

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

ANGEL FUENTES-LOPEZ

Petitioner-Plaintiff,

v.

KRISTI NOEM, in their official capacity as
Secretary of the United States Department of
Homeland Security;

PAMELA BONDI, in their official capacity
as Attorney General of the United States;

MATTHEW MORDANT, in their official
capacity as Florida Soft Side South Field
Office Director for Enforcement and
Removal Operations, United States
Immigration and Customs Enforcement;

TODD LYONS, in their official capacity as
Acting Director of Immigration and
Customs Enforcement

GARRET RIPA, in their Official capacity as,
Director of Miami Field Office, U.S.
~~Immigration and Customs Enforcement;~~

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT (ICE);

Respondents-Defendants.

Case No. _____

**Verified Petition for Writ of
Habeas Corpus**

Oral Argument Requested

PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, Angel Juan Fuentes-Lopez, submits this Petition for Writ of Habeas Corpus and for Related Relief, by and through undersigned counsel and alleges as follows:

INTRODUCTION

1. Petitioner respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging his continued and unlawful detention by United States Immigration and Customs Enforcement (“ICE”). The Petitioner seeks immediate release, or in the alternative, a constitutionally adequate bond hearing.

2. Petitioner is a native and citizen of Guatemala, who entered the United States on June 5, 2016, as an unaccompanied child (“UC”) at the age of thirteen (13). Shortly after entering the country, he encountered immigration authorities, which issued him a Notice to Appear (“NTA”) dated June 5, 2016, and placed him into removal proceedings pursuant to 8 U.S.C. § 1229a. The immigration authorities turned custody of Mr. Lopez over to the Office of Refugee Resettlement, as a UC. Mr. Lopez was released by the Office of Refugee Resettlement on June 21, 2016, into the custody of his mother.

3. From the date of his release in June 2016 until his detention on March 11, 2026, Mr. Lopez appeared for all his court dates at the Miami Immigration Court and never absconded. Mr. Lopez has no criminal history whatsoever.

4. On July 11, 2022, Mr. Lopez filed an application for asylum with U.S. Citizenship and Immigration Services as a UC.

5. On September 1, 2022, the Immigration Judge dismissed proceedings after previous Counsel for Mr. Lopez and Counsel for DHS jointly agreed to allow him to have his pending Application for Asylum heard before USCIS. Mr. Lopez does not have a removal order or pending removal proceedings.

6. On March 11, 2026, the Petitioner was arrested and detained by ICE while picking up a co-worker. Petitioner has not been afforded a hearing for release.

7. Respondents' actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, Federal Laws, the Immigration and Nationality Act and implementing regulations. Petitioner brings this action for habeas relief and respectfully requests that this Court` issue a writ of

habeas corpus and order Petitioner's release from custody, with appropriate conditions of supervision if necessary.

JURISDICTION AND VENUE

8. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal custody and seeks a writ of habeas corpus challenging the legality of his continued civil detention by U.S. Immigration and Customs Enforcement ("ICE") in violation of the Constitution and laws of the United States.

9. Venue is proper in this Court under 28 U.S.C. § 2241(a) because Petitioner is detained within the geographic boundaries of the Middle District of Florida, at Florida Soft Side South in Collier County, Florida, which lies within the Fort Myers Division of this District. (See Exhibit A).

PARTIES

10. Petitioner, Angel Juan Carlo Fuentes-Lopez, entered the United States on or about June 5, 2016, fleeing from Guatemala, and has continuously resided in this country for the last ten (10) years. Petitioner is currently detained at Florida Soft Side South. He is in custody of ICE, and under the direct control, of Respondents and their agents.

11. Respondent KRISTI NOEM is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent NOEM is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent NOEM is a legal custodian of Petitioner.

12. Respondent PAM BONDI is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent BONDI is a legal custodian of Petitioner.

13. Respondent TODD LYONS is sued in their official capacity as the Acting Director of Immigration and Customs Enforcement.

14. Respondent GARRET RIPA is sued in his official capacity as the Acting Director of the Miami Field Office of U.S. Immigration and Customs

Enforcement. Respondent Ripa exercises authority over Petitioner's detention, transfer, and potential release.

15. Respondent, WARDEN is sued in their official capacity as the Warden of the Florida Soft Side South Facility. Respondent Mordant has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement (ICE) to detain noncitizens and is a legal custodian of Petitioner. Respondent WARDEN therefore is a legal custodian of Petitioner.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

16. Petitioner was born in Guatemala on March 1, 2003, and came to the United States on June 5, 2016, as a thirteen-year-old UC.

17. Shortly after his entry, Petitioner was encountered by Immigration officials who gave him a Notice to Appear ("NTA") placing him in proceedings under 8 U.S.C. § 1229a and designating him a UC. Petitioner was charged as inadmissible to the United States pursuant to INA § 212(a)(6)(A)(i). (See Exhibit B). The Petitioner was then transferred to the custody of the Office of Refugee Resettlement as a UC. The Office of Refugee Resettlement released the Petitioner to his mother on June 21, 2016.

18. The Petitioner filed an application for asylum with U.S. Citizenship and Immigration Services ("USCIS") as a UC. (Please see Exhibit C)

19. On September 1, 2022, the Immigration Judge dismissed proceedings after previous Counsel and Counsel for DHS jointly agreed to have his Application for Asylum adjudicated before USCIS. (Please see Exhibit D) The Petitioner's asylum application remains pending and has not been adjudicated by USCIS.

20. On March 11, 2026, the Petitioner was arrested and detained by ICE while picking up a co-worker. The Petitioner has not been afforded any notice or hearing for release. It is not immediately apparent under what authority the Respondents have detained him.

21. The Petitioner has one U.S. Citizen son and two (2) U.S. Citizen siblings. (Please see Exhibit E)

22. The Petitioner is the owner of a landscaping business who had been residing peacefully and productively in the United States for ten (10) years with his valid license and work permit when the Respondents detained him. (Please see Exhibit F).

23. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including “Protecting the American People Against Invasion,” an executive order (EO) setting out a series of interior immigration enforcement actions.

24. On January 21, 2025, Acting Deputy Secretary of DHS Benjamin Huffman issued for public inspection and effective immediately a designation expanding the scope of expedited removal to apply nationwide and to certain noncitizens who are unable to prove they have been in the country continuously for two years.

25. 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.

26. The January 2025 Designation expands the pool of noncitizens who can be subjected to the summary removal process substantially to include noncitizens who are apprehended anywhere in the United States and who

have not been in the United States continuously for more than two years. *Id.* at 8140.

27. The January 2025 Designation does not state that it applies to noncitizens who were in the United States before its effective date.

28. On July 8, 2025, Acting Director of ICE Todd M. Lyons issued an internal memorandum, explaining that the agency “revisited its legal position” on the applicability of §§ 1225(b) and 1226(a). Mandatory detention of all persons illegally in the United States became official DHS policy.

29. On information and belief, Petitioner avers that Respondents are holding the Petitioner without a bond hearing pursuant to expedited removal at 8 U.S.C. § 1225(b)(1) or pursuant to mandatory detention at 8 U.S.C. §1225(b)(2)(A).

30. On information and belief, Respondents did not afford Petitioner an opportunity to be heard before depriving him of due process.

31. On information and belief, Petitioner has no criminal history and has not been afforded a bond hearing post detention.

LEGAL FRAMEWORK

Due Process

32. “The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Id.* at 690.

33. Under substantive due process doctrine, a restraint on liberty like civil detention is only permissible if it serves a “legitimate nonpunitive objective.” *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community or preventing flight prior to removal. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92 (discussing constitutional limitations on civil detention).

34. “Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty,” like the decision to detain a non-citizen. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified).

“The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner.”

Id. at 333 (citation modified).

Asylum and UCs

35. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is physically present in the United States or who arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).

36. Because of the life-or-death stakes, the statutory right to apply for asylum is robust. The right necessarily includes the right to counsel, at no expense to the government, *see* 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the right to counsel, *see* 8 U.S.C. § 1158(d)(4), and the right to access information in support of an application, *see* § 1158(b)(1)(B) (placing the burden on the applicant to present evidence to establish eligibility.).

37. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

38. The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008 confers initial jurisdiction for asylum claims filed by UCs to U.S. Citizenship & Immigration Services (USCIS) asylum offices, even when UCs are in removal proceedings. 8 U.S.C. §1158(b)(3)(C). Noncitizens, specifically UCs, who are applicants for asylum are entitled to an interview with USCIS and then a full hearing in immigration court before they can be removed from the United States. 8 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative appellate review before the Board of Immigration Appeals of removal orders entered against them and judicial review in federal court upon a petition for review. 8 U.S.C. § 1252(a) et seq.

Expedited Removal and UCs

39. In 1996, Congress created “expedited removal” as a truncated method for rapidly removing certain noncitizens from the United States with very few procedural protections. 8 U.S.C. § 1225(b)(1). Because there are few procedural protections, expedited removal applies narrowly to only those noncitizens who are inadmissible to the United States because they engaged in fraud or misrepresentation to procure admission or other immigration benefits, 8 U.S.C. § 1182(a)(6)(C), or who are applicants for admission

without required documentation, 8 U.S.C. § 1182(a)(7). No other person may be subjected to expedited removal. 8 C.F.R. § 235.3(b)(1), (b)(3).

40. Noncitizens subjected to expedited removal are ordered removed by an immigration officer "without further hearing or review." 8 U.S.C. § 1225(b)(1)(A)(i). That officer must determine whether the individual has been continuously present in the United States for less than two years; is a noncitizen; and is inadmissible because he or she has engaged in certain kinds of fraud or lacks valid entry documents "at the time of . . . application for admission." *See* 8 U.S.C. § 1225(b)(1)(A)(i), (iii) (citing 8 U.S.C. § 1182(a)(6)(C), (a)(7)). These noncitizens are subject to mandatory detention. 8 U.S.C. §1225(b)(iii)(IV).

41. Federal law requires that all UC from non-contiguous countries be placed in regular INA section 240 removal proceedings. The Trafficking Victims Protection Reauthorization Act (TVPRA) specifies: "Any unaccompanied [noncitizen] child sought to be removed by the Department of Homeland Security, except for an unaccompanied [noncitizen] child from a contiguous country subject to exceptions under subsection (a)(2), shall be-

(i) placed in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a)." 8 U.S.C. § 1232(a)(5)(D)(i).

42. In other words, the law prohibits DHS from placing any unaccompanied child into expedited removal proceedings.¹ ICE's own juvenile handbook recognizes that "the TVPRA prohibits ERO from ... effecting Expedited Removal ... of any UAC."²

Statute and Regulations Governing Removal and Detention

43. Under the INA, 8 U.S.C. § 1225 and § 1226 govern the detention of noncitizens before a final order of removal. *Puga v. Assistant Field Off. Dir., Krome N. Serv. Processing Ctr.*, No. 25-24535-CIV, 2025 WL 2938369, at *3 (S.D. Fla. Oct. 15, 2025)

¹ See, e.g., *Velasquez-Castillo v. Garland*, 91 F.4th 358,363 (5th Cir. 2024) (citing *Sanchez v. R.G.L.*, 761 F.3d 495, 500 (5th Cir.-2014) ("Because the children were declared by DHS to be 'unaccompanied alien children', they entered mandatory removal proceedings."); see also *Immigr. Defenders Law Ctr. v. DHS*, No. 21-0395, at *12 (C.D. Cal. Mar. 14, 2025) (noting that "§ 1232(a)(5)(D)(i) entitles '[a]ny unaccompanied alien child' to placement in § 240 proceedings as an unaccompanied child with the full range of protections to which unaccompanied children are entitled, including 'access to counsel' 'to the greatest extent practicable'"); *L.G.M.L. v. Noem*, No. CV 25-2942, 2025 WL 2671690, at *2 (D.D.C. Sept. 18, 2025) (explaining that under the TVPRA, UCs must be placed in removal proceedings, and that "the other removal possibility-which the TVPRA excludes for unaccompanied alien children-is 'expedited removal.'" (internal citations omitted); *Kettlewell v. Noem*, No. CV-25-00491, 2025 WL 2733309, at *4 (D. Ariz. Sept. 25, 2025) (finding that plaintiffs are likely to succeed on their claim that any UC sought to be removed must be placed in removal proceedings under section 240 of the INA, and that in that regard, "the TVPRA is unequivocal").

² ICE Enforcement and Removal Operations, *Juvenile and Family Residential Management Unit Field Office, Juvenile Coordinator Handbook*, at 12 (Nov. 2021), https://www.ice.gov/doclib/foia/policy/handbookFOJC_Nov2021.pdf; see also *id.* at 22.

44. Section 1225(a) describes “applicants for admission” who are noncitizens “present in the United States who have not been admitted or who arrives in the United States.” 8 U.S.C. § 1225(a)(1). Section 1225(b)(2) applies where an alien is “seeking admission” into the United States. 8 U.S.C. § 1225(b)(2)(A). Certain applicants for admission may be subject to removal proceedings under § 1225(b)(2)(A) and shall be held in detention throughout proceedings.; see *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108–09 (2020) (citations omitted). “Because section 1225 is mandatory, a ‘noncitizen detained under section 1225(b)(2) may be released only if he is paroled for urgent humanitarian reasons or significant public benefit.’ ” *Puga*, 2025 WL 2938369, at *3 (quoting *Barrera v. Tindall*, No. 25-cv-541, 2025 WL 2690565, at *2 (W.D. Ky. Sept. 19, 2025)).

45. Unlike § 1225, § 1226 “authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings[.]” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Section 1226(a) sets out a discretionary detention framework for noncitizens arrested and detained “[o]n a warrant issued by the Attorney General,” and authorizes the Attorney General to “continue to detain the arrested alien[.]” release him

on a “bond of at least \$1,500[.]” or release him on “conditional parole[.]” 8 U.S.C. § 1226(a)(1)–(2). While the arresting immigration officer makes an initial custody determination, noncitizens detained under § 1226(a) may appeal that determination in a bond hearing before an immigration judge. *See* 8 C.F.R. §§ 1236.1(c)(8), (d)(1). “Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.” *Jennings*, 583 U.S. at 306 (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)); *see also* *Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 WL 2371588, at *13 (S.D.N.Y. Aug. 13, 2025) (“To be sure, a noncitizen detained under § 1226(a) is undoubtedly entitled to a bond hearing before an immigration judge.”).

46. On September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a binding precedent decision holding that an immigration judge lacks authority to consider bond requests for individuals who entered the United States without admission. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

47. The district court in the Central District of California recently granted final judgment in a class action lawsuit, declaring that the members of the class are detained under 8 U.S.C. § 1226(a) and are entitled to a bond hearing

before an immigration judge. *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, at docket entry 94 (C.D. Cal. Dec. 18, 2025).

CLAIMS FOR RELIEF

Count One

Violation of the Fifth Amendment of the U.S. Constitution Substantive Due Process

48. Petitioner realleges all paragraphs above as if fully set forth here.

49. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

50. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

51. While asylum is a discretionary benefit, the right to apply is not. 8 U.S.C. § 1158(a)(1). Any noncitizen who is “physically present in the United States or who arrives in the United States (whether or not at a designated

port of arrival . . .), irrespective of such [noncitizen's] status, may apply for asylum." *Id.*

52. Because the denial of the right to apply for asylum can result in serious harm or death, the statutory right to apply is robust and meaningful. It includes the right to legal representation, and notice of that right, see *id.* §§ 1229a(b)(4)(A), 1362, 1158(d)(4); the right to present evidence in support of asylum eligibility, see *id.* § 1158(b)(1)(B); the right to appeal an adverse decision to the Board of Immigration Appeals and to the federal circuit courts, see *id.* §§ 1229a(c)(5), 1252(b); and the right to request reopening or reconsideration of a decision determining removability, see *id.* § 1229a(c)(6)-(7). For a UC, this includes a right to a non-adversarial interview by an asylum officer.

53. Expedited removal, in contrast, severely limits the availability of such rights. Interviews occur on an exceedingly fast timeline; review of a negative interview decision by an immigration judge must occur within seven days of the decision. See 8 C.F.R. § 1003.42.

54. Here, the Petitioner was apprehended by ICE and is being held without clear indication as to what authority ICE is relying on to hold him.

DHS is unable to place the Petitioner, a UC, in expedited removal. And even if they did, such an action would deprive him of the bundle of rights associated with his pending asylum application. Because of his status as a UC and his legal interest in his pending asylum application, this violated due process. *See generally Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a legally protected interest).

Count Two

Violation of the Fifth Amendment of the U.S. Constitution Procedural Due Process

55. Petitioner realleges all paragraphs above as if fully set forth here.

56. Courts balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

57. The first factor, the private interest at issue, favors Petitioner. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690.

58. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Petitioner. To safeguard against erroneous deprivations of liberty, the statute specifies the classes of individuals subject to mandatory detention. Regulations specify who may lawfully be subject to mandatory detention and who may not. Respondents violated those laws here, leaving the risk of erroneous deprivation of liberty not just high, but certain. Requiring Respondents to follow the statute, give notice and an opportunity to respond prior to detention without release is of great value because it reduces the probability of needless detention of a person, like Petitioner, who is a UC with a pending asylum application, and neither dangerous nor a flight risk.

59. The third factor, the government’s interest, also favors Petitioner. When the government ignores law, it is more likely to waste limited financial

and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous. This waste drags down the efficiency of the entire immigration system. And because the government must also spend resources defending against a habeas corpus petition in federal court to compel Respondents to comply with law, requiring Respondents to instead follow the statute and regulations to reduce fiscal and administrative burdens on the government.

60. For these reasons, detaining the Petitioner without release violated procedural due process under the Fifth Amendment to the U.S. Constitution.

Count Three

Violation of Federal law, the Immigration and Nationality Act and Regulations governing Expedited Removal and Detention

61. Petitioner realleges all paragraphs above as if fully set forth here.

62. The application of Expedited Removal and Detention of Petitioner pursuant to 8 U.S.C. §1225(b)(1) is unlawful.

63. 8 U.S.C. § 1225(b)(1)(A)(i) limits the application of expedited removal to non-citizens who are inadmissible pursuant to INA § 212(a)(6)(C) for fraud or § 212(a)(7), for lacking valid documents. Additionally, it requires detention of certain aliens undergoing expedited removal proceedings who

have not “been physically present in the United States continuously for the 2-year period immediately prior to the date” that they were determined inadmissible under § 1225(b)(1).

64. Petitioner was charged as inadmissible pursuant to INA §212(a)(6)(A). (See Exhibit B). Additionally, he has been present in the United States for almost ten (10) years. For those reasons, Respondents may not detain Petitioner under § 1225(b)(1).

Additionally, the Petitioner, as a UC, may not be subject to Expedited removal and is entitled to proceedings under 1229a.

65. The remaining statutory question is whether § 1225(b)(2)(A) applies to all aliens who, like Petitioner, are already in the country but entered without inspection. If so, § 1225(b)(2)(A) makes Petitioner’s detention mandatory. If not, § 1226(a) applies, Petitioner’s detention is discretionary, and he is entitled to a bond hearing if he remains detained.

66. To start, § 1225(b)(2)(A) is clear. It states, “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” removal proceedings.

8 U.S.C. § 1225(b)(2)(A).

67. In other words, § 1225(b)(2)(A) requires detention if three conditions are met:

- (1) the alien is an “applicant for admission”;
- (2) the alien is “seeking admission”; and
- (3) an “examining immigration officer determines” the alien “is not clearly and beyond a doubt entitled to be admitted.

Id.; see, e.g., *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *6 (S.D.N.Y. Aug. 13, 2025).

68. Here, the first condition is met. The term “applicant for admission” includes an alien “present in the United States who has not been admitted.”

8 U.S.C. § 1225(a)(1). “The terms ‘admission’ and ‘admitted’ mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.” *Id.* § 1101(a)(13)(A).

Because Petitioner is present in the United States and has not “lawful[ly] ent[ered] . . . after inspection and authorization by an immigration officer,” he is an “applicant for admission.” *Id.*; §§ 1101(a)(13)(A); 1225(a)(1).

69. But at the time of Petitioner's re-detention, he was not "seeking admission." Again, admission refers to "lawful entry . . . into the United States after inspection and authorization by an immigration officer." *Id.* § 1101(a)(13)(A). When ICE detained him on March 11, 2026, Petitioner was not seeking entry, much less "lawful entry . . . after inspection and authorization." Because Petitioner is not "seeking admission," ICE may not detain him under § 1225(b)(2).

70. If that were not enough, the Supreme Court recently discussed the relationship between § 1225 and § 1226: "In sum, U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under § 1226(a) and (c)." *Jennings*, 583 U.S. at 289.

71. The Court clarified how these provisions applied to different categories of aliens: "§ 1226 applies to aliens already present in the United States." *Id.* at 303. On the other hand, "the language of §§ 1225(b)(1) and (b)(2) is quite clear": "§ 1225(b) applies primarily to aliens seeking entry into the United States ('applicants for admission' in the language of the statute)."

Id. at 297, 303. Respondents may argue that this Jennings language is dicta. Even if it is, courts “are generally bound by Supreme Court dicta, especially when it is recent and detailed.” *McRorey v. Garland*, 99 F.4th 831, 837 (5th Cir. 2024) (quoting *Hollis v. Lynch*, 827 F.3d 436, 448 (5th Cir. 2016)). So § 1225(b)(2)(A) applies to aliens “seeking admission,” and § 1226 applies to aliens “already in the country.” Respondents may not detain Petitioner pursuant to § 1225(b)(2).

72. In *Yajure Hurtado*, the Board concluded that individuals who entered the United States without admission are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for release on bond. *Supra*. As a result, Petitioner has been categorically barred from seeking custody redetermination before an immigration judge, leaving habeas corpus as his sole available remedy to challenge continued detention.

73. Petitioner is a member of the class in *Bautista v. Santacruz*, whose detention has now been judicially declared unlawful. However, Immigration Judges in Florida, continue to refuse to take jurisdiction on such types of cases.

74. Nonetheless, this court should still grant the Petition for Writ because only this Court, and not the California court, has jurisdiction to rule on the instant Petition. *See Hamdi v. Rumsfeld*, 542 U.S. 507, 442 (2004) (“Congress added the limiting clause—‘within their respective jurisdictions’—to the habeas statute in 1867 to avert the inconvenient and potentially embarrassing possibility that every judge anywhere could issue the Great Writ on behalf of applicants far distantly removed from the courts whereon they sat.

75. Petitioner is being unlawfully detained due to his improper classification as “an alien who is an applicant for admission” pursuant to 8 U.S.C. § 1225(b)(2)(A). The Petitioner’s proper classification is a detainee pursuant to 8 U.S.C. § 1226(a). *See Castanon-Nava v. U.S. Dep’t of Homeland Sec.*, 161 F.4th 1048, 1062 (7th Cir. 2025) (noting that “Defendants’ recent reliance on § 1225(b)(2)(A) to detain noncitizens discovered within the United States upends decades of practice. Before July 8, 2025, DHS’s long-standing interpretation had been that § 1226(a) applied to those who have crossed the border between ports of entry and are shortly thereafter apprehended.” (internal marks omitted; citation omitted)); *see also Gonzalez*

v. Sec'y, Dep't of Homeland Sec., No. 2:25-CV-1047-KCD-DNF, 2025 WL 3677101, at *1 (M.D. Fla. 2025) (finding that federal regulations provide that aliens detained within the United States who have been here for years before their detention are entitled under § 1226(a) to receive a bond hearing at the outset of their detention).

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

- a. Exercise jurisdiction over this matter;
- b. Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;
- c. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations
- d. Order Petitioner's immediate release or a bond hearing;
- e. Award Petitioner costs and reasonable attorneys' fees; and
- f. Order such other relief as this Court may deem just and proper.

Respectfully submitted,

_____/s/Carolina A. Collado____

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8 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.