Regulations.**
23
24

1 49. Under the APA, courts must “hold unlawful and set aside” agency action taken
2 “without observance of procedure required by law” or that is “arbitrary, capricious, [or] not in
3 accordance with law.” 5 U.S.C. § 706(2)(A), (D). The Accardi doctrine, articulated in *United*
4 *States ex rel. Accardi v. Shaughnessy*, requires agencies to follow their own regulations. 347 U.S.
5 260, 268 (1954). Even assuming arguendo that Petitioner could be detained, ICE was required to
6 consider individualized parole or release. ICE’s own regulations provide mechanisms for
7 discretionary parole determinations. Yet Respondents denied requests for release without
8 meaningful individualized consideration, instead treating detention as categorically mandatory.

9 50. Failure to exercise discretion where discretion exists constitutes arbitrary and
10 capricious agency action. 5 U.S.C. § 706(2)(A), (D). Agencies may not convert discretionary
11 statutory authority into de facto mandatory detention by policy or practice. Nor may they ignore
12 procedural safeguards embedded in their own regulatory framework.

13 51. Moreover, Petitioner’s pending application under the CAA heightens the arbitrariness
14 of his detention. Congress enacted the CAA to permit Cuban nationals physically present in the
15 United States for one year or more to adjust to lawful permanent residence. Cuban Adjustment Act
16 of 1966, Pub. L. 89-732, 80 Stat. 1161. Petitioner has resided here since 2023. See Exh. A-B.
17 Detaining a CAA-eligible parolee without individualized review contradicts congressional policy
18 and constitutes an abuse of discretion.

19 **V. The Interior Stop and Seizure Violated the Fourth Amendment Because ICE**
20 **Lacked Reasonable Suspicion or a Judicial Warrant.**

21 52. The Fourth Amendment protects “[t]he right of the people to be secure in their persons,
22 houses, papers, and effects, against unreasonable searches and seizures.” See U.S. Const. amend.
23 IV. Ordinarily, a search or seizure is unreasonable “in the absence of individualized suspicion of
24 wrongdoing.” *City of Indianapolis v. Edmond*, 531 U.S. 32, 37 (2000).

1 53. In *United States v. Martinez-Fuerte*, the Supreme Court upheld the constitutionality of
2 immigration checkpoints at which government agents stop travelers without individualized
3 suspicion for questioning about immigration status. 428 U.S. 543, 561 (1976). However, the scope
4 of such immigration checkpoint stops “is limited to the justifying, programmatic purpose of the
5 stop: determining the citizenship status of persons passing through the checkpoint.” *United States*
6 *v. Preciado-Robles*, 964 F.2d 882, 884 (9th Cir. 1992). Whereas a police stop exceeding the time
7 needed to handle the matter for which the stop was made violates the Constitution's shield against
8 unreasonable seizures. *Rodriguez v. United States*, 575 U.S. 348, 350–51 (2015). A seizure
9 justified only by a police-observed traffic violation, therefore, “become[s] unlawful if it is
10 prolonged beyond the time reasonably required to complete th[e] mission” of issuing a ticket for
11 the violation. *Id.* at 350 (citing *Illinois v. Caballes*, 543 U.S. 405, 407 (2005)). Petitioner’s Fourth
12 Amendment rights were violated because he was not detained at an immigration checkpoint, and
13 there was an absence of individualized suspicion of wrongdoing when he was stopped.

14 54. Petitioner was driving his personal vehicle pursuant to a valid, unexpired driver’s
15 license. He was not committing a traffic infraction. ICE agents, not police officers, initiated contact
16 before identifying any alleged violation. There was no judicial warrant. There was no probable
17 cause of criminal conduct. There was no articulated reasonable suspicion of an immigration
18 violation at the time of the stop. To this day, Petitioner, nor Petitioner’s counsel, has seen, reviewed
19 or received any contemporaneous report by ICE, or local police, as to the facts and circumstances
20 regarding Petitioner’s stop, interrogation, detainment, or under what authority ICE and police
21 officers were acting on.

22 55. The Supreme Court has held that roving immigration patrol stops must be supported
23 by reasonable suspicion. In *United States v. Brignoni-Ponce*, the Court rejected stops based solely
24

1 on apparent Mexican ancestry. 422 U.S. 873, 882 (1975). In *Almeida-Sanchez v. United States*,
2 the Court invalidated warrantless roving patrol searches conducted away from the border. 413 U.S.
3 266, 273, (1973). Those principles apply here. Petitioner was stopped in the interior, not at a port
4 of entry, not at a fixed checkpoint, and not at the functional equivalent of the border.

5 56. Immigration enforcement does not create a Fourth Amendment-free zone. A civil
6 detention is still a seizure. If ICE lacked reasonable suspicion that Petitioner was unlawfully
7 present or engaged in immigration violations at the time of the stop, the seizure was
8 unconstitutional. The subsequent arrest and detention are fruits of that unlawful seizure. Continued
9 custody based upon an unconstitutional stop violates the Fourth Amendment and is therefore
10 unlawful under § 2241. 28 U.S.C. § 2241.

11 **VI. Continued Detention Violates the Fifth Amendment's Due Process Clause Because**
12 **Petitioner Possesses a Cognizable Liberty Interest.**

13 57. The Fifth Amendment prohibits deprivation of liberty without due process of law. See
14 U.S. Const. amend. V. Physical detention constitutes the most severe form of liberty deprivation.
15 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). While Congress possesses broad authority over
16 immigration, that authority is not unbounded.

17 58. Petitioner's circumstances differ markedly from those of recent border entrants
18 detained immediately upon arrival. He has lived in the United States for years. He has worked
19 lawfully. He has established community ties. He has relied on the Government's grant of parole
20 and authorization to remain. Liberty interests attach through prolonged presence and governmental
21 authorization. *Zadvydas*, 533 U.S. 678, 693 (2001).

22 59. In *Zadvydas v. Davis*, the Supreme Court emphasized that freedom from bodily
23 restraint lies at the core of due process. *Id.* at 690. Although immigration detention may be
24 permissible for limited periods, indefinite or arbitrary detention offends constitutional principles.

1 *Id.* In *Demore v. Kim*, the Court upheld mandatory detention in a narrow context involving recent
2 criminal convictions and limited duration. 538 U.S. 510, 517-18 (2003). Petitioner does not fall
3 within that framework.

4 60. Detaining a long-present parolee without individualized hearing or meaningful review
5 transforms administrative detention into punitive confinement. Due process requires at minimum
6 that the Government justify continued custody through individualized findings of flight risk or
7 danger. Respondents have not done so.

8 61. Noncitizens released on parole acquire a due process-protected liberty interest in their
9 continued freedom when DHS releases them pending final removal decisions on condition that
10 they abide by reporting requirements. *Esquivel Pacheco v. LaRose*, No. 3:25-CV-2421-JO-AHG,
11 2026 WL 242300, at 6 (S.D. Cal. Jan. 29, 2026). This liberty interest is similar to, if not greater
12 than, the liberty interests of people on pre-parole, parole, and probation. *Jorge M.F. v. Jennings*,
13 534 F. Supp. 3d 1050, 1054 (N.D. Cal. 2021). Courts have distinguished between the initial parole
14 decision, which is part of the admissions process, and the revocation of parole after release, with
15 the latter implicating stronger constitutional protections. *Guillermo M. R. v. Kaiser*, 791 F. Supp.
16 3d 1021, 1031 (N.D. Cal. 2025).

17 62. The released individual's interest in avoiding re-detention differs from a detainee's
18 interest in having ongoing periodic reviews of prolonged detention, as revocation implicates a
19 liberty interest that inheres in the Due Process Clause while denial of eligibility for release does
20 not. *Id.* at 1033. Even if immigration detainees must wait months before periodic re-review of their
21 detention, those already released on immigration bond possess an interest in their continued liberty
22 that grows over time and creates a due process right to a hearing before being re-detained. *Id.* at
23 1031.

63. Courts apply the three-factor balancing test from *Mathews v. Eldridge* to determine what process is due before revoking parole. See *Mathews v. Eldridge*, 424 U.S. 319 (1976). The first factor—the private interest affected—weighs heavily in favor of parolees, as they have a significant interest in remaining free from physical detention. *Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130, 1137 (W.D. Wash. 2025). The second factor examines the risk of erroneous deprivation, which courts have found to be high when ICE re-detains individuals without any individualized assessment or explanation. *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1323 (W.D. Wash. 2025); *Valdez v. Joyce*, 803 F. Supp. 3d 213, 218 (S.D.N.Y. 2025). When noncitizens are arrested immediately after appearing in court with inconsistent justifications and no prior assessment of changed circumstances, the risk of erroneous deprivation is substantial. *E.A. T.-B.*, 795 F. Supp. 3d at 1323.

64. The third factor—the government's interest—has been found to carry little weight when balanced against constitutional protections. *Esquivel Pacheco v. LaRose*, No. 3:25-CV-2421-JO-AHG, 2026 WL 242300, at 7 (S.D. Cal. Jan. 29, 2026). Although providing pre-deprivation hearings requires expenditure of finite resources, these costs are far outweighed by the risk of erroneous deprivation of liberty. *E.A. T.-B.*, 795 F. Supp. 3d at 1324. Courts have noted that when DHS previously determined an individual did not pose a risk of flight or danger, those factors should be re-assessed before re-arrest. *Id.* at 1323.

65. The Ninth Circuit has repeatedly affirmed the vitality of *Mathews v. Eldridge* in recent decisions. In *Ramirez Tesara v. Wamsley*, the court explicitly relied on the balancing test in *Mathews v. Eldridge* to determine whether the re-detention of an immigration detainee met constitutional standards. 800 F. Supp. 3d 1130, 1135 (W.D. Wash. 2025).

1 66. The Ninth Circuit has historically held that excludable aliens do not have the same
2 procedural due process rights in connection with initial revocation of immigration parole as those
3 granted to criminal parolees. *Alvarez-Mendez v. Stock*, 941 F.2d 956, 963 (9th Cir. 1991). In
4 *Alvarez-Mendez v. Stock*, the Ninth Circuit ruled that immigration parole is part of the admissions
5 process, and its denial or revocation does not rise to the level of a constitutional challenge. *Id.*

6 67. However, this older Ninth Circuit precedent from 1991 predates the subsequent wave
7 of district court decisions that have found pre-deprivation hearings constitutionally required. The
8 Ninth Circuit's position that "whatever the procedure authorized by Congress is, it is due process
9 as far as an alien denied entry is concerned" reflects a more deferential approach to executive
10 immigration decisions that may be in tension with current constitutional analysis. *Pazcoguin v.*
11 *Radcliffe*, 292 F.3d 1209, 1218 (9th Cir.), as amended on denial of reh'g and reh'g en banc, 308
12 F.3d 934 (9th Cir. 2002).

13 68. Multiple district courts in 2025 have granted habeas relief to parolees re-detained
14 without pre-deprivation hearings. In *Ramirez Tesara v. Wamsley*, the court held that a noncitizen
15 who had been released on parole acquired a due-process protected liberty interest, and the
16 government's failure to conduct an individualized assessment prior to revoking parole risked
17 erroneous deprivation. 800 F. Supp. 3d 1130, 1136 (W.D. Wash. 2025). The court ordered
18 immediate release and prohibited further detention absent justification at a pre-deprivation hearing.
19 *Id.* at 1139.

20 69. Similarly, in *Ledesma Gonzalez v. Bostock*, the court found that re-detention without
21 any process at all, much less prior notice and without any showing of changed circumstances or
22 opportunity to respond, violated procedural due process rights showing. No. 2:25-CV-01404-
23 JNW-GJL, 2025 WL 2841574, at 8 (W.D. Wash. Oct. 7, 2025). The noncitizen was entitled to

1 release because the re-detention was illegal from the start. *Id.* at 9. In *E.A. T.-B. v. Wamsley*, ICE
2 officers violated a noncitizen's due process liberty interest when they detained him without a
3 hearing before an immigration judge. 795 F. Supp. 3d 1316, 1321 (W.D. Wash. 2025).

4 **VII. Petitioner's Detention Is Arbitrary and Disproportionate in Light of His Pending**
5 **Cuban Adjustment Act Application.**

6 70. Petitioner is pursuing lawful permanent residence under the CAA, a statute enacted to
7 provide humanitarian protection to Cuban nationals. See Cuban Adjustment Act of 1966, Pub. L.
8 89-732, 80 Stat. 1161; see also Exhibit B. Congress expressly contemplated that such individuals
9 could remain physically present while seeking adjustment. Petitioner satisfies the physical
10 presence requirement and has relied upon statutory protections for years.

11 71. The Executive's decision to detain a CAA-eligible parolee during a routine lawful
12 activity undermines congressional intent. It imposes severe liberty deprivation without advancing
13 removal objectives, particularly where adjustment eligibility may ultimately regularize status.
14 Arbitrary detention divorced from removal necessity violates both statutory purpose and
15 constitutional safeguards.

16 **VIII. Respondents' Anticipated Reliance On Mandatory Detention Precedent Does Not**
17 **Foreclose Relief in this Case.**

18 72. Respondents will likely argue that Petitioner, as a parolee who was never formally
19 "admitted," remains an "applicant for admission" under 8 U.S.C. § 1225(b) and is therefore subject
20 to mandatory detention without bond. They will further contend that Ninth Circuit precedent
21 broadly interprets § 1225(b) to require detention of applicants for admission during removal
22 proceedings and that this Court lacks authority to disturb that statutory mandate. That argument
23 fails for multiple independent reasons.

1 73. First, § 1225(b) governs detention during inspection and initial admissibility
2 determinations. 8 U.S.C. § 1225. The statute speaks in terms of individuals “arriving in the United
3 States” or those “who have not been admitted.” The statutory structure presumes contemporaneous
4 inspection and detention at or near the time of entry. Petitioner was inspected in 2023 at Miami
5 International Airport. See Exhibit A. He was granted parole pursuant to INA § 212(d)(5). *Id.* He
6 was released into the interior. He lived and worked in the United States for more than two years.
7 See Exhibit C. The Government cannot now revive § 1225(b) years after lawful parole as though
8 the inspection process were still ongoing.

9 74. Even accepting arguendo that parole does not constitute “admission,” it does not follow
10 that § 1225(b) authorizes perpetual mandatory detention at any time in the future. Congress created
11 § 1226 to govern arrest and detention of noncitizens already present in the interior. Reading §
12 1225(b) to apply indefinitely would collapse the statutory distinction between § 1225 and § 1226,
13 rendering the latter superfluous as applied to parolees. The Ninth Circuit has repeatedly
14 emphasized that statutory provisions must be read in harmony, not in a manner that nullifies one
15 provision in favor of another. *Corley v. United States*, 556 U.S. 303, 314 (2009).

16 75. Respondents may rely on decisions characterizing parolees as technically “applicants
17 for admission.” But those cases arise in the context of removability classification, not interior re-
18 seizure years after lawful release. Classification for purposes of removability does not answer the
19 distinct question of whether § 1225(b)’s mandatory detention provision can be re-triggered in the
20 interior absent contemporaneous inspection.

21 76. The Supreme Court’s decision in *Jennings v. Rodriguez* does not compel a contrary
22 result. 583 U.S. 281 (2018). *Jennings* rejected the Ninth Circuit’s imposition of an implicit six-
23 month bond hearing requirement under § 1225(b). *Id.* at 303. It did not address the scope of §

1 1225(b) in the context of long-released parolees seized in the interior. Nor did it authorize the
2 Executive to treat parole as a permanent gateway to mandatory detention untethered from border
3 inspection.

4 77. Respondents may also cite *Department of Homeland Security v. Thuraissigiam* for the
5 proposition that judicial review of § 1225(b) detention is limited. That reliance would be
6 misplaced. *Thuraissigiam* concerned the limited habeas review available for expedited removal
7 determinations of recent border entrants apprehended near the border shortly after unlawful entry.
8 591 U.S. 103, 111-112 (2020). The Court emphasized the historical limits of habeas as applied to
9 individuals stopped at the threshold of entry. *Id.* at 116. Petitioner's circumstances are
10 fundamentally different. He entered through a port of entry. See Exhibit A. He was paroled. *Id.* He
11 has resided in the United States for years. He was seized in the interior while driving lawfully. The
12 historical understanding of habeas corpus unquestionably extends to individuals physically present
13 within the sovereign territory challenging unlawful restraint.

14 78. Respondents may argue that under Ninth Circuit precedent, § 1225(b) detention is
15 mandatory and not subject to bond. That contention conflates two separate inquiries. The question
16 here is not whether a bond hearing must be implied into § 1225(b). The question is whether §
17 1225(b) applies at all. If it does not, then Petitioner falls under § 1226(a), which provides for
18 discretionary detention and bond eligibility. The Government cannot bootstrap its way into
19 mandatory detention by misclassifying the statutory basis for custody.

20 79. Additionally, Respondents' anticipated reliance on broad executive detention authority
21 under 8 U.S.C. § 1357 does not salvage the seizure. Section 1357 permits immigration officers to
22 interrogate and arrest noncitizens without warrant if they have "reason to believe" the person is in
23 the country unlawfully and is likely to escape before a warrant can be obtained. 8 U.S.C. § 1357.

1 The Ninth Circuit has interpreted “reason to believe” as equivalent to probable cause. *United States*
2 *v. Gorman*, 314 F.3d 1105, 1111 (9th Cir. 2002). In this case, ICE initiated the stop before
3 identifying any traffic violation. There is no evidence that agents possessed individualized
4 probable cause of unlawful presence at the time of the seizure. The Fourth Amendment remains
5 applicable to civil immigration arrests. A statute cannot authorize unconstitutional seizures.

6 80. Respondents may also argue that parole status does not create a liberty interest and that
7 detention of parolees has long been upheld. That argument overlooks the constitutional dimension
8 created by prolonged, authorized physical presence. In *Zadvydas v. Davis*, the Supreme Court
9 rejected the notion that immigration detention authority is unlimited merely because removal is

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

1 to order release. The Ninth Circuit has recognized that § 2241 remains an appropriate vehicle for
2 such relief where detention is contrary to federal law.

3 83. In sum, mandatory detention precedent does not foreclose relief because Petitioner's
4 case does not present the scenario those precedents address. He is not a recent border entrant. He
5 is not in expedited removal. He is not detained contemporaneously with inspection. He is a long-
6 present parolee seized in the interior without warrant and without reasonable suspicion, and
7 detained under a statutory provision that does not apply to his circumstances. The Government's
8 attempt to stretch § 1225(b) to reach him is ultra vires and constitutionally infirm.

9 **IX. The Balance of Equities and the Public Interest Support Immediate Release Under**
10 **Reasonable Conditions of Supervision.**

11 84. Habeas relief is appropriate where custody violates federal law. Even if the Court were
12 to conclude that statutory ambiguity exists, constitutional avoidance principles require
13 interpretation in favor of liberty. Petitioner poses no danger to the community. He was engaged in
14 a lawful activity at the time of arrest. He has longstanding ties and pending lawful relief.
15 Conditions of supervision, including reporting requirements or electronic monitoring, can ensure
16 appearance at future proceedings. The public interest is not served by detaining work-authorized
17 individuals who have complied with parole conditions for years. It is served by adherence to
18 constitutional limits and statutory structure.

19 **X. Primary Release or, in the Alternative, Immediate Custody Redetermination is**
20 **Required to Remedy Unlawful Detention.**

21 85. For the reasons set forth above, Petitioner's present custody is unlawful and the writ
22 should issue. The Government's detention authority in this case rests upon an overextension of 8
23 U.S.C. § 1225(b) beyond its statutory and constitutional limits. Petitioner was lawfully paroled
24 through a port of entry in 2023, released into the interior, permitted to work, and allowed to pursue

1 lawful permanent residence under the CAA. He was not apprehended at the border. He was not
2 undergoing inspection. He was not subject to expedited removal at the time of arrest. He was seized
3 in the interior during a lawful activity without a warrant and without articulated reasonable
4 suspicion. His detention under § 1225(b) therefore exceeds statutory authority and violates the
5 Fourth and Fifth Amendments.

6 86. Where detention is ultra vires and constitutionally defective at its inception, the
7 appropriate remedy is immediate release. Habeas corpus exists to terminate unlawful custody. This
8 Court need not defer to agency interpretation where detention authority has been misapplied, nor
9 must it order additional administrative proceedings where the statutory predicate for detention does
10 not exist. Because Respondents lack lawful authority to detain Petitioner under § 1225(b), the
11 Court should grant the writ and order his immediate release under reasonable conditions of
12 supervision.

13 87. However, even if the Court declines to grant outright release, the statutory framework
14 independently requires relief. At minimum, Petitioner's arrest in the interior and continued custody
15 fall under 8 U.S.C. § 1226(a), not § 1225(b). Section 1226(a) expressly provides discretionary
16 detention authority and contemplates release on bond. It does not authorize categorical mandatory
17 detention untethered to individualized assessment. By treating Petitioner as subject to mandatory
18 detention, Respondents have deprived him of the procedural protections Congress embedded in §
19 1226(a).

20 88. Accordingly, in the alternative to immediate release, this Court should hold that
21 Petitioner is detained under § 1226(a) and is entitled to an immediate custody redetermination
22 hearing before an Immigration Judge. The Court should order that such hearing occur within seven
23 days and require that the Government bear the burden of justifying continued detention. Because

1 physical liberty is at stake, the Government should be required to demonstrate by clear and
2 convincing evidence that Petitioner poses a danger to the community and by a preponderance of
3 the evidence that he presents a serious risk of flight. Absent such findings, release is mandatory.

4 89. This sequencing of relief preserves statutory integrity while safeguarding constitutional
5 rights. If detention authority does not exist, release must follow. If detention authority exists but
6 is discretionary, procedural protections must be afforded. In no circumstance may the Executive
7 convert long-released parole into a perpetual trigger for mandatory confinement without
8 individualized review.

9 90. The equities of this case underscore the necessity of relief. Petitioner has resided in the
10 United States since 2023. He was engaged in a lawful activity at the time of arrest. He possesses a
11 valid driver's license. He has complied with the terms of his parole. He is pursuing lawful
12 permanent residence under a congressionally enacted statute specifically designed to regularize
13 the status of Cuban nationals physically present in the United States. There is no allegation that he
14 poses a danger to the community. There is no evidence that he has failed to appear for proceedings.
15 Continued detention under these circumstances serves no legitimate regulatory purpose and instead
16 functions as arbitrary confinement.

17 91. The Western District of Washington need not reach beyond established principles to
18 grant relief. The Supreme Court has recognized in *Zadvydas v. Davis* that liberty from physical
19 restraint lies at the heart of due process. 533 U.S. 678, 690, 121 S. Ct. 2491, 2498, 150 L. Ed. 2d
20 653 (2001). It has reaffirmed in *Jennings v. Rodriguez* that constitutional claims remain available
21 in immigration detention cases. 583 U.S. 281, 292, 138 S. Ct. 830, 840, 200 L. Ed. 2d 122 (2018).
22 And it has made clear that detention statutes must not be construed to produce grave constitutional
23 doubts absent unmistakable congressional command. *Id.* No such command exists here.

1 92. Therefore, Petitioner respectfully requests that this Court grant the writ and order his
2 immediate release. In the alternative, Petitioner requests that this Court declare that he is detained
3 under 8 U.S.C. § 1226(a) and order an immediate individualized custody redetermination hearing
4 consistent with constitutional due process requirements. Such relief ensures fidelity to statutory
5 text, respects Ninth Circuit interpretive principles, and vindicates the fundamental constitutional
6 protection against unlawful restraint.

7 **CLAIMS FOR RELIEF**

8 **Unlawful Seizure in Violation of the Fourth Amendment**

9 93. Petitioner restates and realleges all paragraphs as if fully set forth here.

10 94. The Fourth Amendment prohibits unreasonable searches and seizures.

11 95. ICE officers stopped and arrested Petitioner in the interior of the United States without
12 a judicial warrant and without reasonable suspicion or probable cause.

13 96. The stop and seizure therefore violated the Fourth Amendment.

14 97. Petitioner's continued detention is the fruit of that unlawful seizure and is unlawful
15 under 28 U.S.C. § 2241.

16 **Detention Under 8 U.S.C. § 1225(b) is Ultra Vires**

17 98. Petitioner restates and realleges all paragraphs as if fully set forth here.

18 99. Respondents purport to detain Petitioner under 8 U.S.C. § 1225(b) as an applicant for
19 admission.

20 100. Petitioner was inspected and paroled into the United States and was arrested in the
21 interior more than two years after his entry.

22 101. Section 1225(b) governs border inspection, not interior arrests.

1 102. Respondents' reliance on § 1225(b) therefore exceeds statutory authority and renders
2 Petitioner's detention unlawful.

3 **Violation of the Administrative Procedure Act and the Accardi Doctrine**

4 103. Petitioner restates and realleges all paragraphs as if fully set forth here.

5 104. Federal agencies must follow their own regulations and exercise discretion required
6 by law.

7 105. Respondents failed to follow governing custody and parole regulations and instead
8 treated Petitioner's detention as categorically mandatory.

9 106. Such action is arbitrary, capricious, and contrary to law under the Administrative
10 Procedure Act.

11 **Violation of the Fifth Amendment Due Process Clause**

12 107. Petitioner restates and realleges all paragraphs as if fully set forth here.

13 108. The Fifth Amendment protects against deprivation of liberty without due process of
14 law.

15 109. Petitioner was re-detained without a pre-deprivation hearing or individualized custody
16 determination.

17 110. Continued detention without such process violates the Due Process Clause.

18 **Arbitrary Detention in Light of the Cuban Adjustment Act**

19 111. Petitioner restates and realleges all paragraphs as if fully set forth here.

20 112. Petitioner has applied for lawful permanent residence under the CAA.

21 113. Detaining a CAA-eligible parolee without individualized review is arbitrary and
22 contrary to congressional intent.

PRAYER FOR RELIEF

114. Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter pursuant to 28 U.S.C. § 2241.
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare the Petitioner's continued detention under 8 U.S.C. § 1225(b), without an individualized custody determination, violates the Constitution and laws of the United States.
- (4) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody, or in the alternative to schedule an individualized bond hearing before this Court, or in the alternative before an immigration judge.
- (5) Grant any further relief this Court deems just and proper.

Respectfully submitted,

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**Pro Hac Vice application
pending
Attorney for Petitioner
Dated: this 5th day of March,
2026.*

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

We represent Petitioner, Roberto Bonat Hernandez, and submit this verification on his behalf. Petitioner is currently detained at the Northwest ICE Processing Center. We hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of our knowledge.

Dated: *this 5th day of March, 2026.*

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Dated: this 5th day of March,
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