UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

MARIO PARDILLO VALDES

Petitioner,

v.

MATTHEW MORDANT, in his official capacity as Warden of Florida Soft Side South; GARRET RIPA, in his Official capacity as Miami Field Office Director, Immigration and Customs Enforcement's Enforcement and Removal Operations; TODD LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; PAMELA BONDI, in her official capacity as Attorney General,

Respondents.

Case No. ___________

Agency File: [redacted]

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR ORDER TO SHOW CAUSE

Mario Pardillo Valdes, also known as Mario Padrillo Valdes, hereinafter "Mr. Pardillo" or "Petitioner," by and through undersigned counsel, files this Petition for Writ of Habeas Corpus, and in support thereof, alleges as follows:

INTRODUCTION

1. Petitioner is in the physical custody of Respondents at the Florida Soft Side South, also known as Alligator Alcatraz, located at 54575 Tamiami Trl E, Ochopee, Florida, 34141. He now faces unlawful detention because new DHS policy and precedent from the Board of Immigration Appeals (BIA or Board) hold that any person who entered the United States without admission is subject to mandatory detention.
2. Petitioner is charged with, inter alia, having entered the United States without admission or parole. *See* 8 U.S.C. § 1182(a)(6)(A)(i).
3. Based on this allegation in Petitioner's removal proceedings, it is DHS' position that, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. Similarly, on May 15, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that "an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1225(b) (2018), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a) (2018)." *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025).

5. On September 5, 2025, the Board issued another decision, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

6. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who were detained upon their entry, processed and released pursuant to 8 U.S.C. § 1226(a), and are re-arrested a year later. Instead, such individuals are subject to § 1226(a), which allows for release on

conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without being admitted or paroled.

7. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

8. Alternatively, if this court were to find that Petitioner is not subject to § 1226(a), then Petitioner contends that the only statutory mechanism for his prior release from custody was parole under § 1182(d)(5)(A).

9. If this Court determines that Petitioner is an applicant for admission that was detained under INA § 235(b), the parole authority of 212(d)(5)(A) is the only legal means for release of inadmissible applicants for admission who are subject to expedited or full removal proceedings. *See Jennings*, 138 S. Ct. at 844 and *Matter of M-S-*, 27 IN Dec 509 at 517.

10. However, if that is the case, the record does not reflect that Petitioner was issued written notice of revocation of parole.

11. Therefore, DHS's re-detention of Petitioner is unlawful because it failed to comply with the statutory and regulatory procedures required to terminate parole.

12. To remedy this unlawful detention, Petitioner asks this Court to issue a writ of habeas corpus directing Respondents to release Petitioner unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

13. Alternatively, Petitioner asks this Court to, under 28 U.S.C. § 2241, issue a writ of habeas corpus directing Respondents to release him because his continued confinement violates the Administrative Procedure Act ("APA"), procedural due process, and substantive due process.

14. Petitioner further requests this Court to order Respondents to show cause demonstrating why he should not be released within three days given his unlawful detention. 28 U.S.C. § 2243.

JURISDICTION

15. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Florida Soft Side South, aka "Alligator Alcatraz".

16. Jurisdiction of the Court is predicated upon 28 U.S.C. §§ 1331 and 1346(a)(2) in that the matter in controversy arises under the Constitution and laws of the United States, and the United States is a Defendant.

17. 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).

18. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201, and the All Writs Act, 28 U.S.C. § 1651.

19. Federal courts also have federal question jurisdiction, through the APA, to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by "any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus"). The APA affords a right of review to a person who is "adversely affected or aggrieved by agency action." 5 U.S.C. § 702. Respondents' continued detention of Petitioner despite him being in lawful status has adversely and severely affected Petitioner's liberty and freedom.

VENUE

20. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Middle District of Florida, the judicial district in which Petitioner currently is detained.

21. Venue is proper in this District under 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and

because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Florida.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

22. Administrative exhaustion of remedies in a § 2241 proceeding is not a jurisdictional requirement. *Santiago-Lugo v. Warden*, 785 F.3d 467, 474-75 (11th Cir. 2015) (abrogating *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir.2001)).

23. Further, there is no statutory exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. Cf. 8 U.S.C. § 1252(d)(1) (requiring exhaustion of administrative remedies only where requesting review of a final order of removal).

24. "'[W]here Congress has not clearly required exhaustion, sound judicial discretion governs." *Jones v. Zenk*, 495 F. Supp. 2d 1289, 1297 (N.D. Ga. 2007) (citing *McCarthy v. Madigan,* 503 U.S. 140, 144 (1992)). As a matter of discretion, exhaustion of administrative remedies should therefore be waived "(1) where prejudice to the prisoner's subsequent court action 'may result, for example, from an unreasonable or indefinite timeframe for administrative action'; (2) where the administrative agency may not have the authority 'to grant effective relief'; or (3) 'where the administrative body is shown to be biased or has otherwise predetermined the issue before it.'"

Jones, 495 F. Supp. 2d at 1297 (citing *McCarthy*, 503 U.S. at 146-48). *See also Woodford v. Ngo*, 548 U.S. 81, 103 (2006) (Breyer, J. concurring) (noting "well-established exceptions to exhaustion" that include constitutional claims, futility, hardship to the petitioner, and where administrative remedies are inadequate or unavailable) (citations omitted)).

25. In making its discretionary decision, the Court should consider the urgency of the need for immediate review. "Where a person is detained by executive order . . . the need for collateral review is most pressing. . . . In this context the need for habeas corpus is more urgent." *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

26. Petitioner's constitutional challenge to his detention is exempt from administrative exhaustion requirements. *See Woodford v. Ngo*, 548 U.S. 81, 103 (Breyer, J. concurring) (constitutional claims are exempt from administrative exhaustion); *see also Khan v. Atty. Gen. of U.S.*, 448 F.3d 226, 236 n.8 (3d Cir. 2006) (internal quotation ommitted) ("[D]ue process claims generally are exempt from the exhaustion requirement because the BIA does not have jurisdiction to adjudicate constitutional issues."); *United States v. Gonzalez-Roque*, 301 F.3d 39, 48 (2d Cir. 2002) ("'[T]he BIA does not have jurisdiction to adjudicate constitutional issues . . . .'" (quoting *Vargas v. U.S. Dep't of Immigration & Naturalization*, 831 F.2d 906, 908 (9th Cir. 1987)).

27. Further, administrative exhaustion before the immigration judge and the BIA would be futile. Exhaustion is futile where the agency has "predetermined the issue before it." *McCarthy*, 503 U.S. at 148. The BIA has predetermined the issue here. The BIA has held that immigration judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2026). This decision is binding on immigration courts across the country. Therefore, exhaustion would be futile, and the Court should waive its requirement as a matter of discretion.

28. A request for release on humanitarian parole under 8 U.S.C. 1182(d)(5)(A) would also be futile. Parole review is conducted informally by DHS officers—the jailing authority—by checking a box on a form that contains no factual findings, no specific explanation, and no evidence of deliberation. There is no hearing, no record, and no administrative appeal from a negative parole decision, even to correct manifest errors. *See Rodriguez v. Robbins*, 804 F.3d 1060, 1081 (9th Cir. 2015), *cert. granted sub nom. Jennings v. Rodriguez*, 136 S. Ct. 2489, 195 L. Ed. 2d 821 (2016) (identifying denials of parole "based on blatant errors: In two separate cases . . . officers apparently denied parole because they had confused Ethiopia with Somalia. And in a third case, an officer denied parole because he had mixed up two detainees' files.");

Nadarajah v. Gonzales, 443 F.3d 1069, 1082 (9th Cir. 2006) (finding that DHS abused its authority by denying parole). In the absence of administratively enforceable standards, and in light of recent guidance from the Department of Homeland Security, humanitarian parole is nearly nonexistent at this point. *See* DHS Memorandum: Guidance Regarding How to Exercise Enforcement Discretion (Jan. 23, 2025).

REQUIREMENTS OF 28 U.S.C. § 2243

29. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

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

PARTIES

31. Petitioner, Mario Pardillo Valdes is a 36-year-old native and citizen of Cuba. He is currently detained at the Alligator Alcatraz in Ochopee, Florida. He has

been in custody since February 21, 2026. Mr. Pardillo is in the custody and under the direct control of Respondents and their agents.

32. Respondent, Matthew Mordant, is named in his official capacity as the Warden of Florida Soft Side South. In this capacity, he is responsible for the immediate execution of detention over Petitioner and is the immediate custodian of Petitioner. Respondent Mordant's address is 54575 Tamiami Trl E, Ochopee, Florida, 34141.

33. Respondent, Garret Ripa, is named in his official capacity as Miami Field Office Director of the ICE Enforcement & Removal Operations ("ERO"). In this capacity, he is responsible for the administration of immigration laws and the execution of immigration confinement and the institution of removal proceedings in Florida, which is the jurisdiction where Petitioner is confined. As such, he is a custodian of Petitioner. Respondent Ripa's address is 865 SW 78th Avenue, Suite 101, Plantation, FL 33324.

34. Respondent, Todd Lyons, is named in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). 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 and is legally responsible for pursuing any effort to remove Mr. Pardillo and confine him pending removal. As such, he is a custodian of Mr. Pardillo.

His address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington, DC 20536-5900.

35. Respondent, Kristi Noem, is named in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a); is legally responsible for pursuing any effort to confine and remove the Petitioner; and as such is a custodian of Mr. Pardillo. Respondent Noem's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

36. Respondent, Pamela Bondi, is named in her official capacity as Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(g); and as such is a custodian of Mr. Pardillo. Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

LEGAL FRAMEWORK

37. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings.

38. First, 8 U.S.C. § 1226 authorizes that "on a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether

the alien is to be removed from the United States." Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

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

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

41. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

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

43. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, "[d]espite being applicants for admission, [noncitizens] who

are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." *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).

44. Thus, in the decades that followed, most people who were apprehended within the borders of the United States received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an 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)).

45. In *Jennings v. Rodriguez*, the Department of Homeland Security ("DHS") explicitly acknowledged that individuals who have already entered the United States and are not apprehended within 100 miles of the border or within 14 days of entry are subject to discretionary detention under 8 U.S.C. § 1226(a), not mandatory detention under § 1225(b). *Jennings v. Rodriguez*, 583 U.S. 281 (2018). During oral argument on November 30, 2016, then–Solicitor General Ian Gershengorn stated: "If they are not detained within 100 miles of

the border or within 14 days… then they are under 1226(a) and not 1226(c)." In response to a question regarding "an alien who has come into the United States illegally without being admitted [and] who takes up residence 50 miles from the border," the Government confirmed, "The answer is they are held under 1226(a) and that they get a bond hearing…" Transcript of Oral Argument at 7–8. DHS further reiterated that such individuals "would be held under 1226(a)" and cited the administrative record to support that position. *Id.* These statements reflect DHS's prior litigation position that § 1226(a) governs detention for noncitizens who have entered and are residing in the United States–a position directly contrary to the agency's current interpretation extending § 1225(b)(2)(A) to those same individuals. Having prevailed in *Jennings* after taking this position, they should be now estopped from reversing course simply due to a shift in political or litigation strategy. Estoppel in this case is necessary to preserve the predictability inherent in the rule of law and due process under the Fifth Amendment, as well as to uphold the integrity of the judicial system.

46. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of normative agency practice.

47. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," [1] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

48. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

49. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same interpretation of the statute as ICE.

50. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since

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[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

51. Subsequently, courts in this District and around the country have adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See Patel v. Hardin*, No. 2:25-cv-870- JES-NPM, 2025 WL 3442706, at *3 (M.D. Fla. Dec. 1, 2025) (collecting cases); *Gomez-Pena v. Secretary of DHS,* No. 3:25-cv-1287-MMH-MCR (M.D. Fla. Jan. 12, 2026); *Garcia v. Noem*, et al., No. 2:25-cv-00879-SPC-NPM, Doc. 14 at 4-5, (M.D. Fla. Oct. 10, 2025); *Vasquez Carcamo v. Noem*, 2:25-cv922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025); *Nava Hernandez v. Baltazar, et al.*, No. 1:25-CV-03094-CNS, 2025 WL 2996643 (D. Colo. Oct. 24, 2025); *Santana-Rivas v. Warden of Clinton County Correctional Facility*, No. 3:25-cv-01896-JPW, 2025 (M.D. Pa. Nov. 13, 2025); *Castanon Nava v. DHS*, No. 25-3050 (7th Cir. 2025) (where a motions panel found that the government is not likely to succeed in arguing that 1225(b)(2) applies to all noncitizens who entered without inspection); *but see Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir. 2026).

52. The U.S. District Court for the Central District of California has likewise rejected Respondents' interpretation and certified a nationwide class, extending declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

53. These courts have uniformly rejected DHS's and EOIR's new interpretation because it contradicts the INA. As this court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

54. "Courts have noted that Respondents' interpretation of the phrase 'seeking admission' 'violates the rule against surplusage and negates the plain meaning of the text.'" *Santana-Rivas*, No. 3:25-cv-01896-JPW, at *27-28 (citing *Soto v. Soto, et. al.*, No. 25-16200, 2025 U.S. Dist. LEXIS 207818, at *9 (D.N.J. Oct. 22; *Martinez v. Hyde*, No. 25-11613, 2025 U.S. Dist. LEXIS 141724, at

*6 (D. Mass. July 24, 2025); *Zumba v. Bondi,* No. 25-14626, 2025 U.S. Dist. LEXIS 190052, at *8; *Benitez v. Francis,* No.25-5937, 2025 U.S. Dist. LEXIS 157214, at *16 (S.D.N.Y. Aug. 8, 2025). "The phrase 'seeking admission' in § 1225(b)(2)(A) necessarily connotes some affirmative, present-tense action." *Santana-Rivas*, No. 3:25-cv-01896-JPW, at *28. "The verb 'seeking' is a present participle, and the 'present participle is used to signal present and continuing action.'" *Id.* (quoting *Westchester Gen. Hosp., Inc. v. Evanston Ins. Co.,* 48 F.4th 1298, 1307 (11th Cir. 2022); *D.L. Markham DDS, MSD, Inc. 401(K) Plan v. Variable Annuity Life Ins. Co.,* 88 F.4th 602, 610 (5th Cir. 2023) ("The word 'providing,' used here as a present participle, most commonly describes a person who is currently providing services.") *(emphasis in original); United States v. Hull,* 456 F.3d 133, 145 (3d Cir. 2006) (Ackerman, Sr. Dist. J., sitting by designation, concurring) ("Congress's use of the present participle 'committing' connotes present, continuing action.")).

55. "The INA defines the term 'admission' as, 'with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.'" *Santana-Rivas*, No. 3:25-cv-01896-JPW, at *28-29 (quoting 8 U.S.C. § 1101(a)(13)(A)). "Thus, the INA's own definition of the term 'admission' supports the limited application of § 1225 to encounters with aliens along the borders and at ports of entry." *Id.* at *29.

56. Here, Petitioner cannot be said to be "seeking admission" as defined in § 1101(a)(13)(A). Petitioner "'has already 'entered' the country'— [she] is no longer seeking to enter the United States (lawfully or otherwise)." *Santana-Rivas*, No. 3:25-cv-01896-JPW, at *29 (quoting *Jimenez,* 2025 U.S. Dist. LEXIS 176165, at *22, citing *Benitez,* 2025 U.S. Dist. LEXIS 157214, at *19).

57. Indeed, according to the document I-220A, Order of Release on Recognizance, issued to Petitioner upon his initial encounter with ICE in 2022, the DHS itself determined that Petitioner is an alien present in the United States without being admitted or paroled who was arrested and released under § 1226(a), not § 1225(b).

58. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

59. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection or admission. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress

creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

60. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission.

61. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (reversing the lower court's judgement because it adopted an implausible construction of §§1225(b)(1), (b)(2) and 1226(c).

62. In *Jennings*, the Supreme Court describes section 1226 as governing "the process of arresting and detaining" noncitizens who are living "inside the United States" but "may still be removed," including noncitizens "who were inadmissible at the time of entry." *Jennings*, 583 U.S. at 288. In harmonizing

sections 1225 and 1226, the Supreme Court explains "in sum, U.S. immigration law authorizes the Government to detain certain [noncitizens] *seeking* admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings under §§ 1226(a) and (c).'" *Id.* at 289 (emphasis added).

63. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered, were processed and released previously under 8 U.S.C. § 1226 and were already residing in the United States at the time they were re-apprehended. Petitioner was previously released after a quasi-judicial determination by an immigration official on a form I-220A that he falls under the discretionary arrest provision of § 1226(a). The Government's own issuance of an I-220A, releasing him pursuant to § 1226, reflects a discretionary, fact-based determination that Petitioner was not subject to mandatory detention under § 1225(b)(2)(A). This is significant because mere days after his entry to the U.S., the Government had already recognized that Petitioner was no longer "seeking admission" as described in § 1225, and itself applied the provisions of § 1226 and released Petitioner. This quasi-judicial decision was made by DHS at the outset of proceedings, based on the facts available to both parties and Petitioner's own admissions.

This legal determination squarely contradicts the Government's current position—adopted wholesale by the Board of Immigration Appeals—that Petitioner is ineligible to apply for bond before EOIR.

64. Therefore, 8 U.S.C. § 1226 is the appropriate governing framework in this case.

65. Alternatively, should this Court determine that 8 U.S.C. § 1225(b)(2) governs this case, Petitioner submits that his only lawful basis for release from custody in 2022 was pursuant to the parole authority under 8 U.S.C. § 1182(d)(5)(A), and that such parole was unlawfully revoked.

66. The INA "establishes the framework governing noncitizens' entry into and removal from the United States, with regulations promulgated by the enforcing agencies providing further governance." *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1132 (D. Or. 2025). Noncitizens who arrive at a port of entry without a visa or other entry document, or who are present in the United States without admission, like Petitioner, are deemed 'inadmissible' under 8 U.S.C. § 1182(a)(7) or 1182(a)(6), respectively. 8 U.S.C. § 1182(a)(7); 8 U.S.C. § 1182(a)(6).

67. If a noncitizen is deemed to be inadmissible under § 1182(a)(7), "the immigration officer must order the noncitizen's removal unless the noncitizen indicates an intention to apply for asylum or fear of prosecution." *Y-Z-L-H.*,

792 F. Supp. at 1132 (citing 8 U.S.C. § 1225(b)(1)(A)(i)). If the noncitizen claims fear of return, the government may either place the noncitizen into expedited removal proceedings, *see* 8 U.S.C. § 1225(b)(1), or into regular removal proceedings under 8 U.S.C. § 1229(a). *See Y-Z-L-H*, 792 F. Supp. 3d at 1132–33 (citing 8 U.S.C. § 1225(b)(2)).

68. Section 1225(b)(2)(A) provides that "in the case of an alien who is an applicant for admission, if 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." 8 U.S.C. § 1225(b)(2)(A).

69. "Applicants for admission may be temporarily released on parole for urgent humanitarian reasons or significant public benefit." *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)).

70. The parole authority of 1182(d)(5)(A) is the only legal means for release of inadmissible applicants for admission who are subject to expedited or full removal proceedings. *See Jennings*, 138 S. Ct. at 844 and *Matter of M-S-*, 27 IN Dec 509 at 517.

71. The decision to grant parole pursuant to 8 U.S.C. § 1182(d)(5)(A) is determined "on a case-by-case basis." 8 U.S.C. § 1182(d)(5)(A).

72. "To terminate a previously granted parole, the agency must comply with the applicable regulatory and statutory requirements." *Infante v. Raycraft*, No. 1:25-cv-01560-RJJ-MV, (W.D. Mich. Dec. 18, 2025).

73. 8 C.F.R. § 212.5(e) governs the termination of parole. The regulation provides that DHS may terminate a noncitizen's parole either "automatically" or "[o]n notice." 8 C.F.R. § 212.5(e)(1), (e)(2). A grant of parole terminates automatically either (a) when the noncitizen departs the United States, or (b) "if not departed, at the expiration of the time for which parole was authorized." *Id.* § 212.5(e)(1). In cases not covered by paragraph (e)(1), parole "shall be terminated upon written notice to the alien." *Id.* § 212.5(e)(2). That is, only when "the purpose for which parole was authorized" is accomplished "or when in the opinion of" the DHS Secretary or their delegee "neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States." *Id*; *see also Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025) (citing 8 C.F.R. § 212.5(e)).

74. Several district courts who have addressed the termination of parole issue "have found that just as a grant of parole requires an individualized review, revocation of parole requires a case-by-case assessment to comply with the statute." *Infante*, No. 1:25-cv-01560-RJJ-MV at *9 (quoting *Mata Velasquez*

v. Kurzdorfer, 794 F. Supp. 3d 128, 146 (W.D.N.Y. 2025) (citations omitted) (addressing this issue, and granting the petitioner's motion for preliminary injunction and ordering that the petitioner be released); *see, e.g., Y-Z-L-H*, 792 F. Supp. 3d at 1137–47 (addressing this issue, and granting the petitioner's habeas petition and ordering that the petitioner be released from custody); *Loaiza Arias*, 2025 WL 3295385, at *2–4 (same); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149, at *10–13 (S.D. Cal. Oct. 1, 2025) (same); *Munoz Materano v. Arteta*, No. 25 CIV. 6137 (ER), --- F. Supp. 3d ----, 2025 WL 2630826, at *14–17 (S.D.N.Y. Sept. 12, 2025) (same); *Gabriel B.M. v. Bondi*, No. 25-cv-4298 (KMM/EMB), 2025 WL 3443584, at *6–7 (D. Minn. Dec. 1, 2025) (addressing this issue, and granting the petitioner's request for a preliminary injunction and ordering the petitioner's release from custody); *Orellana v. Francis*, No. 25-cv-04212 (OEM), 2025 WL 2822640, at *2–3 (E.D.N.Y. Oct. 3, 2025) (addressing the issue in the context of a motion for reconsideration filed by the respondents, and affirming the court's grant of habeas relief to the petitioner and the court's order to release the petitioner). *But see Doe v. Noem*, 152 F.4th 272, 278–79, 285 (1st Cir. 2025) (reversing district court's grant of preliminary relief and vacating district court's stay of the termination notice for previously granted parole because "Plaintiffs ha[d] not demonstrated a strong likelihood of success in showing that under the statute, the Secretary must terminate these grants of parole under the [parole] program[s] on an individual basis").

75. Here, if this Court does not belief that Respondent's release falls squarely under § 1226, Petitioner's release from custody must be treated as parole authorized under 8 U.S.C. § 1182(d)(5)(A). That parole could not have terminated automatically because Petitioner has not departed the United States and DHS did not provide any expiration date. *See* 8 C.F.R. § 212.5(e)(1). Nor did DHS terminate parole "on notice," because the record contains no written notice of termination and no individualized determination that the parole purpose had been served, or that continued parole was unwarranted. *See* 8 C.F.R. § 212.5(e)(2).

76. Based on the information currently on the record, there is no indication that Respondents followed the applicable statutory and regulatory requirements to revoke or terminate Petitioner's parole.

77. "If Respondents did not follow those requirements, then they did not have the authority to arrest and detain Petitioner, 'unless there [wa]s some other valid reason to arrest [her].'" *Infante*, No. 1:25-cv-01560-RJJ-MV at *11 (quoting *Mata Velasquez, 794 F. Supp. 3d at 145, and citing Norfolk S. Ry. Co. v. U.S. Dep't of Lab.*, No. 21-3369, 2022 WL 17369438, at *6 (6th Cir. Dec. 2, 2022) (discussing that "an agency's action that fails to observe the procedures

required by its own regulations should be set aside" (citation omitted)); *Wilson v. Comm'r of Soc. Sec.*, 378 F.3d 541, 545 (6th Cir. 2004) ("It is an elemental principle of administrative law that agencies are bound to follow their own regulations[,] . . . [and] '[a]n agency's failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual's constitutional right to due process.'" (additional internal quotation marks omitted) (quoting *Sameena, Inc. v. U.S. Air Force,* 147 F.3d 1148, 1153 (9th Cir. 1998))).

78. Therefore, Respondents failed to follow the applicable statutory and regulatory requirements to terminate Petitioner's parole.

UNDERLYING FACTS AND PROCEDURAL HISTORY OF THE CASE

79. Petitioner entered the United States on or about February 10, 2022.

80. On July 31, 2025, Petitioner was issued a Notice to Appear ("NTA"), charging him as an alien present in the United States who has not been admitted or paroled. The NTA was filed with the immigration court on July 31, 2025, thereby commencing removal proceedings.

81. On February 11, 2022, Petitioner was issued an Order of Release on Recognizance, indicating that "in accordance with section 236 of the Immigration and Nationality Act . . . you are being released on your own

recognizance." As part of the conditions for release, Petitioner was ordered to report to ICE periodically, with which he has faithfully complied.

82. Petitioner is listed as derivative on his spouse's I-589 - Application for Asylum, Withholding of Removal, and CAT protections, the application was received by USCIS on May 27, 2022.

83. On June 20, 2023, Petitioner submitted with USICS the I-485, Application to Register Permanent Residence or Adjust States under the Cuban Adjustment Act.

84. On January 23, 2025, Acting Secretary of the Department of Homeland Security, Benjamine C. Huffman, issued a memorandum for ICE, Customs and Border Protection ("CBP"), and USCIS instructing officers to "take all steps necessary to review" cases of anyone "amendable to expedited removal but to whom expedited removal has not been applied". Benjamine C. Huffman, Acting DHS Secretary, *Guidance Regarding How to Exercise Enforcement* Discretion, (Jan. 23, 2025) ("Huffman Memo"). These necessary steps include "terminat[ing] any ongoing removal proceedings". *Id.*

85. On January 24, 2025, DHS published a Notice that expanded the application of expedited removal. Office of the Secretary, Dep't of Homeland Security, *Designating Aliens for Expedited Removal*, 15 Fed. Reg. 8139 ("January 2025 Designation"). The designation was "effective on" January 21, 2025.

86. Petitioner was detained during a routine traffic stop on February 21, 2026.

87. From the time of his initial release on recognizance in 2022 to his re-detention in 2026, petitioner has remained in compliance with all reporting requirements. Also, Petitioner has no criminal history involving violence, controlled substances, or crimes involving moral turpitude. Aside from one non-criminal civil infraction, he has no record suggesting danger to the community or risk to public safety.

88. Petitioner has ties to the United States, including his US permanent resident stepson as well as his US citizen cousins. He possesses valid employment authorization and has maintained stable employment. He also holds a valid driver's license. Furthermore, he has a pending application for adjustment of status. His spouse is pending asylum in the United States. Petitioner's record and history demonstrate that he is neither a flight risk nor a danger to the community.

89. Petitioner is currently detained at the Florida Soft Side South, also known as Alligator Alcatraz. Without intervention from this Court, he faces the prospect of prolonged detention lasting months or even years, separated from his family and community, despite his full compliance with prior release conditions.

CAUSES OF ACTION

COUNT ONE
Violation of the INA

90. The allegations in the above paragraphs are realleged and incorporated herein.

91. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who were previously apprehended by ICE, released under § 1226, and have been residing in the United States prior to being re-detained by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

92. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT TWO
Violation of Fifth Amendment Right to Procedural Due Process – Unlawful Detention Without a Pre-Deprivation Hearing, or alternatively Unlawful Revocation of Parole

93. The allegations in the above paragraphs are realleged and incorporated herein.

94. It has long been established that aliens, even if in the United States unlawfully, are entitled to due process of law under the Fifth Amendment. *See Mathews v. Diaz*, 426 U.S. 67, 77 (1976) ("Even one whose presence in this country is unlawful, involuntary, or transitory is entitled to th[e] constitutional protection

[of the Due Process Clause]"); *see also Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("It is well established that certain constitutional protections available to persons inside the United States are unavailable to aliens outside of our geographic borders. But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent").

95. The Due Process Clause of the Fifth Amendment prohibits the government from depriving individuals of liberty without notice and a meaningful opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

96. When the Government interferes with a liberty interest, it must provide constitutionally sufficient procedures. *Ky. Dep't of Corr. v. Thompson*, 490 U.S. 454, 460 (1989). The adequacy of these procedures is determined by weighing three factors: (1) the private interest that will be affected by the official action, (2) the risk of erroneous deprivation of that interest through the available procedures, and (3) the Government's interest, including the fiscal and administrative burdens that the additional or substantive procedures would entail. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

97. Applying these factors here demonstrates that the procedures attendant upon Petitioner's detention are constitutionally insufficient.

98. First, Petitioner has a significant interest at stake. Being free from physical detention by one's own government "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Petitioner is being held at the Florida Soft Side South and is far from his family and community.

99. Second, the risk of erroneous deprivation is extraordinarily high. Petitioner has already been found not to be a danger to the community or a flight risk upon his initial entry, when ICE reviewed his custody and issued paperwork releasing him on his own recognizance. Nevertheless, he was summarily re-detained without a bond hearing. Absent a pre-deprivation hearing, there was no safeguard to prevent ICE from arbitrarily re-arresting Petitioner in direct contradiction of the prior determination that release was warranted. Alternatively, he was summarily re-detained without written notice or an individualized determination regarding the revocation of his parole.

100. Third, the government's interest in detaining Petitioner without a hearing is minimal, if it exists at all. The government has already determined that Petitioner does not pose a risk to the community or a risk of flight. Providing a bond hearing before re-arrest would impose little to no fiscal or administrative burden, while simultaneously protecting core constitutional rights. Respondents' decision to re-detain Petitioner without such a hearing contravenes federal law and violates his procedural due process rights.

101. This arbitrary deprivation of liberty without a pre-deprivation hearing violates the constitutional requirement that detention be accompanied by due process safeguards. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (holding that immigration detention is subject to constitutional limits); *Demore v. Kim*, 538 U.S. 510, 532 (2003) (emphasizing limited scope and justification for immigration detention).

102. By taking Petitioner back into custody without notice or opportunity to be heard, Respondents deprived him of liberty in a manner inconsistent with due process and the fundamental fairness required by the Fifth Amendment.

COUNT THREE
Violation of Fifth Amendment Right to Substantive Due Process

103. The allegations in the above paragraphs are realleged and incorporated herein.

104. The Fifth Amendment's Due Process Clause not only guarantees procedural safeguards but also protects individuals against governmental conduct that "shocks the conscience" or interferes with rights implicit in the concept of ordered liberty. *County of Sacramento v. Lewis*, 523 U.S. 833, 846–47 (1998).

105. Here, Petitioner had been affirmatively determined not to be a danger to the community or a flight risk upon his initial entry, when ICE conducted a custody review and issued paperwork releasing him on his own recognizance.

106. Despite these findings, Petitioner was re-detained years later. This re-detention occurred without proof of new circumstances that could justify depriving him of liberty.

107. The government's conduct is arbitrary and capricious, amounting to punishment rather than regulation. It transforms ICE's discretionary authority into an unchecked power to re-incarcerate noncitizens at will, untethered to legitimate governmental objectives.

108. By subjecting Petitioner to renewed detention without justification, Respondents violated Petitioner's substantive due process rights under the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (immigration detention is constitutionally limited and must bear a reasonable relation to its purposes); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (continued confinement is impermissible absent a legitimate basis such as dangerousness or flight risk).

109. Respondents' actions shock the conscience because they reflect arbitrary government conduct that disregards both prior determinations and Petitioner's fundamental right to be free from unjustified physical confinement.

COUNT FOUR
Violation of the Bond Regulations

110. The allegations in the above paragraphs are realleged and incorporated herein.

111. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who were present without having been admitted or paroled were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

112. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individuals like Petitioner.

113. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT FIVE
Violation of the Administrative Procedure Act ("APA")

114. The allegations in the above paragraphs are realleged and incorporated herein.

115. The Administrative Procedure Act ("APA") provides the framework for judicial review of agency action. While § 701(a)(2) precludes review where "agency action is committed to agency discretion by law," this limitation is

narrowly construed considering the language of § 702. *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55, 64–65 (2004); 5 U.S.C. § 551(13). Namely, § 702 expressly authorizes review by any person "suffering legal wrong because of agency action" or "adversely affected or aggrieved by agency action within the meaning of a relevant statute." 5 U.S.C. § 702; 5 U.S.C. § 551(13).

116. Moreover, in *Southern Utah Wilderness Alliance*, the Supreme Court clarified that "agency action" encompasses discrete action, or failure to act when mandated by statute, rather than broad challenges to an agency's overall program management. *Southern Utah Wilderness Alliance*, 542 U.S. at 64–65; 5 U.S.C. § 551(13) (agency action includes the whole or part of an agency's order, relief, or denial of relief).

117. When reviewing the erroneous agency action, section 706 directs courts to resolve all relevant questions of law, interpret statutory provisions, and "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1)–(2). Courts must also "hold unlawful and set aside" agency actions that are arbitrary, capricious, contrary to law, in excess of statutory authority, procedurally defective, unsupported by substantial evidence, or unwarranted by the facts. *Id.*

118. To invoke judicial review of an agency action, and hold unlawful or set aside arbitrary or capricious actions under § 706, a plaintiff must demonstrate Article III standing—an injury in fact, traceable to the challenged action, and redressable by a favorable decision—and must show that the interest asserted is "arguably within the zone of interests" protected by the statute invoked. *Ass'n of Data Processing Serv. Orgs., Inc. v. Camp*, 397 U.S. 150, 153 (1970); *Clarke v. Sec. Indus. Ass'n*, 479 U.S. 388, 399 (1987); *Nat'l Credit Union Admin. v. First Nat'l Bank & Trust Co.*, 522 U.S. 479, 492 (1998). This zone-of-interests requirement is not demanding, and any doubt is resolved in the plaintiff's favor. *Nat'l Credit Union Admin.*, 522 U.S. at 492 (reaffirming the standard established by *Sec. Indus. Ass'n*, 479 U.S. 388 (1987)).

119. Finally, to overcome the allegation of an agency's erroneous actions under § 702, the agency must prove to the satisfaction of the reviewing court, that its actions were not arbitrary and capricious under §706. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 52 (1983); 5 U.S.C. § 702; 5 U.S.C. § 706(1)–(2). In *State Farm Mut. Auto. Ins. Co.*, the Court defined the arbitrary and capricious standard of §706 as requiring the agency to show it engaged in reasoned decision-making when deciding the matter at issue. *State Farm Mut. Auto. Ins. Co.*, 463 U.S. at 52; 5 U.S.C. § 706(1)–(2).

120. The APA framework squarely applies to Petitioner's case. ICE's July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission," adopted "in coordination with" DOJ, and EOIR's implementation of that guidance—together with the Board's published decision in *Matter of Yajure Hurtado* (Sept. 5, 2025)—constitute "final agency action" because they mark a consummation of the agencies' decision-making process and determine legal rights and obligations by categorically placing noncitizens like Petitioner under 8 U.S.C. § 1225(b)(2)(A) and denying access to IJ bond hearings. *See* 5 U.S.C. § 704.

121. These agency actions are **contrary to law** and **in excess of statutory authority** because they disregard the statutory text, structure, and history establishing that detention of noncitizens already within the United States and placed in § 1229a proceedings is governed by § 1226(a), not § 1225(b)(2). *See* 8 U.S.C. §§ 1226(a), 1229a. Following *Loper Bright Enterprises v. Raimondo*, courts do not defer to an agency's interpretation merely because the statute is ambiguous; rather, courts must exercise independent judgment in interpreting the INA. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). The agencies' interpretation fails on that independent review.

122. The agencies' actions are also **arbitrary and capricious** under § 706(2)(A) because they (a) represent an unexplained reversal of decades of settled

practice and regulatory interpretation without reasoned analysis; (b) fail to consider important aspects of the problem, including Congress's UAC framework in 8 U.S.C. § 1232 and 6 U.S.C. § 279; (c) ignore serious reliance interests of noncitizens and the adjudicatory system, which had long afforded IJ bond review under § 1226(a); and (d) apply a border-inspection scheme designed for "arriving" individuals to persons apprehended well after entry, which lacks a rational connection to the statute's purposes. *See State Farm*, 463 U.S. at 43; *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009) (agency changing policy must provide a reasoned explanation and address reliance interests); *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 24–26 (2020) (failure to consider reliance interests renders rescission arbitrary and capricious).

123. The July 8, 2025, guidance operates as a substantive rule with legal consequences but was issued without notice-and-comment rulemaking as required by 5 U.S.C. § 553. It therefore is unlawful and must be set aside for "failure to observe procedure required by law." 5 U.S.C. § 706(2)(D). *See also Perez v. Mortgage Bankers Ass'n*, 575 U.S. 92, 96–97 (2015) (distinguishing interpretive from legislative rules and reaffirming § 553 requirements for the latter).

124. Independently, the agencies failed to follow their own binding regulations by denying Petitioner access to custody review and IJ bond procedures that apply under § 1226(a), violating the *Accardi* doctrine. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267–68 (1954); 8 C.F.R. §§ 236.1, 1236.1, 1003.19. Agency action taken in derogation of binding regulations is unlawful under § 706(2)(A), (C), and (D).

125. As applied to Petitioner, the agencies' actions (a) deprived him of an IJ bond hearing under § 1226(a); (b) subjected his to mandatory detention under § 1225(b)(2)(A) without statutory basis; and (c) foreclosed individualized custody determinations despite a prior government finding that he is neither a danger nor a flight risk. This discrete deprivation is reviewable and unlawful under 5 U.S.C. § 706(2)(A)–(C), and the failure to provide the required bond process is "agency action unlawfully withheld" under § 706(1).

126. Petitioner has standing to challenge these actions: he suffers concrete and ongoing injury (continued detention without access to an IJ bond hearing), traceable to Respondents' policies and decisions, and redressable by vacatur and injunctive relief requiring custody to be governed by § 1226(a) and the implementing regulations. His interests are plainly within the INA's zone of interests, which protects access to § 1226(a) custody determinations for noncitizens in § 1229a proceedings.

127. Alternatively, whether DHS lawfully terminated parole in accordance with governing statutes and regulations is a discrete, reviewable agency action subject to judicial review under the APA.

128. The parole authority of 8 U.S.C. § 1182(d)(5)(A) is the only legal means for release of inadmissible applicants for admission who are seeking admission. *See Jennings*, 138 S. Ct. at 844 and *Matter of M-S-*, 27 IN Dec 509 at 517. Accordingly, DHS's decision to release Petitioner from custody in 2022 necessarily constituted an exercise of parole authority, even though DHS failed to formally label the release as "parole" or issue documentation specifying the purpose or duration of such parole.

129. Having exercised parole authority to release Petitioner, DHS was required to comply with the statutory and regulatory requirements governing the termination of parole before re-detaining him. *See* 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5(e). Those requirements include written notice upon an individualized determination that the purpose of parole has been served or that neither humanitarian reasons nor significant public benefit warrants continued parole. 8 C.F.R. § 212.5(e)(2).

130. DHS failed to comply with these mandatory requirements. The record does not reflect that DHS ever made an individualized determination that the purpose of Petitioner's parole had been served, nor that DHS provided

Petitioner with written notice of parole termination as required by regulation. DHS's re-detention of Petitioner therefore constitutes agency action taken "without observance of procedure required by law." 5 U.S.C. § 706(2)(D).

131. DHS's failure to provide notice of parole termination or to engage in an individualized, case-by-case assessment also constitutes agency action "not in accordance with law" and "in excess of statutory authority." 5 U.S.C. § 706(2)(A), (C). Congress authorized parole decisions to be made on a case-by-case basis, 8 U.S.C. § 1182(d)(5)(A), and courts have repeatedly found that parole revocation, like parole grants, requires individualized consideration rather than categorical or automatic action.

132. DHS's actions are further arbitrary and capricious because the agency failed to articulate a reasoned basis for concluding that parole could be terminated without process. *See State Farm Mut. Auto. Ins. Co.*, 463 U.S. at 43 (agency action is arbitrary and capricious where the agency "entirely failed to consider an important aspect of the problem" or offered an explanation counter to the evidence before it).

133. DHS's unlawful revocation of parole has caused Petitioner concrete and ongoing injury, including prolonged physical detention, deprivation of liberty without due process, and denial of the opportunity to remain at liberty under the same conditions that governed his release for over three years. These

injuries are directly traceable to DHS's failure to comply with the APA and are redressable by this Court through vacatur of the unlawful agency action and an order directing Petitioner's release.

134. Petitioner's interests fall squarely within the zone of interests protected by the INA's parole provisions and the APA. The parole statute and its implementing regulations are designed to govern when and how DHS may release and re-detain noncitizens, and to protect noncitizens from arbitrary deprivation of liberty through unreviewed or procedurally defective parole decisions.

135. For all of these reasons, Respondents' actions are arbitrary, capricious, an abuse of discretion, contrary to law, and in excess of statutory authority, and must be set aside under 5 U.S.C. § 706(2).

REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests the Court to grant the following relief:

1. Accept jurisdiction over this matter;
2. Order that Petitioner shall not be transferred outside the United States District Court for the Middle District of Florida while this habeas petition is pending;

3. Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243, directing Respondents to show cause why the petition for a writ of habeas corpus filed by Petitioner should not be granted within three days;
4. Issue a Writ of Habeas Corpus requiring that Respondents provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days or, in the alternative, release Petitioner immediately;
5. Order Respondents not to re-arrest or detain Petitioner under 28 U.S.C. § 1225(b)(2)(A);
6. Declare that Petitioner's detention is unlawful;
7. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
8. Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Gladys Carredeguas Mayor
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Counsel for Petitioner

Dated: March 8, 2026

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

I represent Petitioner, Mario Pardillo Valdes, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 8th day of March 2026.

/s/*Gladys Carredeguas Mayor*
Gladys Carredeguas Mayor
Florida Bar No. 1050046