UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF GEORGIA

COLUMBUS DIVISION

ARIEL HUMBERTO MARTINEZ GARCIA,

Petitioner,

v.

JASON STREEVAL , *in his official capacity as Warden of Stewart Detention Center*; KRISTEN SULLIVAN, *in her official capacity as Field Office Director of Immigration and Customs Enforcement, Enforcement and Removal Operations Atlanta Field Office*; KRISTI NOEM[1], *in her official capacity as Secretary of Homeland Security*; PAMELA J. BONDI, *in her official capacity as Attorney General of the United States;* TODD LYONS, *in his official capacity as Acting Director of Immigration and Customs Enforcement.*

Respondents.

PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

Case No.

INTRODUCTION

1. Eighteen-year-old Petitioner Ariel Humberto Martinez Garcia is currently detained at Stewart Detention Center ("Stewart") in Lumpkin, Georgia. He was taken into Immigration and

[1] At the time of this filing, Kristi Noem is the Secretary of the Department of Homeland Security. Secretary Noem's tenure is set to end on March 31, 2026. *See Trump Removes Kristi Noem as Homeland Security Secretary*, Time (Mar. 6, 2026), https://time.com/7382719/kristi-noem-removed-homeland-security-secretary-markwayne-mullin/. Secretary Noem's official successor will, at that time, assume her role in this case. *See Lewis v. Clarke*, 581 U.S. 155, 162 (2017) ("In an official-capacity claim, the relief sought is only nominally against the official and in fact is against the official's office and thus the sovereign itself. . . . This is why, when officials sued in their official capacities leave office, their successors automatically assume their role in the litigation.") (citations omitted).

Customs Enforcement ("ICE") custody on December 29, 2025, without notice or a pre-deprivation hearing and has since been denied the opportunity to seek bond.

2. Ariel's life began in Santa Ana, El Salvador, where he resided in a family home with his maternal grandparents, his mother, his younger sister, an aunt, two cousins, and his niece. Ariel's father, who was abusive toward his mother, exited the home when he was a young child and did not provide financial support to the family. He died of alcoholism when Ariel was approximately 15 years old.

3. Meanwhile, Ariel faced constant pressures from violence by criminal groups and unfair targeting by local authorities. In Ariel's childhood neighborhood in El Salvador, crime is not adequately addressed, and Ariel faced constant danger from street gangs and uncontrolled criminal behavior both inside and outside the home. Ariel witnessed significant increases in crime, including gang violence and extortion, in his neighborhood. He remembers seeing people carrying guns outside his family's home as a child.

4. Still, Ariel diligently pursued an education. He enrolled in school and attended classes Monday through Friday from 7:00 AM through 11:30 AM, the typical hours of schools in El Salvador. Ariel also actively pursued activities to help his family: he often helped his mother by cleaning the house and by generating income ($15 – $20 dollars per day) from the mechanic job he took on at just fourteen years old. His faith is also very important to him, and Ariel regularly attended church with his family. Ariel's dedication to school, work, family, and church illustrate that, even from a young age, he has always been industrious and generous.

5. Ariel knew that he had to escape the violence and instability of El Salvador to protect himself and his family. At just 15 years old, he packed for himself and his 10-year-old sister and journeyed to the United States in May 2023. Ariel's hope was that he and his sister

would find safety and opportunity in the United States, that he could continue his education, and that he could build a better future for himself and his family.

6. After being processed through the Department of Health and Human Services, as described in further detail below, Ariel was welcomed into the United States by his aunt. Ariel and his younger sister lived with his aunt and her children for several months, until Ariel's mother joined the family. At that time, Ariel, his mother, and his sister moved into their own apartment.

7. Since his arrival, Ariel has dedicated himself to integrating into his new life. He studied hard and ultimately passed the exam required to obtain a General Educational Development ("GED") certificate in 2025. Ex. A (GED). Shortly thereafter, Ariel started working the night shift at a hotel to support his family. Between his nighttime work shifts, Ariel continued to help his mother around the home, spend time with his younger sister, and attend services at a local church. Ariel keeps in contact with his aunt, who still lives in Fayetteville, Georgia. His immediate family members are active in supporting him and providing for his care in the United States, and he is dedicated to establishing a life in his new community.

8. On December 26, 2025, approximately seven months after starting his job at the hotel, Ariel was detained by police while driving to work. He was accused of the traffic offenses of Driving Without a License and Passing an Emergency Vehicle.

9. This was Ariel's first time ever being accused of any misconduct. Ariel was briefly kept in state custody after his arrest. During his stay at the state facility, he was known for his calm presence. The traffic proceedings were dismissed before formal charges were even filed. Ex. B (1-29-2026 Dismissal).

10. Though he was released from state custody on his own recognizance shortly after the December 2025 traffic incident, he never made it to freedom. Instead, he was immediately

transferred to ICE custody and sent to Stewart, where he has remained since December 29, 2025. This detention is unwarranted for such minor alleged infractions, which were quickly dismissed.

11. Now 18 years old, Ariel is a young adult with solid family support, a good foundation of education and a job history evidencing his strong work ethic, as well as bright plans for his future. *See* Ex. C (Letters of Support). His family depends on his support in the household and financially. His detention at Stewart has suddenly disrupted the life he has worked hard to build, and his denial of a pre-deprivation hearing blatantly offends both constitutional and statutory law, as well as principles of fundamental fairness.

JURISDICTION AND VENUE

12. This Court has jurisdiction under 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); and 28 U.S.C. § 1331 (federal question jurisdiction).

13. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

14. This action is also brought under the Administrative Procedure Act (APA). Jurisdiction is proper for this claim because "[t]he text of the APA allows challenges to agency action to be brought in habeas petitions." *Thieme v. Warden Fort Dix FCI*, 154 F.4th 115, 123 (3rd Cir. 2025) (citing 5 U.S.C. § 703). *See also Alfonso Perez v. Mordant*, No. 2:25-cv-00947-SPC-DNF, 2025 WL 3466956, at *6 (M.D. Fla. Dec. 3, 2025) (granting habeas and holding ICE acted arbitrarily and capriciously and violated the APA), *appeal filed*, No. 26-1-371 (11th Cir. Feb. 3, 2026).

15. Venue is proper in this district and division under 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Ariel is detained within this district at Stewart in Lumpkin,

Georgia. *See also Braden v. 30th Jud. Cir. Ct. of Ky.*, 410 U.S. 484, 493–94 (1973) (holding venue for a habeas corpus petition is proper "where all of the material events took place, [and where] the records and witnesses pertinent to petitioner's claim are likely to be found").

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to Respondents unless Petitioner is wholly ineligible for relief. 28 U.S.C. § 2243. If an OSC 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.*

17. 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) (*abrogated on other grounds*).

EXHAUSTION OF REMEDIES

18. As this Court is aware, "exhaustion is not a jurisdictional requirement," but a "prudential matter." *J.G. Warden, Irwin Cnty. Det. Ctr.*, 501 F.Supp.3d 1331, 1348 (M.D. Ga. 2020) (citation omitted). *See also Santiago-Lugo v. Warden*, 785 F.3d 467 (11th Cir. 2015) (holding that § 2241 imposes no jurisdictional exhaustion requirement).

19. Administrative exhaustion should be waived where pursuit of administrative remedies would be futile. *See Byars v. Coca-Cola Co.*, 517 F.3d 1256, 1264 (11th Cir. 2008) ("[E]xcusal of the exhaustion requirement is appropriate when resort to the administrative remedies would be futile." (citations omitted)).

20. Such is the case here. The Board of Immigration Appeals ("BIA") issued a sweeping misinterpretation of the bond provisions of the Immigration and Nationality Act in *Matter of Yajure Hurtado*, which declared that immigration judges ("IJ"s) lack jurisdiction to hear bond requests of noncitizens who are present in the United States without inspection and admission because those individuals are purportedly subject to mandatory detention. 29 I & N Dec. 216 (B.I.A 2025).

21. In light of *Yajure Hurtado*, Ariel's attempts to exhaust his administrative remedies are futile. *See Puga v. Ass't Field Office Dir.*, No. 25-24535-CIV, 2025 WL 2938369, at *2 (S.D. Fla. Oct. 15, 2025) ("Since the result of Petitioner's custody redetermination and any subsequent bond appeal to the BIA is nearly a foregone conclusion under *Matter of Yajure Hurtado*, any prudential exhaustion requirements are excused for futility."); *Baquera v. Longshore*, 948 F. Supp. 2d 1258, 1259–60 (D. Colo. 2013) (regarding habeas petitioner detained under 8 U.S.C. § 1226(a) who requested a bond hearing first from an IJ, did not obtain a definitive ruling on the subject, and was not required to continue to renew requests before seeking habeas because such efforts would be "futile").

22. Indefinite, unfounded detention has been held by other circuits as grounds for waiving the exhaustion requirement altogether. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1254–55 (W.D. Wash. 2025) (where petitioner could "reasonably expect to wait another five months or more for his appeal to be decided," the court chose to "follow[] the vast majority of other cases which have waived exhaustion based on irreparable injury when an individual has been detained for months without a bond hearing" (citation omitted)).

23. Here, Ariel filed a request for bond on March 4, 2026 as a member of the national class impacted by *Maldonado Bautista v. DHS*, 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18,

2025). He was given a custody redetermination hearing on March 9, 2026. At this hearing, IJ Bianca Brown declined to take jurisdiction over Ariel's bond request. When asked by Ariel's counsel to specify the grounds for this determination, IJ Brown, after briefly reviewing the documents submitted by the parties, stated that Ariel "entered without inspection."

24. The court provided no further grounds for its determination and concluded the hearing. Ariel's unrecorded custody redetermination hearing lasted approximately ten minutes and, although a court interpreter attended virtually and translated the introductions of counsel, the rest of the proceeding was conducted fully in English without translation.

25. Ariel has reserved his right to appeal the IJ's decision. However, an appeal to the BIA would be futile in light of its consistent, near-total allegiance shown to the misinterpretation of 8 U.S.C. § 1226 (a) under *Yajure Hurtado*. Moreover, these appeals can take months or even years to resolve while petitioners like Ariel continue to sit in detention without means to seek relief. *See Rodriguez v. Bockstock*, 802 F. Supp. 3d 1297, 1307 (W.D. Wash. Sept. 30, 2025) ("In 2024, EOIR data showed an average processing time of 204 days for bond appeals. EOIR data between 2015 and 2024 also showed that 200 bond appeal cases 'took a year or longer to resolve.'" (citations omitted)), *subsequent determination*, No. 3:25-CV-05240-TMC, 2026 WL 102461 (W.D. Wash. Jan. 14, 2026).

26. As such, Ariel has not been given a meaningful opportunity to seek bond, is almost certain not to be granted the opportunity to seek bond by the BIA, and Respondents continue to indefinitely detain him without justifying his detention before any judicial body. The prudential exhaustion requirements are satisfied and Ariel is entitled to seek relief from this Court.

PARTIES

27. Petitioner Ariel is an eighteen-year-old native of El Salvador currently detained at Stewart Detention Center in Lumpkin, Georgia.

28. Respondent Jason Streeval is the Warden of Stewart, a detention center operated privately by CoreCivic that contracts, via an intergovernmental services agreement with Stewart County, Georgia, with ICE to detain noncitizens. Warden Streeval oversees Stewart's administration and management. Warden Streeval is Ariel's immediate custodian. He is sued in his official capacity.

29. Upon information and belief, Respondent Kristen Sullivan is the Acting Field Office Director of the ICE Enforcement and Removal Operations (ICE ERO) Atlanta Field Office and is the federal agent charged with overseeing all ICE detention centers in Georgia, including Stewart. Ms. Sullivan is a legal custodian of Mr. Garcia. She is sued in her official capacity.

30. At the time of this filing, Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Noem is the ultimate legal custodian of Ariel. She is sued in her official capacity.

31. Respondent Pamela J. Bondi is the Attorney General of the United States. Attorney General Bondi oversees the immigration court system, including the IJs who conduct bond hearings as her designees. She is sued in her official capacity.

32. Respondent Todd Lyons is sued in his official capacity as Acting Director of ICE, and as such is the legal custodian of Ariel.

FACTUAL BACKGROUND

33. Ariel came to the United States in 2023 after fleeing criminal violence in his home country. On or around May 30, 2023, he was apprehended by Border Patrol near Roma, Texas.

34. The U.S. Department of Homeland Security ("DHS") correctly identified Ariel as an "Unaccompanied Alien Child" ("UC"), as defined in the Homeland Security Act of 2002 ("HSA"), 6 U.S.C. § 279(g)(2), and the Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), 8 U.S.C. § 1232(g)[2].

35. Pursuant to the HSA and TVPRA, the DHS transferred custody of Ariel to the Department of Health and Human Services ("HHS")'s Office of Refugee Resettlement ("ORR"). *See* 8 U.S.C. § 1232(b)(3) (mandating that an agency with "an unaccompanied alien child in custody shall transfer the custody of such child to [HHS]" within a statutory time).

36. Congress authorized ORR to make custody determinations for UCs like Ariel. *See* 6 U.S.C. § 279(b)(1)(C) (the ORR is responsible for "making placement determinations for all unaccompanied alien children who are in [f]ederal custody by reason of their immigration status"). ORR placed Ariel at the Southwest Key El Presidente Program, where he remained for several days.

37. On June 9, 2023, ORR released Ariel into the custody of his aunt, as his sponsor, pursuant to the TVPRA.[3] Ex. D (6-9-2023 Verification of Release). In making the decision to release Ariel, ORR confirmed that he was not a danger to the community or a flight risk.[4]

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[2] The HSA provides: "[T]he term 'unaccompanied alien child' means a child who – (A) has no lawful immigration status in the United States; (B) has not attained 18 years of age; and (C) with respect to whom – (i) there is no parent or legal guardian in the United States; or (ii) no parent or legal guardian in the United States is available to provide care and physical custody." 6 U.S.C. § 279(g)(2). The TVPRA provides: "the term 'unaccompanied alien child' has the meaning given such term in section 279(g) of [the HSA]."

[3] *See* 8 U.S.C. § 1232(c)(2)(A) ("[A]n unaccompanied alien child in the custody of the [HHS] shall be promptly placed in the least restrictive setting that is in the best interest of the child.").

[4] *See id.* ("In making such placements, the Secretary may consider danger to self, danger to the community, and risk of flight."). *See also* Off. Of Refugee Resettlement, *Unaccompanied Alien Children Bureau Policy Guide*, 2.7.7 (allowing for denial of release if the unaccompanied child "is a danger to themself or the community").

38. After his release from ORR, Ariel lived briefly with his aunt, then moved into an apartment with his mother[5] and sister. He was not under an order of supervision and was not required to wear an ankle monitor or comply with other supervisory measures.

39. On August 27, 2023, ICE served Ariel with a Notice to Appear ("NTA") designating him as "[a]n alien present in the United States who has not been admitted or paroled," and charging that he was subject to removal from the United States pursuant to "212(a)(6)(A)(i) of the Immigration and Nationality Act," codified at 8 U.S.C. § 1182(a)(6)(A)(i). Ex. E (NTA).

40. Since the issuance of the NTA, Ariel has appeared for every required court date in his removal proceedings. In January 2026, after he was placed in detention at Stewart, Ariel filed a motion to terminate his removal proceedings. This motion was denied, though Ariel intends to renew his motion soon based on his pending applications for relief, explained below.

41. On July 25, 2025, Ariel filed an affirmative UC asylum application with the Arlington Asylum Office of US Citizenship and Immigration Services ("USCIS") based on his fear of past and future persecution in El Salvador. Ex. F (8-2-2025 Receipt Notice for Application of Asylum). That application is pending and jurisdiction over that application is properly with the Asylum Office at USCIS.[6]

42. Additionally, Ariel's mother has a pending custody action before the Clayton Superior Court where she is seeking additional findings to support a petition for Special Immigrant Juvenile Status ("SIJS") for Ariel. Ex. G (8-20-2025 Petition for Declaration of Sole Custody).

43. On December 26, 2025, Ariel was driving to work when he was arrested for non-violent traffic violations. These proceedings were dismissed before the formal filing of charges

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[5] Ariel's mother arrived in the United States sometime after he and his sister.

[6] *See* 8 U.S.C. § 1158(b)(3)(C) ("An asylum officer . . . shall have initial jurisdiction over any asylum application filed by an unaccompanied alien child . . .").

after the Solicitor General found that dismissal was in "the public interest[] and [the] interest of justice." *See* Ex. B. This was Ariel's first and only encounter with police.

44. Despite the dismissal of these criminal proceedings, Ariel was detained by ICE and transferred from custody by the Clayton County Sherriff to the "prison-like facility" of Stewart.[7] He has been at Stewart since December 29, 2025.

45. Ariel was detained without receiving a pre-deprivation hearing to determine the constitutionality of his detention, nor has he received ICE's statutory basis for detention or *any reasoning whatsoever* indicating that there has been a material change in circumstances justifying his detention despite his prior release from ORR. He has also been denied a meaningful opportunity to seek bond due to the immigration judge's erroneous assertion that she does not have jurisdiction.

ARGUMENTS

46. Respondents' arbitrary and unjustified detention of Ariel without a bond hearing violates Due Process, the Administrative Procedure Act ("APA"), and the Immigration and Nationality Act ("INA"). Accordingly, Respondents' actions must be set aside, and Ariel is entitled to immediate release or, in the alternative, a bond hearing on the merits.

I. Ariel's Detention Is Unconstitutional, Necessitating His Immediate Release.

47. The Fifth Amendment of the Constitution affords protection to detained noncitizens. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v.*

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[7] *See* H.B. 1105, 157th Gen. Assemb. Reg. Sess. (Ga. 2024) (passed "[t]o amend Title 17 of Official Code of Georgia Annotated … to require custodial authorities to honor immigration detainer notices" and otherwise to require cooperation of state authorities with federal immigration enforcement). *See also Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1221 (11th Cir. 2016) (specifically determining that Stewart, where Ariel is detained, is a "prison-like facility"), *vacated*, 890 F.3d 952 (11th Cir. 2018); *J.N.C.G. v. Warden, Stewart Det. Ctr.*, No. 4:20-CV-62-MSH, 2020 WL 5046870, at *7 (M.D. Ga. Aug. 26, 2020) ("[N]either party disputes that Petitioner's current place of confinement—Stewart Detention Center—is not meaningfully different from a prison.").

Flores, 507 U.S. 292, 306 (1993)). The Supreme Court has held that the Fifth Amendment's guarantee of Due Process applies to all persons physically within the United States, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

A. Ariel Has a Constitutionally Protected Liberty Interest in Freedom from Detainment.

48. "The Constitution guarantees procedural and substantive due process when a liberty interest is at stake." *Cook v. Randolph Cnty., Ga.*, 573 F.3d 1143, 1152 (11th Cir. 2009). Here, Ariel had a protected liberty interest in his freedom from detainment after being released from ORR custody. *See Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" which Due Process protects). *See also Sekkai v. Lynch*, No. 1:16-CV-4053-CAP-JKL, 2017 WL 11696399, at *1 (N.D. Ga. Apr. 26, 2017) (recognizing that Due Process protects "the core liberty interest in freedom from bodily restraint"). *See also Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) ("[T]he government's discretion to incarcerate non-citizens is always constrained by the requirements of due process . . . .").

49. A person who is released from immigration authority custody—even conditionally—has a protected liberty interest in that release. *See Morrissey v. Brewer*, 408 U.S. 471, 480 (1972). This is because a release from initial custody "creates an 'implicit promise' that the individual's liberty will be revoked only if they fail to abide by the conditions of their release." *Lucas v. LaRose*, No. 3:25-cv-02973-GPC-JLB, 2025 WL 3485163, at *5 (S.D. Cal. Dec. 4, 2025) (citations omitted) (where a petitioner "was detained and then released from DHS custody on his own recognizance, he maintained a protected liberty interest in remaining out of custody"). This is true even if the government granted the initial release as a matter of discretion. *See Ortega v.*

Bonnar, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) ("[T]he fact that a decision-making process involves discretion does not prevent an individual from having a protectable liberty interest.").

50. For example, in *Garcia Domingo v. Castro*, 806 F. Supp. 3d 1246, 1250–53 (D.N.M. 2025), the district court found that an individual released by ORR into the custody of his father who "established a life" outside of custody was substantially likely to be able to show a protectable liberty interest and "that he was entitled to a pre-deprivation hearing prior to being re-detained." Additionally, in *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1030–33 (N.D. Cal. 2025), the district court found that a petitioner who was "released on her own recognizance," was "not required to post a bond and was not subject to any conditions of supervision," and who, while on release, "found a job and provided for her family [and] built community at work, at church, and at her boxing gym" had a protectable liberty interest.

51. Here, Ariel was released as a UC without a bond, without an order of supervision, and without any monitoring restrictions like ankle monitors or other behavior controls. In making the decision to release him, the ORR determined that Ariel was not a danger to the community and placed him in the care of a sponsor. Thus, the government has arguably already made a determination about flight risk and risk of danger in Ariel's case and found no cause for concern.[8] ORR's decision to release Ariel to the custody of his sponsor vested him with a liberty interest that is guarded by Due Process. As a result, re-detention is not permitted without demonstrating to a neutral arbiter that there has been a material change in circumstances.

B. ICE's Re-detention of Ariel Without Notice or a Pre-deprivation Hearing Violates His Procedural Due Process Rights Under the Fifth Amendment.

[8] *See* 45 C.F.R. § 410.1205(f) (implying that a grant of release is premised on a finding that the UC is *not* a danger to others given that the denial of release may be based on "a concern that the unaccompanied child is a danger to self or others").

52. Having established a deprivation of liberty, the next question is whether adequate due process was afforded to Ariel. *See Vallecillo v. Breckon*, No. 5:24-cv-78, 2025 WL 1508455, at *3 (S.D. Ga. Apr. 29, 2025) ("To determine if a procedural due process violation has occurred, courts must determine whether a petitioner was deprived of a protected interest, and, if so, whether constitutionally adequate due process was afforded."), *report and recommendation adopted*, No. 5:24-CV-78, 2025 WL 1508042 (S.D. Ga. May 27, 2025). Here, due process mandates that Ariel receive notice and a hearing before a neutral adjudicator prior to any re-arrest or re-detention.

53. "Adequate, or due, process depends upon the nature of the interest affected. The more important the interest and the greater the effect of its impairment, the greater the procedural safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d 1350, 1355–56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481–82). To determine what process a petitioner is owed, a court must "balance[] [Petitioner's] liberty interest against the [government's] interest in the efficient administration of" immigration laws. *Id.* at 1357.

54. The applicable balancing test was set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, this Court must consider three factors:

> first, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail.

Haygood, 769 F.2d at 1357 (citing *Mathews*, 424 U.S. at 335).

55. Usually, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127–28 (1990) (emphasis in original). Only in a "special case" where post-deprivation remedies are "the only remedies the

State could be expected to provide" can post-deprivation process satisfy the requirements of due process. *Id.* at 985.

56. Courts have repeatedly required a pre-deprivation hearing for a noncitizen released from custody, like Petitioner, before ICE re-detains him. As one district court recently noted, there is apparently no "other context in which government agents could permissibly take someone who had been released by a judge, lock up that person, and have no hearing either beforehand or promptly thereafter." *Guillermo M. R. v. Kaiser*, No. 25-cv-05436-RFL, 2025 WL 1983677, at *7 (N.D. Cal. July 17, 2025). The courts have made clear that DHS is subject to the requirements of due process.

57. Under the test articulated in *Mathews*, a pre-deprivation hearing was required before Ariel's detention.

58. First, Ariel possesses a significant interest in the liberty that was stripped away by Respondents' arbitrary decision-making. He is 18 years old and has lived with his family in the United States for nearly three years. During this time, he became gainfully employed at a hotel, pursued and earned a GED, and participated regularly in his church community. He is a breadwinner for his mother and younger sister and significantly contributes to the running of their home. Ariel's diligent, hardworking nature is setting a foundation for the rest of his life. In reliance on the "implicit promise" made by the government when it released him from ORR custody, he has vested his hopes for the future in this stable lifestyle with his family before re-detainment.

59. Second, the threadbare "procedure" followed by Respondents in detaining Ariel presents great risk of error. The decision to take Ariel into custody following state detention for alleged minor traffic violations—allegations that never even amounted to charges—was essentially unilateral and has been subject to no review. Ariel received no notice prior to his

detention by ICE. He has not been given an explanation for this detention. Since Ariel has been denied a bond hearing, there is no mechanism to obtain a hearing or other review of Respondents' decision-making. Such additional safeguards would have been very valuable to Ariel as it would have allowed him to understand the nature of his detention and to mount an informed defense or counter-argument in favor of release.

60. Third, the government has little interest in detaining Ariel at this time. The ORR's decision to release him into the custody of his aunt demonstrates that he is not a flight risk or a danger to the community. *See* Ex. C. He has diligently pursued immigration relief up to this point and has never been accused of misconduct beyond a traffic-related incident. The ORR already released Ariel into the custody of his aunt without requiring bond or monitoring. Given these facts, there is no public interest in holding Ariel, at the expense of the public, in taxpayer-funded government confinement. On the contrary, the interests of the public are best served by a fair and equitable administration of the law according to established practices, including pre-deprivation hearings and bond determinations. These additional procedures would impose no meaningful burden on the government, as Ariel has already been processed through the ORR and, if anything, a pre-deprivation hearing would have saved the government the additional efforts and expenses that were dedicated to transporting and confining him for this amount of time with no justification.

61. Because, in this case, the provision of a pre-deprivation hearing was both possible and valuable in preventing an erroneous deprivation of liberty, ICE was required to provide Ariel with notice and a hearing *prior* to any re-detention. *See Morrissey*, 408 U.S. at 481–82; *Haygood*, 769 F.2d at 1355–56; *Zinermon*, 494 U.S. at 127-28; *see also Youngberg v. Romeo*, 457 U.S. 307, 321–24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir. 1984) (holding that individuals awaiting involuntary civil commitment proceedings may not constitutionally be held in jail pending the

determination as to whether they can ultimately be recommitted). Under *Mathews*, "the balance weighs heavily in favor of [Ariel's] liberty" and required a pre-deprivation hearing before a neutral adjudicator, which ICE failed to provide. *Haygood*, 769 F.2d at 1357.

62. The purpose of a pre-deprivation hearing in the context of noncitizen detentions is to ensure that a material change in circumstances justified Ariel's detention. As the BIA recognized, "where a previous bond determination has been made by an immigration judge, *no change should be made by [DHS] absent a change of circumstance*." *Matter of Sugay*, 17 I & N Dec. 637, 640 (B.I.A. 1981) (emphasis added). Although ICE may revoke a noncitizen's immigration bond and re-arrest the noncitizen,[9] it "generally only re-arrests [noncitizens] pursuant to § 1226(b) after a *material* change in circumstances." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017) (emphasis added) (quoting Defs.' Second Suppl. Br. at 1, Dkt. No. 90). Thus, under BIA case law and stated ICE practice, ICE may re-arrest a noncitizen who had been previously released on bond only after a material change in circumstances. *See id.* at 1176; *Matter of Sugay*, 17 I. & N. Dec. at 640.

63. Like a bond determination, ORR's release of Ariel reflects a determination that he is not a danger to others. *See* 45 C.F.R. § 410.1205(f); *Lopez v. Sessions*, No. 18 Civ. 4189 (RWS), 2018 WL 2932726 (S.D.N.Y. June 12, 2018) ("Petitioner, while in the custody of ORR, was assessed as neither a danger to himself or others, nor a flight risk, and was accordingly permitted to reside with his mother. . . ."). Nonetheless, ICE subsequently re-detained Ariel without any pre-deprivation hearing. Nor did ICE point to any changed circumstances that would justify Ariel's re-detention. Ariel has no criminal record and has not indicated that he is a flight risk. On the contrary, Ariel established employment in Riverdale, Georgia and lives with his mother and younger sister.

[9] *See* 8 U.S.C. § 1226(b), 8 C.F.R. § 236.1(c)(9).

Due Process prohibits Respondents from taking away Ariel's weighty interest in his freedom in the peremptory manner that occurred. Accordingly, Ariel is entitled to immediate release.

64. Due Process makes it unlawful for Respondents to arrest and detain Ariel—who was previously released by the ORR into the custody of his family—without first providing a pre-deprivation hearing in which an IJ determines whether circumstances have so materially changed since his release that re-detention is necessary. Because these requirements were not met, Ariel is entitled to immediate release.

C. Ariel's Detention also Violates His Substantive Due Process Rights Under the Fifth Amendment.

65. To comport with due process, detention must "bear [a] reasonable relation to the purpose for which the individual [was] committed." *Zadvydas*, 533 U.S. at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). *See also Lynch*, 744 F.2d at 1460 ("Due process requires, at a minimum, some rational relation between the nature and duration of confinement and its purpose.").

66. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 538. Due Process thus requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Zadvydas*, 533 U.S. at 690 (citation omitted).

67. Ariel's re-detention and continued confinement violate Fifth Amendment Substantive Due Process because it does not further the government's legitimate goals of ensuring his appearance at future immigration proceedings or preventing danger to the community. *See, e.g.*, *Zadvydas*, 533 U.S. at 678.

68. Here, Ariel's re-detention bears no reasonable relation to any possible purpose for his re-detention. Ariel was re-detained following a trivial traffic violation. Ariel has consistently, scrupulously followed the orders of authorities and the courts. Apart from minor traffic violations, he has no history of criminal behavior. Ariel's priorities are, as they have always been, to build a productive life alongside his family in a safe and stable environment and to continue developing his education. His conduct while released by ORR—when he was lawfully, peacefully pursuing his GED and contributing to society through his work—shows that his detention serves no legitimate government purpose as required by the Due Process Clause. Thus, ICE's unreasonable and unjustified re-detention of Ariel, which has no end in sight and has been left unreviewed and unchecked by a pre-deprivation or bond hearing, violates substantive Due Process and mandates his immediate release from custody.

II. ICE's Detention of Ariel Constitutes Arbitrary and Capricious Agency Action Under the Administrative Procedure Act.

69. Courts may review administrative decisions to re-detain noncitizens like Ariel because such re-detention constitutes "final agency action" which "impose[s] an obligation, den[ies] a right or fix[es] some legal relationship as a consummation of the administrative process." *Torres v. Noem*, No. C25-2697JLR, 2026 WL 234076, at *2 (W.D. Wash. Jan. 29, 2026) (alterations in original) (citation omitted) ("DHS's revocation of the release of a noncitizen previously granted parole is reviewable under the APA because it denies the noncitizen's right to liberty and is an action from which rights have been determined.").

70. This Court should hold Respondents' decision to re-detain Ariel unlawful and set it aside, necessitating his immediate release.

71. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be . . . not in accordance with law" or "contrary to constitutional right, power, privilege, or

immunity." 5 U.S.C. § 706(2)(A), (B). The APA's reference to "law" in the phrase "not in accordance with law," "means, of course, *any* law, and not merely those laws that the agency itself is charged with administering." *FCC v. NextWave Pers. Commc'ns Inc.*, 537 U.S. 293, 300 (2003) (citation omitted).

72. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 664, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). *See also Motor Vehicle Mfrs.*, 463 U.S. at 43 (an agency decision that fails to "examine the relevant data and articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made'" is arbitrary and capricious (citation omitted)); *Dep't of Com. v. New York*, 588 U.S. 752, 773 (2019) (same).

73. Respondents' decision to detain and imprison of Ariel without a hearing violates statute, regulation, and the Constitution, as described above. Ariel has no criminal record, he was granted release by the ORR, he has been gainfully employed and pursued his GED while on release, and no new facts or changed circumstances suggest that he presents any danger to the community or flight risk. *See* Ex. C. Thus, Respondents' actions run contrary to the evidence before it regarding Ariel's eligibility for bond and are arbitrary and capricious under the APA.

74. Respondents also have not, at any time, offered an explanation for this decision. They have not provided Ariel with a basis for his detention and has not been called into any court—immigration or otherwise—to justify its decision making. Respondents fail to consider the serious constitutional concerns raised by revoking Ariel's liberty without notice and opportunity to

respond despite his ongoing, consistent cooperation with the immigration systems in place, including a pending asylum application and efforts to petition for SIJS.

75. The decision to pick Ariel up after he was released by the ORR without notice, without bond, and without any explanation or justification for his detention is arbitrary and capricious under the APA and, accordingly, Respondents' actions should be set aside and Ariel should be immediately released from custody.

III. Ariel's Detention Without an Individualized Bond Hearing Violates Section 1226(a) of the INA.

76. The Immigration and Nationality Act ("INA") authorizes, in different circumstances, mandatory or discretionary detention for noncitizens in removal proceedings. *See* 8 U.S.C. § 1226; 8 U.S.C. § 1225(b)(2). Ariel's detention, if justified at all, can only be authorized under the discretionary detention statute that entitles him to a bond hearing. 8 U.S.C. § 1226.

a. Historical Application of the Detention Statutes.

77. 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. In other words, "Section 1226(a) establishes a discretionary detention framework for noncitizens who are 'arrested and detained'" while present in the United States. *Rojano Gonzalez v. Sterling*, No. 1:25-CV-6080-MHC, 2025 WL 3145764, at *4 (N.D. Ga. Nov. 3, 2025) (quoting *Gomes v. Hyde*, No. 804 F. Supp. 3d 265, 268 (D. Mass. 2025)). Individuals detained under Section 1226(a) are entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d).

78. In contrast, 8 U.S.C. § 1225(b)(2) provides for mandatory detention of noncitizens alleged to be "applicants for admission" who are "seeking admission" and "not clearly and beyond a doubt entitled to be admitted." *See* 8 U.S.C. § 1225(b)(2)(A).

79. The detention provisions in § 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. Following the enactment of the IIRIRA, the Executive Office of Immigrant Review ("EOIR") drafted regulations explaining that, in general, people who entered the country without inspection were considered detained under Section 1226(a), not under Section 1225. *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).

80. Thus, in the decades that followed, most people who entered without inspection received bond hearings. 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)).

b. Courts Across the Country Reject the Recent Disturbance of These Statutory Standards.

81. This well-established understanding of the statutory framework has recently been unnecessarily clouded by legally unsound agency policies. For example, ICE's "Interim Guidance Regarding Detention Authority for Applicants for Admission" asserts that all persons who entered the United States without inspection are "applicants for admission" under 8 U.S.C. § 1225(a)(1), and therefore subject to mandatory detention provision under § 1225(b)(2). Additionally, the BIA adopted this interpretation of the detention statutes in *Matter of Yajure Hurtado*, 29 I & N Dec. 216, 220 (B.I.A. 2025) ("[A]liens who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. §

1225(b)(2)(A), and must be detained for the duration of their removal proceedings."); *see also Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 498 (5th Cir. 2026) (endorsing the government's view).

82. Respondents' interpretation of this statute, which applies the mandatory detention provision of 1225(b)(2) to noncitizens like Ariel who have long passed the port of entry and resided in the United States during removal proceedings, is wrong. *See Rojano Gonzalez*, 2025 WL 3145764, at *5 ("Respondents' interpretation ignores the plain meaning of the phrase 'seeking admission'" which "is undefined in the statute but necessarily implies some sort of present-tense action." (citation omitted)).

83. As such, many federal courts, including courts of this Circuit, have rejected Respondents' misinterpretation of the detention statutes. *See, e.g.*, *Puentes Suarez v. Hardin*, No. 2:26-cv-00201-SPC-DNF, 2026 WL 456796, at *2 n.1 (M.D. Fla. Feb. 18, 2026) (citing *Castañon-Nava v. U.S. Dept of Homeland Sec.*, 161 F.4th 1048, 1060–63 (7th Cir. 2025) (declining to follow *Buenrostro-Mendez* because "it contradicts the vast majority of district court opinions addressing the issue").[10] As recently as January 2026, this Court's sister district observed:

> The Respondents' position that a non-citizen who has resided *lawfully* in this country for years now can instantly be subject to detention and expulsion under ICE's new regulatory regime is highly concerning and questionable. And as other courts have ruled, the

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[10] *See also Castañon-Nova*, 161 F.4th at 1060-63 (preliminary decision considering the government's position on the scope of § 1225(b)(2) and finding it unlikely to succeed on the merits.); *Pichardo Juarez v. Warden, Mia. Corr. Facility*, No. 3:26cv42 DRL-SJF, 2026 WL 516953, at *2 (N.D. Ind. Feb. 25, 2026) (rejecting the holding of *Buenrostro-Mendez* and noting that it "illustrates just how complicated this patchwork of statutes is"); *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 WL 3050094, at *3 (M.D. Ga. Nov. 1, 2025) (finding that § 1226(a), not 1225(b)(2), applies to an "applicant for admission" who was not attempting to obtain lawful admission); *Campbell v. Almodovar*, No. 1:25-cv-09509 (JLR), at 16 (S.D.N.Y. Dec. 12, 2025) (in the context of § 1225(b)(2), reasoning that though parole does not change a noncitizen's status as an "applicant for admission," the noncitizen is no longer "seeking admission" if the noncitizen is subsequently re-arrested, thus "rendering § 1225(b)(2)'s mandatory detention provision inapposite"); *Rodriguez*, 779 F. Supp. 3d at 1245 (finding that such a reading of the INA is likely unlawful and that Section 1226(a), not Section 1225(b), applies to noncitizens who are neither apprehended upon arrival to the United States nor within the first two years of presence).

> Respondents' position that long-time residents may be, without proper notice and procedures, subject to detention is also contrary to a common-sense reading of the law.

H.F.S.R. v. Francis, No. 1:26-cv-238-AT, 2026 WL 160542, at *7 (N.D. Ga. Jan. 20, 2026) (citing *Jimenez v. Warden, FCI Atlanta*, No. 25-cv-5650-SDG, Doc. 24 at 14 (N.D. Ga. Nov. 6, 2025)).

c. Ariel Is Not Subject to Mandatory Detention Because He Has Spent Years in the United States and Was Not Arrested at the Border or Port of Entry.

84. Ariel is detained under § 1226(a), not § 1225(b)(2), because ICE arrested him when he was "already in the country pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Ariel's current detention occurred on December 29, 2025, after he had already been present within and living in the United States for *more than two years*. Furthermore, Ariel was detained in Georgia, *not* at the border.

85. Although he may be an "applicant for admission," he was not "seeking admission" at the time he was detained. Ariel was initially apprehended by ICE on or around May 30, 2023 in Roma Texas. At that time, ICE designated Ariel as "an alien *present in the United States* who has not been admitted or paroled." Ex. E (emphasis added). Thus, the mandatory interpretation provision of § 1225(b)(2) does not apply and Ariel is entitled to an individualized bond hearing.

86. Section 1225's mandatory detention procedures have no purpose in the context of someone in Ariel's position, who is detained far from the border, years after he entered and was released. Ariel is the textbook case of a § 1226(a) detainee who is improperly targeted by ICE's order.

87. Ariel, like the petitioner in *H.F.S.R.* who was found to fall under § 1226(a), was leading "a stable, work-centered daily life," "maintain[ing] steady employment," and had "no criminal record." 2026 WL 160542, at *1 (citation omitted). He earned his GED and was cooperating fully with immigration authorities in his removal proceedings. He attended all hearing

dates and was focused fully on living a lawful and productive life with his family in this country. He has never been charged with any crime and has only been accused of traffic offenses. These accusations—later dismissed—do not affect his entitlement to a bond hearing. *See Rojano Gonzalez*, 2025 WL 3145764, at *5 (finding petitioner who was arrested for a traffic violation and subsequently detained by ICE entitled to a bond hearing under Section 1226(a)).

88. The Respondents' refusal to afford Ariel with his statutory entitlement to a bond hearing violates 8 U.S.C. § 1226(a). Ariel's unlawful detention can only truly be remedied by immediate release. Alternatively, this Court should grant Ariel habeas corpus relief by ordering that Respondents shall provide Ariel with an individualized bond hearing.[11]

IV. Respondents Engaged in *Ultra Vires* Action by Detaining Ariel Without Providing an Individualized Bond Hearing.

89. Respondents' detention of Ariel without an individualized bond hearing is unlawful *ultra vires* action. "An act is ultra vires when a 'government official had *no authority* to take the action in question,' and is, thus, void as a matter of law." *Brantley Cnty. Dev. Partners, LLC v. Brantley Cnty.*, 540 F. Supp. 3d 1291, 1310 (S.D. Ga. 2021) (quoting *Dukes v. Bd. of Trs for Police*

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[11] This relief has been granted repeatedly in other cases. *See, e.g.*, *R.M.D. v. Warden, Stewart Det. Ctr.*, No. 4:26-cv-50-CDL-AGH, 2026 WL 120850 (M.D. Ga. Jan. 16, 2026); *M.A. v. Warden, Irwin Cnty. Det. Ctr.*, No. 7:25-CV-194-WLS-AGH, 2026 WL 39411 (M.D. Ga. Jan. 6, 2026); *J.S.M. v. Warden, Stewart Det. Ctr.*, No. 4:26-cv-30-CDL-AGH, 2026 WL 120840 (M.D. Ga. Jan. 16, 2026); *E.J.B-C. v. Warden, Stewart Det. Ctr.*, No. 4:26-cv-44-CDL-ALS, 2026 WL 120851 (M.D. Ga. Jan. 16, 2026); *J.O.P.C. v. Warden, Stewart Det. Ctr.*, No. 4:26-cv-040-CDL-AGH, 2026 WL 121616 (M.D. Ga. Jan. 16, 2026); *E.L.G. v. Warden, Irwin Cnty. Det. Ctr.*, No. 7:26-CV-11 (LAG), 2026 WL 114257 (M.D. Ga. Jan. 15, 2026); *J.B.B., v. Warden, Stewart Det. Ctr., et al.*, No. 4:26-CV-35-CDL-ALS, 2026 WL 116677 (M.D. Ga. Jan. 15, 2026); *A.A.M.L., v. Warden, Stewart Det. Ctr.*, No. 4:26-cv-037-CDL-AGH, 2026 WL 116680 (M.D. Ga. Jan. 15, 2026); *M.S.C.S., v. Warden, Irwin Det. Ctr.*, No. 7:26-CV-4 (LAG), 2026 WL 116682 (M.D. Ga. Jan. 15, 2026); *J.L.R.P. v. Warden, Stewart Det. Ctr.*, No. 4:26-cv-00029-CDL-CHW, 2026 WL 105030 (M.D. Ga. Jan. 14, 2026); *R.O.G. v. Warden, Irwin Cnty. Det. Ctr.*, No. 7:26-cv-6-WLS-AGH, 2026 WL 105046 (M.D. Ga. Jan. 14, 2026); *E.J.V.M. v. Warden, Stewart Det. Ctr.*, No. 4:26-cv-20-CDL-ALS, 2026 WL 94636 (M.D. Ga. Jan. 13, 2026); *M.G.C.H. v. Warden, Stewart Det. Ctr.*, No. 4:26-cv-32-CDL-AGH, 2026 WL 94639 (M.D. Ga. Jan. 13, 2026).

Officers Pension Fund, 629 S.E.2d 240, 242 (2006) (board lacked legal authority to disburse benefits beyond what was permitted in the relevant ordinance)).

90. Ariel's current detention by Respondents, if justified at all, is governed solely by 8 U.S.C. § 1226(a). "§ 1226 has historically 'authorize[d] the Government to detain certain aliens already in the country pending the outcome of removal proceedings[.]'" *Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969, at *5 (S.D. Ga. Nov. 4, 2025) (alterations in original), *report and recommendation adopted*, No. 5:25-CV-100, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025) (citing *Jennings*, 583 U.S. at 289; 8 U.S.C. § 1226(a)). By statute, Ariel's "detention is discretionary, and he is entitled to a bond hearing." *Id.* Here, Respondents have not complied with the statutory requirement to provide Ariel with a bond hearing.

91. Accordingly, Respondents' detention of Ariel is "void as a matter of law" because they had "*no authority* to take the action in question"—to detain Ariel without providing him with his § 1226(a) statutory entitlement to a bond hearing. Because Respondents' actions are "*void as a matter of law*," Ariel is entitled to immediate release. In the alternative, Ariel requests that this Court at least order Respondents to provide him with his statutory entitlement to an individualized bond hearing.

CONCLUSION

92. Ariel currently sits in one of the most populated detention centers in the United States after being detained without a change in circumstances, notice, pre-deprivation process, or a post-detention bond hearing. His arrest and continued detention under these circumstances violate Due Process and the statutes governing the treatment and detention of noncitizens.

93. "Habeas is at its core a remedy for unlawful executive detention." *Munaf v. Geren*, 553 U.S. 674, 693 (2008). The "typical remedy" for unlawful detention, is "of course, release." *Id.* Other courts confronting similar circumstances of "[t]he government's ongoing detention of [a

p]etitioner, in the face of . . . complete failure of process" have found **the only adequate remedy is "immediate release."** *O.F.B. v. Maldonado*, 25-CV-6336 (HG), 2025 WL 3277677, at *8 (E.D.N.Y. Nov. 25, 2025) (ordering the government to release a petitioner "within 24 hours" because "the government's failure to conduct any kind of individualized assessment before detaining him, failure to make any showing of changed circumstances, and failure to provide him with any meaningful opportunity to respond . . . render[ed] any post-deprivation review by an immigration judge inadequate") (emphasis added).

94. Such is Ariel's situation today. Accordingly, Ariel is entitled to immediate release into the care and custody of his family, where he has already spent significant time without issue. In the alternative, and as a secondary, sub-adequate relief, Ariel is entitled to a constitutionally-adequate bond hearing at which the government must justify the need for his continued detention based on evidence presented by both sides.

CLAIMS FOR RELIEF

COUNT I

Violation of Fifth Amendment Procedural Due Process.

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

2. "To satisfy procedural due process, non-punitive detention must be accompanied by a prompt individualized hearing before a neutral decisionmaker to ensure the detention serves the government's legitimate goals." *Padilla v. U.S. Immig. and Cust. Enf't*, 704 F. Supp. 3d 1163, 1174 (W.D. Wash. 2023) (collecting cases).

3. Here, the ORR released Ariel into the stable sponsorship of his aunt. While on release, he established a stable, lawful routine and pursued education and employment.

4. Ariel was entitled to a notice and a pre-deprivation hearing before being re-detained. Nonetheless, Respondents inexplicably re-detained him without notice or a pre-

deprivation hearing on December 29, 2026. Since then, Respondents have never provided Ariel with notice of the reasons for this detention or an opportunity to respond or seek bond.

5. Accordingly, the Court should order the immediate release of Ariel subject to appropriate conditions approved by the Court.

COUNT II

Violation of Fifth Amendment Substantive Due Process.

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

7. Ariel's detention is wholly unjustified and not related in any way to the government's interest in securing his appearance or protecting the community.

8. Ariel was already released from the ORR according to a determination that he is not a danger to the community or a flight risk.

9. While on release, Ariel dutifully pursued an education and obtained a GED, found steady employment, supported his mother and younger sister, and became active in his church. He has appeared for every hearing and complied with the requirements of his removal proceedings to the letter. He has never been accused of any crime save for a single instance of traffic violations which were dismissed without the filing of formal charges.

10. Ariel's continued, indefinite detention is thus unjustified and violates his due process rights, and he is entitled to immediate release.

COUNT III

Violation of the Administrative Procedure Act.

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

12. Respondents' decision to re-detain Ariel was arbitrary and capricious as it failed to consider the circumstances of his case, his history and conduct after release from the ORR, and the proper statutory authority under which a noncitizen in his position may be detained.

13. Agency action which so blatantly casts aside evidence and statutory mandates must be set aside.

14. Accordingly, Ariel is entitled to immediate release.

COUNT IV

Violation of the Immigration and Nationality Act

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

16. Respondents' continued detention of Ariel without the opportunity for him to obtain a bond hearing on the theory that he is subject to mandatory detention under 8 U.S.C. § 1225 contravenes the INA and Due Process.

17. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted or paroled.

18. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231. The application of § 1225(b)(2) to bar Petitioner from receiving a custody redetermination hearing before an IJ violates the INA.

19. Ariel was not "seeking admission" within the meaning of § 1225(b) but was "already in the country" within the meaning of *Jennings*, 583 U.S. at 288–89. His custody is governed by § 1226(a), under which detention is discretionary and subject to individualized bond hearings.

20. The Court should, at a minimum, order Respondents to immediately grant Ariel a constitutionally adequate, individualized bond hearing.

COUNT V

***Ultra Vires*, Unauthorized Agency Action**

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

22. Respondents' detention of Ariel without providing him a bond hearing constitutes *ultra vires* action because it directly contravenes their statutory authority under the INA. Accordingly, this conduct is void as a matter of law.

23. Ariel's detention should therefore be set aside, and he should be granted immediate release.

PRAYER FOR RELIEF

Wherefore, Ariel respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause within three days (and no more than 20) why this Petition should not be granted;

(3) Declare that Ariel's detention violates Ariel's Due Process rights; or

(4) In the alternative, declare that Ariel's detention violates the APA and the INA § 1226(a); and

(5) Issue a Writ of Habeas Corpus ordering Respondents to release Ariel immediately, subject to appropriate conditions approved by the Court, or, in the alternative, to provide a bond hearing as soon as possible, but in no more than three (3) days from this Court's order, at which the government bears the burden of demonstrating that Ariel's continued detention is justified.

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

I represent Petitioner, Ariel Humberto Martinez Garcia, and submit this verification on his behalf. Based on my discussions with Petitioner, 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: March 11, 2026.

Respectfully submitted,

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