UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Jose Adalberto CHICAS LOVO Petitioner, vs. JASON STREEVAL, in his official capacity as *Warden of Stewart Detention center*; and LADEON FRANCIS, *Field Office Director for ICE Atlanta Field Office*, and TODD LYONS, in his official capacity as *Acting Director of Immigration and Customs Enforcement*; and KRISTI NOEM, *Secretary of Homeland Security*; and PAMELA BONDI, *U.S. Attorney General.* Respondents.	)	CASE NO.:

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. This Petition challenges the ongoing and unlawful detention of Petitioner, Jose Adalberto Chicas Lovo (Petitioner), A# [redacted] by U.S. Immigration and Customs Enforcement (ICE) at the Stewart Detention Center, Georgia. This detention, unlawful from its inception, began with a warrantless arrest that lacked statutory authority and is perpetuated by Respondents' misapplication of mandatory detention statutes meant only for noncitizens arriving at the border. Petitioner is neither a flight risk nor a danger to the community. See Exhibit 1 (ICE Locator). Petitioner's detention is unlawful under every conceivable statutory theory, trapping Respondents in a legal "Catch-22" of their own making. The detention is void *ab initio* because it began with

an illegal warrantless arrest and is now perpetuated under a statute that has no application to him. The Immigration and Nationality Act (INA) provides only two potential authorities for a civil immigration arrest in the interior of the country, and Respondents satisfied neither.

2. The primary authority, 8 U.S.C. § 1226(a), unequivocally requires that an arrest be conducted **"[o]n a warrant** issued by the Attorney General," a warrant Respondents failed to obtain. The statute's narrow exception for a warrantless arrest, 8 U.S.C. § 1357(a)(2), is equally inapplicable, as it permits such an arrest only where an officer has reason to believe the individual is "likely to escape before a warrant can be obtained." It was factually impossible for Petitioner to pose such a risk, as he was already secured in local law enforcement custody when ICE assumed control. Compounding this illegality, Respondents now attempt to justify the detention by misclassifying Petitioner—a resident of the United States for over a decade—as an "arriving alien" subject to mandatory detention under 8 U.S.C. § 1225(b). This argument fails as a matter of law. Section 1225(b) governs the inspection and detention of noncitizens at the border who are "seeking admission"; it does not apply to an individual like Petitioner, who was arrested long after entry and deep within the interior of the country. This leaves Respondents with no lawful basis for the initial seizure. Furthermore, offering a bond hearing now cannot cure this fundamental defect. A bond hearing under 8 U.S.C. § 1226(a) is a procedural safeguard that follows a *lawful* arrest under that same statute. It is not a remedy for an unlawful arrest that violated the statute's own warrant requirement from the outset. To hold otherwise would be to retroactively sanitize an illegal seizure, rendering the warrant requirement

in § 1226(a) meaningless. The government cannot violate the law to seize a person and then offer the procedures that would have followed a lawful seizure as a cure. Because the arrest itself was illegal, the entire detention is the fruit of a poisonous tree, and the only constitutionally sufficient remedy is immediate and unconditional release.

3. Petitioner's initial and continued detention by ICE is unlawful and unconstitutional. The government's recent policy shift—reclassifying noncitizens who entered without inspection as "arriving aliens" subject to mandatory detention under 8 U.S.C. § 1225(b)—contradicts the statute, decades of established statutory interpretation, agency regulations and practice, and binding precedent. Petitioner, apprehended in the interior years after entry, is entitled to discretionary bond hearings under 8 U.S.C. § 1226(a), not mandatory detention without judicial review. *See* Exhibit 2 current list of over 300 district courts from around the country agreeing with Petitioner, all rejecting Respondent's position. See also the landmark case from this Court rejecting the government's position and agreeing with Petitioner's that is entitled to a bond hearing, *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 WL 3050094 (M.D. Ga., Nov. 1, 2025). Since habeas relief is individualized and cannot be brought as a class action, each case has to be litigated separately.

4. Despite being apprehended within the interior of the United States long after arrival rather than at the border, Petitioner is now deemed ineligible for bond due to an entry without inspection. This stems from a controversial policy shift by ICE in July 2025, which aligns with a recent Board of Immigration Appeals (BIA) decision. This decision disrupts decades of established legal precedent by introducing a novel

interpretation of the Immigration and Nationality Act (INA). This interpretation, which contradicts both the statute's clear language and constitutional principles, reclassifies all noncitizens who entered without inspection, including the Petitioner, as "arriving aliens" or "applicants for admission." Consequently, they are subject to mandatory detention under 8 U.S.C. § 1225(b), rendering them ineligible for bond hearings by immigration judges. However, this policy has now been VACATED under the Administrative Procedure Act (APA) through a final, binding court order yet Respondents still continue to follow that policy, despite a final, binding judgment. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). See below full discussion regarding this case and its implications. On February 18, 2026, the *Maldonado Bautista* court granted a motion to enforce that Final Judgment and, acting under 28 U.S.C. § 2202 and 5 U.S.C. § 706(2), expressly vacated the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), as contrary to law, holding that *Yajure Hurtado* simply parrots the unlawful July 2025 Interim Guidance and must therefore be set aside under the APA to restore the status quo ante. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Feb. 18, 2026) (order granting motion to enforce judgment).

5. While § 1225 mandates detention without bond for noncitizens apprehended at the border as "seeking admission," it does not apply to those like the Petitioner, who were detained within the United States long after arrival here. Therefore, the Petitioner seeks a declaratory judgment from this Court affirming that the Petitioner's detention should be under 8 U.S.C. § 1226(a). The Petitioner requests an order for Petitioner's

immediate release due to the unlawful arrest. Additionally, the Petitioner requests that Respondents be prohibited from re-detaining the Petitioner or put any restraints on the Petitioner's liberty unless there are changed circumstances warranting re-arrest as detailed be and they can meet the same evidentiary standard.

6. Respondents' actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution by depriving Petitioner of liberty without individualized assessment or a meaningful opportunity to be heard before a neutral decisionmaker. The agencies' interpretation also contravenes the INA and its implementing regulations, the Administrative Procedure Act (APA), and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions. Numerous federal courts have rejected the government's novel reading of the detention statutes, reaffirming that interior apprehensions are governed by § 1226(a) and entitled to bond review.

7. Petitioner seeks immediate habeas, declaratory, and injunctive relief, ordering Respondents to be directed to immediately release Petitioner from custody. A detailed statement of facts and procedural history follows, supporting Petitioner's claims for relief.

II. JURISDICTION

A. This Court Has Jurisdiction Under 28 U.S.C. § 2241 and § 1331

8. This Court has jurisdiction under several legal provisions, including 28 U.S.C. § 2241, which grants federal courts the authority to issue writs of habeas corpus, and 28 U.S.C. § 1331, which provides for federal question jurisdiction. Jurisdiction over habeas claims is conferred by 28 U.S.C. § 2241, while non-habeas claims for declaratory and injunctive relief arise under 28 U.S.C. § 1331, the APA, and the Declaratory Judgment

Act.

9. Additionally, jurisdiction is supported by Article I, § 9, cl. 2 of the Constitution, known as the Suspension Clause, and Article III, Section 2, which addresses the Court's authority to hear constitutional issues raised by the Petitioner. The Petitioner seeks immediate judicial intervention to address ongoing violations of constitutional rights by the Respondents. This action is grounded in the United States Constitution, the Immigration & Nationality Act of 1952, as amended (INA), 8 U.S.C. § 1101 *et seq*., and the APA, 5 U.S.C. § 551 *et seq*. Furthermore, the Court may also exercise jurisdiction under 28 U.S.C. § 1331, as the action arises under federal law, and may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*., and the All Writs Act, 28 U.S.C. § 1651.

10. The Court has authority to issue a declaratory judgement and to grant temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure (FRCP), as well as 28 U.S.C. §§ 2201-2202. Additionally, the Court can utilize the All Writs Act and its inherent equitable powers to provide such relief. Furthermore, the Court has the authority to issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

11. This Court possesses federal question jurisdiction under the APA to "hold unlawful and set aside agency action" deemed "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," as outlined in 5 U.S.C. § 706(2)(A). In the absence of a specific statutory review process, APA review of final agency actions can proceed through "any applicable form of legal action," which includes actions for declaratory judgments, writs of prohibitory or mandatory injunction, or habeas corpus,

in a court of competent jurisdiction, as specified in 5 U.S.C. § 703.

12. In *I.N.S. v. St. Cyr*, the Supreme Court held that federal courts retain *habeas corpus* jurisdiction under 28 USC § 2241, despite restrictions on judicial review enacted under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). 533 U.S. 289 (2001). Consequently, section 2241 habeas review remains available to Petitioner.

13. The U.S. Supreme Court has recognized district courts' jurisdiction to entertain habeas petitions raising colorable constitutional claims—including those alleging deprivation of liberty without due process, arbitrary or indefinite detention, and agency action contrary to law. Even though the government may detain individuals during removal proceedings, *Demore v. Kim*, 538 U.S. 510 (2003), (although that case involved detention under §1226(c) of certain criminal aliens) there are limitations to this power of the executive branch. Limitations like the Due Process Clause restrict the Government's power to detain noncitizens. It is well settled that individuals in deportation proceedings are entitled to due process of law under the Fifth Amendment. *Reno v. Flores*, 507 U.S. 292, 306, (1993). Courts must review immigration procedures and ensure that they comport with the Constitution.

14. Federal courts have retained the statutory authority to grant writs of habeas corpus since enactment of the Judiciary Act of 1789. In *Felker v. Turpin*, 518 U.S. 651 (1996), the Supreme Court declined to find a repeal of § 2241 by implication as to its original habeas corpus jurisdiction. See also *Boumediene v. Bush,* 553 U.S. 723 (2008). In addition to the Supreme Court in many cases, all Circuit Courts of Appeals have recognized district courts' jurisdiction to entertain habeas petitions raising colorable

constitutional claims—including those alleging deprivation of liberty without due process, arbitrary or indefinite detention, and agency action contrary to law.

15. In this case, Petitioner asserts substantial constitutional violations—including deprivation of liberty without due process, arbitrary and capricious agency action, violations of the *Accardi* doctrine, and other injuries without notice or opportunity to be heard. These claims fall squarely within the scope of habeas review preserved by statute and recognized by controlling precedent. Accordingly, this Court has both the authority and the obligation to adjudicate the constitutional and statutory claims presented in this Petition and to grant appropriate relief to remedy ongoing violations of Petitioner's rights.

B. The INA's Jurisdictional-Channeling Provisions Are Inapplicable

16. Petitioner's claims challenge only the Petitioner's civil immigration detention and the procedures used to prolong it—not the merits of removability or any final order of removal—and therefore fall outside 8 U.S.C. § 1252(b)(9)'s channeling provision. *See Jennings v. Rodriguez*, 583 U.S. 281, 291-292 (2018) (detention challenges are not "questions of law or fact arising from" removal proceedings). Consistent with that framing, any injunctive relief sought here is strictly as-applied to Petitioner—for example, directing Petitioner's release under § 1226(a) or barring application of § 1225 as to Petitioner —and does not "enjoin or restrain the operation" of any statute within § 1252(f)(1)'s bar. In any event, § 1252(f)(1) permits individualized, as-applied relief for a single noncitizen, even while prohibiting class-wide injunctions. *See Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–49 (2022).

17. Section 1252(f)(1) does not bar the individualized injunctive relief sought here. That provision limits lower courts' authority to "enjoin or restrain the operation" of the

INA's detention and removal provisions on a class-wide or programmatic basis but expressly preserves injunctive relief "with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated." 8 U.S.C. § 1252(f)(1); *Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–50 (2022). Petitioner seeks only as applied relief tailored to Petitioner —e.g., directing Petitioner's release under § 1226(a) or precluding DHS from enforcing the "arriving alien" definition of § 1225 toward Petitioner. That relief neither halts the general operation of any INA provision nor provides class-wide relief and thus falls squarely within § 1252(f)(1)'s carveout.

18. Section 1252(g) is likewise inapplicable. It is a "narrow" jurisdictional bar that applies only to three discrete decisions or actions: "to commence proceedings, adjudicate cases, or execute removal orders." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). Petitioner does not challenge any such decision. Petitioner challenges ongoing civil detention and DHS's use of an unlawful interpretation to nullify the plain language of the INA and its regulations as applicable to these agencies. Such detention related claims and challenges to custody procedures fall outside § 1252(g). *See id.* at 482–83; cf. *Jennings v. Rodriguez*, 583 U.S. 281, 381-32 (2018) (§ 1252(b)(9) does not channel detention claims).

19. Section 1252(e)(3) is likewise inapplicable as it is narrowly tailored to channel systemic or facial challenges to the validity of the expedited removal "system" or its implementing regulations and written policies to the U.S. District Court for the District of Columbia, and only within 60 days of implementation. It does not bar as-applied, individualized habeas challenges to the legality or constitutionality of a particular

noncitizen's detention under § 1225(b)(2) or whether § 1225 governs Petitioner's detention or § 1226. The text of § 1252(e)(3) is explicit: it covers "[c]hallenges on the validity of the system" and review of "whether such a regulation, or a written policy directive, written policy guideline, or written procedure ... is not consistent with applicable provisions of this title or is otherwise in violation of law." It does not preclude review of the legality of detention as applied to a specific individual, nor does it bar habeas review of constitutional claims or claims that the government is misapplying the statute in a particular case.

20. To prevent ouster of this Court's habeas jurisdiction, the Court should, pursuant to 28 U.S.C. § 1651(a) (All Writs Act) and 28 U.S.C. § 2241, issue an immediate limited order prohibiting Respondents from transferring Petitioner outside the court's District or otherwise changing Petitioner's immediate custodian without prior leave of Court while this action is pending. Such relief is necessary in aid of jurisdiction because habeas is governed by the district-of-confinement/immediate-custodian rule, and transfer can frustrate effective review. *See Rumsfeld v. Padilla*, 542 U.S. 426, 441–42 (2004); *Ex parte Endo*, 323 U.S. 283, 307 (1944); *FTC v. Dean Foods Co.*, 384 U.S. 597, 603–05 (1966).

III. VENUE

21. Venue is proper in the United States District Court for the Middle District of Georgia because Petitioner is currently detained at the Stewart Detention Center, Lumpkin, Georgia, under the custody of the Department of Homeland Security (DHS). Respondent Jason Streeval, as the Warden of Stewart Detention Center, is the Petitioner's immediate custodian and Respondents exercise authority over Petitioner's

custody in this jurisdiction, as supported by *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). Habeas petitions generally are filed in the district court with jurisdiction over the filer's place of custody, also known as the district of confinement, pursuant to 28 U.S.C. § 2241. Additionally, with respect to Petitioner's non-habeas claims seeking prospective declaratory and injunctive relief against federal officials (agencies and officers of the United States) sued in their official capacities, venue is proper under 28 U.S.C. § 1391(e)(1)(B) because a substantial part of the events or omissions giving rise to these claims, including the initial arrest and continued detention of Petitioner and the enforcement of the mandatory detention agency interpretation, occurred in this District. Furthermore, the Respondents are officers of United States agencies, the Petitioner is detained within this District, and there is no real property involved in this action.

IV. PARTIES

22. Petitioner, Jose Adalberto Chicas Lovo, is a 33-year-old native who has resided in the United States since approximately 2013. On or about February 21, 2026, Petitioner was arrested by ICE officers in Baltimore while near his place of employment in residential remodeling. After initially being held in the Baltimore area for several days, Petitioner was transferred into immigration custody and transported to the Stewart Detention Center in Lumpkin, where he remains detained pending the outcome of his immigration proceedings. Petitioner has no known criminal history and has long lived and worked in the United States, where he is also the father of two

children, including a young United States citizen child with significant developmental disabilities for whom he provides substantial care.

23. Respondent Jason Streeval is the Jailer/Warden of Stewart Detention Center, Lumpkin Georgia. As such, Respondent Jason Streeval is responsible for the operation of the Detention Center where Petitioner is detained and is the immediate custodian who is currently holding Petitioner in physical custody. Because ICE contracts with private and county-operated detention facilities to house immigration detainees, Respondent Jason Streeval has immediate physical custody of the Petitioner and is sued in his official capacity.

24. Respondent Ladeon Francis is the Field Office Director for the ICE Atlanta Field Office. As such, Respondent Francis is responsible for the oversight of ICE operations at the Stewart Detention Center. Respondent Francis is being sued in his official capacity. He is the head of the ICE office that unlawfully arrested Petitioner, and such arrest took place under his direction and supervision. He is the immediate *legal* custodian of Petitioner.

25. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (ICE). As such, Respondent Lyons is responsible for the oversight of ICE operations and the head of the federal agency responsible for all immigration enforcement in the United States. Respondent Lyons is being sued in his official capacity.

26. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Noem is the cabinet-level official responsible

for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.

27. Respondent Pamela Bondi is the Attorney General of the United States and is sued in her official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal cases and applications for bond and relief from removal do so as her designees at the Executive Office for Immigration Review (EOIR).

28. Petitioner names certain federal officials in their official capacities solely to preserve alternative, non-habeas avenues for prospective relief—such as as-applied declaratory and injunctive orders under 28 U.S.C. § 1331, the APA's waiver of sovereign immunity, 5 U.S.C. § 702, the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and the All Writs Act, 28 U.S.C. § 1651—necessary to enjoin enforcement of DHS regulations and their interpretation as applied to Petitioner, ensure compliance with DHS/EOIR custody regulations, prevent transfer or removal of Petitioner, and effectuate any release the Court orders at the agency level where policy and implementation authority reside. See, e.g., *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682 (1949); *Dugan v. Rank*, 372 U.S. 609 (1963). [1]

[1] Petitioner acknowledges, consistent with *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that the proper respondent to the habeas claim is the immediate custodian, and does not rely on the federal officials as "habeas respondents." Rather, Petitioner names these federal officials in their official capacities solely to ensure that the Court can issue effective relief on non-habeas claims, such as declaratory and injunctive

V. STATEMENT OF FACTS AND PROCEDURAL HISTORY

29. Petitioner, Jose Adalberto Chicas Lovo, is a 33-year-old native who has resided in the United States since approximately 2013. Petitioner first entered the United States in 2012 through the southern border in Texas, where he was briefly detained by immigration authorities. After several months in custody, Petitioner agreed to voluntarily depart the United States and returned to his home country by plane later that same year. In approximately 2013, Petitioner reentered the United States without inspection and traveled to Baltimore, where he has lived and worked continuously since that time. For more than a decade, Petitioner has established deep community, family, and economic ties in the United States. He has worked steadily in residential construction and home remodeling, typically through contracting companies and occasionally through independent jobs, and has supported himself and his family through this work.

30. Petitioner is the father of two children, including a six-year-old United States citizen child who has autism and significant developmental delays. According to medical professionals, the child functions developmentally at a much younger age and requires substantial care and supervision. Prior to his detention, Petitioner served as one of the primary caregivers for this child and regularly cared for her several days each week pursuant to a shared custody arrangement with the child's mother. Petitioner's role in providing daily care, supervision, and financial support for his daughter is critical given her medical and developmental needs. Petitioner also has a thirteen-year-old child. Petitioner's longtime partner, with whom he has lived for several years, also resides in the United States.

31. Petitioner has no criminal history, no record of arrests, and no history of traffic violations or other criminal offenses. Since his reentry in approximately 2013, Petitioner has lived peacefully in the community, maintained steady employment, and supported his family. In 2023, Petitioner was the victim of a violent robbery and assault and filed a police report with local law enforcement regarding the incident. That case remains unresolved.

32. On or about February 21, 2026, Petitioner was arrested by ICE officers in Baltimore while he was near his place of employment performing residential remodeling work. At the time of the arrest, Petitioner was outside moving his vehicle in order to allow a garbage truck to pass near the property where he had been working. ICE officers approached Petitioner and took him into custody without a warrant or probable cause. Petitioner was then held in the Baltimore area for several days before being transferred into immigration detention.

33. Following this initial detention period, Petitioner was transported to the Stewart Detention Center in Lumpkin, where he has remained in immigration custody since approximately February 24, 2026. Since his arrest and transfer to Stewart Detention Center, Petitioner has not been served with a Notice to Appear ("NTA") initiating removal proceedings, nor has he been provided with an opportunity to appear before an immigration judge to request release on bond. As a result, Petitioner continues to be detained without the initiation of formal removal proceedings and without any opportunity to challenge the basis for his ongoing detention before an immigration court. *See* Exhibit 3 (EOIR Information).

34. Petitioner's continued detention has imposed severe hardship on his family,

particularly on his young United States citizen daughter with autism, who relied heavily on him for daily care and supervision prior to his detention. Despite his longstanding residence in the United States, strong family ties, and lack of any criminal record, Petitioner remains confined at Stewart Detention Center without having received an NTA or any opportunity to seek release from detention.

35. Petitioner has not received any individualized determination that his continued detention is necessary. Despite his lack of criminal history, strong equities, and eligibility for relief from removal, he remains detained pending the outcome of his immigration proceedings. Petitioner also suffers from chronic back pain resulting from a prior motorcycle accident and previously relied on pain medication, further exacerbating the hardship caused by his prolonged detention. Under these circumstances, Petitioner's continued confinement is not justified by any legitimate governmental interest and violates fundamental principles of due process.

36. Petitioner was arrested in the interior of the United States over ten years after entry and is therefore improperly detained under 8 U.S.C. § 1226(a), ICE having not issued a warrant for their arrest. Had they issued a warrant, their arrest under 8 U.S.C. § 1226(a), which provides for discretionary bond or release on recognizance, may have been proper. Nevertheless, Respondents have classified their as an "arriving alien" and detained them under 8 U.S.C. § 1225(b)(2)—rendering them ineligible for bond under their new, unlawful policy.

37. Because all Respondents continue to treat Petitioner as detained under § 1225(b), any request for bond redetermination before an Immigration Judge would be futile, as the Immigration Court has already disclaimed jurisdiction over such requests.

Accordingly, habeas relief is the only available and effective remedy to secure Petitioner's release or a lawful custody hearing.

38. Petitioner is neither a danger to the community nor a flight risk. Petitioner has resided continuously in the same community for over a decade, has substantial family ties in the United States, and is the sole financial provider and caregiver of his U.S. citizen children and his family. Less-restrictive alternatives remain available and adequate, such as release on recognizance or posting a low bond.

39. Any detention under these circumstances imposes unnecessary hardship on Petitioner and their U.S. citizen children and family, depriving their financial, emotional support and caregiver responsibilities, violating Petitioner's right to due process and freedom from arbitrary detention.

40. As of the time of filing of this Writ of Habeas, Petitioner remains confined to the Stewart Detention Center, Lumpkin, Georgia, solely because of ICE's invocation of its new interpretation that Petitioner is an "arriving alien" or "applicant for admission" and is therefore subject to mandatory detention. Even Petitioner were to file for a bond redetermination with the immigration judge, they would deny it pursuant to *Matter of Yajure Hurtado,* 29 I. & N. Dec. 216. All Respondents consider that Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2). Accordingly, it would be futile for Petitioner to request a bond for release from an Immigration Judge. Due to the binding nature of *Matter of Yajure Hurtado*, all immigration courts known to counsel are denying bond requests for similarly situated noncitizens, making habeas the only effective remedy. Similarly, even in cases an Immigration Judge would grant bond, ICE would appeal it which would leave Petitioner incarcerated through the appeal,

which would take months and end up dismissed based on *Yajure Hurtado.*

41. Petitioner is a member of the nationwide "Bond Eligible Class" certified in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), which, in substance, encompasses noncitizens who entered the United States without inspection, were apprehended in the interior of the country, are or were placed in removal proceedings under 8 U.S.C. § 1229a, and are or were detained by DHS under 8 U.S.C. § 1225(b) based solely on their entry without inspection rather than under 8 U.S.C. § 1226(a). The Final Judgment in *Maldonado Bautista* declares that such individuals are subject to discretionary bond under § 1226(a) and vacates DHS's contrary policy.

42. Petitioner satisfies each element of that class definition. First, he entered the United States without inspection in over twenty years ago and has never been lawfully admitted or paroled. Second, he was apprehended in the interior of the United States.

43. Third, Petitioner has not yet been placed in removal proceedings under 8 U.S.C. § 1229a before the immigration court. Fourth, ICE is detaining Petitioner under 8 U.S.C. § 1225(b)(2) and treating him as an "arriving alien" or "applicant for admission" solely because of his entry without inspection, and not under 8 U.S.C. § 1226(a)'s discretionary custody framework. ICE's custody paperwork, including the Notice to Appear and related custody documents, reflects detention under § 1225(b)(2) and contains no allegation of criminal history, dangerousness, or prior removal order beyond Petitioner's entry without inspection. Accordingly, Petitioner falls squarely within the Bond Eligible Class protected by the Final Judgment in *Maldonado*

under the APA, immigration judges and ICE officers, as a practical matter, continue to treat it as controlling guidance in the absence of new EOIR instructions, so detained noncitizens like Petitioner are still being denied bond solely because of their entry without inspection, making habeas the only effective remedy.

VI. EXHAUSTION OF REMEDIES

44. **No statutory exhaustion requirement applies to habeas cases,** and the recent interpretations by DHS and EOIR have effectively closed all administrative avenues for securing release for noncitizens, like Petitioner, who entered the U.S. without inspection. ICE's internal policy from July 2025, coupled with the EOIR's Board of Immigration Appeals (BIA) precedent, mandates that immigration judges deny bond to the Petitioner and similarly situated noncitizens, rendering any further administrative steps futile. An administrative remedy may be inadequate where the administrative body is shown to be biased or has otherwise predetermined the issue before it as noted in *Gibson v. Berryhill*, 411 U. S. 564, 575, n. 14 (1973). Requiring Petitioner to seek reconsideration with ICE or a bond hearing with an immigration judge "would be to demand a futile act" as no relief would be granted while Petitioner languishes in detention, as highlighted in *Houghton v. Shafer*, 392 U.S. 639, 640 (1968). Moreover, even if any remedies were available, the habeas statute does not require Petitioner to exhaust them.

45. Furthermore, even if applied, the doctrine of exhaustion of administrative remedies would have been futile on claim attacking constitutionality of ICE's actions and ICE's and EOIR's current interpretations of the mandatory detention provisions.

Administrative hearings cannot address the constitutional claims at issue, rendering further proceedings ineffective. Moreover, where ICE seeks to quickly remove noncitizens like Petitioner even to third countries, without due process, particularly under the current administration's policies, underscores the inadequacy of administrative remedies. *McCarthy v. Madigan*, 503 U.S. 140, 146–49 (1992) (futility exception to exhaustion applies where administrative remedies are inadequate or unavailable). Thus, pursuing such remedies would be an exercise in futility, as they fail to provide any meaningful opportunity to address the constitutional violations at hand.

46. Petitioner has exhausted their administrative remedies to the extent required by law, and Petitioner's only remedy is by way of this judicial action.

VII. PETITIONER'S ARREST AND DETENTION ARE UNLAWFUL *AB INITIO*

47. Petitioner was arrested by ICE officers while he was moving his truck. He did not commit any crime, the officers did not have probably cause to detain him or arrest him, and he was arrested without a warrant which is required for all interior arrests under 8 U.S.C. § 1226(a). Because ICE officers unlawfully seized him, a bond hearing would not cure this violation.

48. Petitioner's detention is unlawful from its very inception because their arrest by ICE violated the clear and restrictive statutory framework established by Congress. The Immigration and Nationality Act (INA) provides only two potential authorities for a civil immigration arrest in the interior of the United States. The primary authority, 8 U.S.C. § 1226(a), explicitly requires that an arrest be conducted "**[o]n a**

warrant issued by the Attorney General". The statute provides a narrow exception to this rule in 8 U.S.C. § 1357(a)(2), which permits a warrantless arrest only where an officer has reason to believe the individual is unlawfully present **and** is "likely to escape before a warrant can be obtained." Respondents satisfied neither of these statutory requirements, rendering the seizure of Petitioner a legal nullity from the outset.

49. The warrantless seizure of Petitioner was statutorily invalid because Respondents could not possibly meet the exigency requirement of 8 U.S.C. § 1357(a)(2). The "likely to escape" determination is a mandatory prerequisite, not mere surplusage. *See United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 878 (S.D. Ohio 2016). Here, it was a factual impossibility for Petitioner to pose a risk of escape, as Petitioner was already secured in the custody of local law enforcement when ICE officers took her. As courts have recognized, the government cannot justify a warrantless arrest under this exception without an "individualized assessment" of flight risk, and the argument that any person in local custody is inherently likely to escape upon release has been rejected. Since the exception for a warrantless arrest is inapplicable, Respondents' only remaining authority was 8 U.S.C. § 1226(a), which required a warrant that Respondents did not possess. Having failed under both statutory provisions, the arrest was void *ab initio*.

50. An arrest conducted without statutory authority is an unreasonable seizure under the Fourth Amendment. The constitutional violation here may be compounded if the initial stop was predicated on impermissible racial profiling rather than specific, articulable facts suggesting unlawful activity. The Supreme Court has repeatedly held

that "Mexican appearance" alone is insufficient to justify an immigration stop. *United States v. Brignoni-Ponce*, 422 U.S. 873, 886–87 (1975). The Court recently reaffirmed this principle in *Noem v. Vasquez Perdomo*, --- S.Ct. ----, 2025 WL 2585637, at *3 (2025), and clarified in *Trump v. Illinois*, No. 25A443, 607 U.S. ____ (2025) (footnote 4, pages 6-7), that the prohibition on racial profiling remains fully intact. Therefore, to the extent the initial law enforcement contact that led to Petitioner's transfer to ICE custody was based on nothing more than their appearance, it would represent a distinct violation of the Fourth Amendment. The court affirmed the long-standing prohibition on racial profiling under the Fourth Amendment remains fully intact, and an officer's *subjective* belief that an individual "looks Hispanic" is, by itself, **insufficient to establish the reasonable suspicion required for a lawful stop or arrest**.

51. Because the arrest was fundamentally unlawful, the only constitutionally sufficient remedy is immediate and unconditional release. A subsequent administrative bond hearing is wholly inadequate, as it cannot cure the initial violation of Petitioner's liberty. The government's continued custody of Petitioner is the direct "fruit of the poisonous tree"—the poisonous tree being the illegal arrest itself. *See Wong Sun v. United States*, 371 U.S. 471, 484–88 (1963); *Silverthorne Lumber Co. v. United States*, 251 U.S. 385, 392 (1920). Allowing subsequent proceedings, like a bond hearing, to continue would improperly legitimize a detention that never had a lawful basis. Ordering such a hearing would treat the detention as if it were lawfully initiated under 8 U.S.C. § 1226(a), rewarding Respondents for bypassing the statute's explicit warrant requirement. As other courts have concluded, where detention is based on an

unlawful arrest and derivative evidence is suppressed, the appropriate remedy is immediate release. *See Rosado v. Figueroa*, No. CV-25-02157-PHX DLR, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025). Law and justice require restoring the liberty that was unlawfully taken.

52. Petitioner's detention is thus unlawful under any statutory theory Respondents could possibly advance. Their detention was initiated under 8 U.S.C. § 1225, a statute this Court has repeatedly found inapplicable to interior apprehensions in dozens of cases involving similarly situated petitioners. Yet, even if Respondents had attempted to detain their under the correct statute for interior apprehensions, 8 U.S.C. § 1226(a), the arrest would still be void because they failed to obtain the prerequisite warrant that the statute unequivocally requires. These are not mere procedural missteps; an arrest conducted without any statutory authority is an unreasonable seizure that violates the Fourth Amendment. Because the initial seizure and subsequent detention are unlawful *ab initio* under either statutory scheme, the only appropriate and constitutionally sufficient remedy is the one that restores the liberty that was illegally taken: immediate and unconditional release. A bond hearing under § 1226(a) is an inadequate remedy because it presupposes a lawful arrest under that statute—a condition that does not exist here.

VIII. LEGAL AND STATUTORY FRAMEWORK

A. Noncitizens Are Entitled to Due Process

53. It is a bedrock principle of constitutional law that the Fifth Amendment's Due Process Clause protects all "persons" within the United States from deprivation of liberty

without due process, a protection that extends to all noncitizens, regardless of whether their presence is "lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *see also Landon v. Plasencia*, 459 U.S. 21, 32 (1982); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976); *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886).

B. This Court's Holding in *J.A.M. v. Streeval: Interior Apprehensions Are Governed by § 1226(a)*

54. This Court has already rejected the government's attempt to subject long-term residents apprehended in the interior to the mandatory detention provisions of 8 U.S.C. § 1225(b)(2). In *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), a case with nearly identical facts, this Court harmonized the INA's distinct detention schemes. It held that § 1225, which applies to aliens "seeking admission," does not cover individuals already present in the U.S., as "seeking admission" requires an active attempt to enter, not mere presence. *Id.* The court therefore concluded that noncitizens apprehended in the interior, like Petitioner, are properly detained under 8 U.S.C. § 1226(a) and are entitled to a bond hearing. As Petitioner's circumstances are legally indistinguishable from those in *J.A.M.*, the same statutory analysis compels the same conclusion.

C. Recent Federal Court Cases Rejecting DHS' and EOIR's New Interpretation

55. This Court's holding in *J.A.M.* aligns with a tidal wave of recent decisions from hundreds of district courts that have repudiated the government's novel reinterpretation of the INA (See Ex. 2). These courts consistently find that applying the "arriving alien" framework of § 1225 to interior apprehensions defies the statute's

plain language.[2] As one court memorably explained, a person who sneaks into a movie theater is described as being "already present there," not as "seeking admission." *Lopez Benitez v. Francis*, —— F.Supp.3d at ——, 2025 WL 2371588, at *7. The government's position would also render § 1226(a) —the statute governing discretionary bond for interior arrests—a near nullity, a result Congress could not have intended. *Id.* at *8. While these cases confirm the illegality of Petitioner's detention, habeas relief is individualized, necessitating this petition to vindicate Petitioner's rights.

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[2] *Savane v. Francis*, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025) (Petitioner arrested pursuant to 1225 which was improper; habeas petition granted and immediate release ordered within one business day); *Artiga v. Genalo*, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025) (**Petitioner unlawfully detained pursuant to 1225, government ordered to transport Petitioner back to EDNY within 24 hours and immediately upon effectuating his transfer, to release him from custody**); *Cuevas Guzman v. Andrews*, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025), (petitioner entered without inspection more than 30 years ago, detained pursuant to 1225, **court found 1226(a) applied based on statutory language; PI granted and court ordered release**); *Echevarria v. Bondi*, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025), entered without inspection in 2001, arrested in 2025 under 1225(b); **the 24 year period petitioner resided in the U.S. made the plain language of 1225(b) was inapplicable to him, at the time of arrest an immigration officer was not "examining" him and he was not "seeking" admission; Based on *Jennings* and *Nielsen*, statutory scheme of 1226(a) applies**); *Maldonado Vazquez v. Feeley*, 2025 WL 2676082 (D. Nev. Sept. 17, 2025) (entered without inspection over 20 years ago; detained July 2025; **court help petitioner held pursuant to 1226(a) not as the government contends 1225(b)(2); Yajure Hurtado renders requiring prudential exhaustion futile;** PI granted and release ordered on IJ bond); *Rodriguez Vazquez v. Bostock*, 2025 WL 2782499 (W.D. Wash Sept. 30, 2025) (**court granted summary judgement** on behalf of a class of people without lawful status held in Tacoma who entered without inspection and not apprehended upon arrival, court held plain text of **1226(a) applies rather than 1225(b) and issues a detailed statutory analysis**); *Guzman Alfaro v. Wamsley, 2025 WL 2822113* (W.D. Wash. Oct. 2, 2025) (court granted similar relief as a class member of *Rodriguez Vasquez; Garcia Cortes v. Noem*, 2025 WL 2652880 (D. Colo. Sept. 16, 2025) (**Court held 1226(a) and not 1225(b)(2) authorizes detention; procedural due process violated under Mathews, habeas granted**); *Lopez-Campos v. Raycroft*, No. 2:25-cv-12486, 2025 WL 2496379, at *5-6 (E.D. Mich. Aug. 29, 2025) (granting petition for writ of habeas corpus ordering immediate release or bond hearing, where, for 30 years, **courts have applied section 1226(a) to noncitizens like the petitioner who was already in the United States but facing removal, rejecting the government's argument that section 1225 applied so no bond hearing was required**.

IX. LEGAL FRAMEWORK FOR THE RELIEF SOUGHT

A. Habeas Jurisdiction

56. This Court has fundamental authority and a constitutional duty under 28 U.S.C. § 2241 to remedy Petitioner's unlawful detention. The Supreme Court has consistently affirmed that the Great Writ is the primary instrument for challenging the legality of civil immigration detention. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); I.N.S. v. St. Cyr, 533 U.S. 289, 314 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 285–86 (2018). As "perhaps the most important writ known to the constitutional law," habeas corpus is an equitable tool that empowers this Court not just to review custody, but to "dispose of the matter as law and justice require" under 28 U.S.C. § 2243. *Fay v. Noia*, 372 U.S. 391, 400 (1963); *Schlup v. Delo*, 513 U.S. 298, 319 (1995). That power explicitly includes ordering a petitioner's immediate release. *Boumediene v. Bush*, 553 U.S. 723, 787 (2008). This Court's jurisdiction is secure, as the concept of "custody" is broad, attaching at the time of filing and persisting despite subsequent release due to the significant ongoing restraints on Petitioner's liberty. See *Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973).

B. The Administrative Procedure Act (APA)

57. Petitioner's detention is predicated on two agency actions—ICE's July 2025 "Interim Guidance" and the BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—that are subject to this Court's review. These policies represent the "consummation of the agency's decisionmaking process" and are the direct cause of Petitioner's unlawful confinement, qualifying them as reviewable "final agency action" under the APA. See Bennett v. Spear, 520 U.S. 154, 178 (1997); 5 U.S.C. § 704.

C. The Accardi Doctrine Requires Agencies to Follow Internal Rules

58. Respondents' actions also violate the bedrock principle of administrative law that agencies are bound by their own rules. United States ex rel. Accardi v. Shaughnessy, 347 U.S. 260, 268 (1954). This doctrine is not limited to formal regulations but extends to internal procedures and instructions that affect individual rights. See *Morton v. Ruiz*, 415 U.S. 199, 235 (1974); *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). By abandoning their long-standing regulations and practices that have historically afforded bond hearings for interior apprehensions, Respondents have acted unlawfully, and their actions must be set aside. *See U.S. v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969).

X. PETITIONER'S DETENTION IS UNLAWFUL UNDER THE BINDING FINAL JUDGMENT IN *MALDONADO BAUTISTA*

59. Petitioner's detention is not merely the result of a flawed legal interpretation; it is a product of Respondents' open defiance of a binding Final Judgment from a federal court. In *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025), a court has already adjudicated the illegality of the exact policy used to detain Petitioner and expressly vacated it. Respondents' decision to continue enforcing this nullified policy is an impermissible challenge to judicial authority, rendering Petitioner's detention unlawful at its core and demanding this Court's intervention not only to protect Petitioner's liberty but also to uphold the rule of law.:

a. **DECLARED** that noncitizens like Petitioner—who entered without inspection and were apprehended in the interior—are subject to discretionary bond hearings under 8 U.S.C. § 1226(a), not mandatory detention under 8 U.S.C. § 1225(b); and

b. **VACATED** the July 2025 ICE "Interim Guidance" policy as "unlawful under the APA."

c. **VACATED** *Matter of Yajure Hurtado* as unlawful under the APA.

60. On February 18, 2026, the *Maldonado Bautista* court granted Plaintiffs' Motion to Enforce Judgment and, pursuant to 28 U.S.C. § 2202 and 5 U.S.C. § 706(2), vacated *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), as contrary to law. In doing so, the court held that *Yajure Hurtado* is functionally indistinguishable from the July 2025 ICE Interim Guidance previously vacated, because it adopts the same unlawful statutory interpretation and is being used to deny bond hearings to the certified "Bond Eligible Class." The court therefore set aside *Yajure Hurtado* under the APA to "restore the status quo" that existed before DHS and EOIR adopted that interpretation. *Maldonado Bautista v. Santacruz*, No. 5:25cv01873SSSBFM (C.D. Cal. Feb. 18, 2026) (order granting motion to enforce judgment). ECF 116.

61. As a member of the certified nationwide "Bond Eligible Class" in that action, Petitioner's rights have already been adjudicated. Respondents are collaterally estopped from relitigating the central legal issue—the illegality of their detention policy—against Petitioner.

62. The court's **vacatur** of the ICE policy is the critical point. A vacated agency policy is a legal nullity. It is void. Respondents cannot lawfully detain Petitioner based on authority that a federal court has already nullified. Their continued detention of Petitioner is not just an unlawful interpretation of the INA; it is an act of defiance against a binding Final Judgment entered specifically to "eliminate any doubt

regarding [their] legal obligations" after they demonstrated widespread noncompliance with the court's earlier orders.

63. The doctrine of collateral estoppel bars Respondents from relitigating the legality of the detention policy against Petitioner. The elements for estoppel are clearly met: (1) the legal issue here—whether noncitizens apprehended in the interior may be subjected to mandatory detention under 8 U.S.C. § 1225(b) —is identical to the issue decided in *Maldonado Bautista*; (2) the issue was actually litigated and resolved by a final judgment on the merits in that case; (3) Respondents, as defendants in *Maldonado Bautista*, had a full and fair opportunity to litigate the issue; and (4) the court's determination on the illegality of the policy was essential to its final judgment vacating the policy. As Petitioner is a member of the class certified in that action, Respondents are precluded from re-arguing that their now-vacated policy provides a lawful basis for Petitioner's detention.

64. The court's **vacatur** of the ICE policy is the critical point. A vacated agency policy is a legal nullity. It is void. Respondents cannot lawfully detain Petitioner based on authority that a federal court has already nullified. Their continued detention of Petitioner is not just an unlawful interpretation of the INA; it is an act of defiance against a binding Final Judgment entered specifically to "eliminate any doubt regarding [their] legal obligations" after they demonstrated widespread noncompliance with the court's earlier orders.

65. Under the APA, when a court finds agency action "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," it must "hold unlawful and set aside" that action. 5 U.S.C. § 706(2)(A). Vacatur is the default remedy; it extinguishes

the legal force and effect of the challenged rule, policy, or adjudicatory precedent and restores the pre-existing legal framework. Federal courts routinely use vacatur in immigration and enforcement cases, including to nullify DHS and ICE policies that conflict with statutes or regulations. See, e.g., *Kidd v. Mayorkas*, 734 F.Supp.3d 967 (C.D. Cal. May 15, 2024) (vacating ICE's "knock and talk" policy under the APA as contrary to the Fourth Amendment and 8 C.F.R. § 287.8(f)(2)). By vacating both the July 2025 Interim Guidance and *Yajure Hurtado*, the *Maldonado Bautista* court has already removed the only articulated legal basis DHS and EOIR had advanced for treating long-term interior entrants like Petitioner as mandatory detainees under § 1225(b) rather than bond-eligible under § 1226(a).

66. Respondents cannot claim that compliance with the *Maldonado Bautista* judgment is administratively infeasible. The Government has proven its ability to develop and implement complex, multi-agency procedures to comply with court orders impacting immigration proceedings. For instance, in *Al Otro Lado, Inc. v. Mayorkas*, 619 F.Supp.3d 1029 (S.D. Cal. 2022), ICE, CBP, and USCIS developed detailed guidance and screening procedures to identify and process potential class members for relief under a preliminary injunction. These procedures involved creating master lists from database queries, issuing interim guidance to field offices to suspend removals, and establishing a framework for P.I. class-membership determinations. The existence of such established compliance mechanisms in other large-scale litigation demonstrates that Respondents' failure to adhere to the *Maldonado Bautista* final judgment is not a matter of incapacity but a matter of choice—a willful disregard for a binding court order.

67. This definitive ruling mandates **immediate release**, not a bond hearing. A bond hearing is a remedy for a detention that was lawfully initiated. It is not a remedy for a detention that was unlawful from its inception (*ab initio*). Here, the detention is based on a void policy and is therefore illegal at its core. A subsequent administrative hearing cannot cure this fundamental violation. To order a bond hearing would be to reward Respondents' non-compliance by prolonging an illegal detention and treating it as if it had a lawful basis. When a person's liberty is taken without legal authority, the only just remedy is to restore that liberty before the unlawful action occurred.

68. Because Respondents are acting in defiance of a final judgment, Petitioner's detention is void *ab initio*. This is not a case of prolonged but initially lawful detention where a bond hearing might become appropriate over time. Rather, the government's authority to detain them under the challenged policy has been judicially extinguished. To order a bond hearing would be to grant credence to a detention that has no legal foundation and would reward Respondents' non-compliance. "When liberty is restrained based on a nullified policy, the 'great writ of habeas corpus' serves as the 'best and only sufficient defence of personal freedom'. *Ex parte Yerger*, 75 U.S. 85, 95 (1868). As the 'most speedy, direct, and powerful remedy from wrongful detention', its purpose here is not to procure a future administrative process, but to correct the ongoing illegal confinement immediately. *Alvarez v. U.S. Immigration & Customs Enforcement*, 818 F.3d 1194 (11th Cir. 2016). Therefore, under its authority to 'dispose of the matter as law and justice require,' 28 U.S.C. § 2243, this Court should order Petitioner's immediate and unconditional release.

69. This individual habeas petition is the precise vehicle required to enforce the rights declared in *Maldonado Bautista*. As the Supreme Court clarified in *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022), the INA's jurisdictional rules at 8 U.S.C. § 1252(f)(1) prevent class actions from yielding coercive, class-wide release orders . Instead, the statutory scheme contemplates a two-step process: (1) a class-wide declaratory judgment establishes the illegality of a government policy, and (2) individual habeas petitions, which are protected by the Suspension Clause, provide the "necessary and distinct vehicle" to enforce that declaration and secure release. *See Jennings v. Rodriguez*, 583 U.S. 281, 309 (2018); *Hamama v. Adducci*, 912 F.3d 869, 879 (6th Cir. 2018).

70. Therefore, neither claim preclusion nor exhaustion bars this petition. This action seeks a coercive remedy (release) that was statutorily unavailable in the class action. The declaratory judgment in *Maldonado Bautista*, which has "the force and effect of a final judgment or decree" under 28 U.S.C. § 2201(a), serves as a predicate for this Court to grant relief, not a bar to it. *See Calderon v. Ashmus*, 523 U.S. 740, 747 (1998); *Henglein v. Colt Indus. Operating Corp.*, 260 F.3d 201, 211–12 (3d Cir. 2001); *Allard v. DeLorean*, 884 F.2d 464, 466 (9th Cir. 1989). Because the Rule 23(b)(2) declaratory relief in *Maldonado Bautista* "operates uniformly across the class," it definitively establishes the unlawfulness of Petitioner's detention. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 361–62 (2011). This Court should enforce that final judgment by granting the only remedy that cures an illegal detention: immediate and unconditional release.

XI. CAUSES OF ACTION AND CLAIMS FOR RELIEF

COUNT ONE
Unlawful Arrest in Violation of the Fourth Amendment and the INA (8 U.S.C. §§ 1226(a), 1357(a)(2))

71. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

72. Petitioner's seizure and detention are unlawful *ab initio* because their arrest violated the clear statutory framework established by Congress and the Fourth Amendment's prohibition on unreasonable seizures. The primary authority for a civil immigration arrest in the interior of the United States requires that it be conducted "**[o]n a warrant**." 8 U.S.C. § 1226(a). The narrow exception for a warrantless arrest under 8 U.S.C. § 1357(a)(2) demands a showing that the individual is "likely to escape before a warrant can be obtained".

73. Respondents failed to meet either requirement. It was a factual impossibility for Petitioner to be "likely to escape" in that situation as described in the facts and procedural history above. Having failed to satisfy the statute's mandatory exigency requirement, Respondents' only lawful path to arrest Petitioner was to obtain a warrant under 8 U.S.C. § 1226(a), which they have failed to do.

74. An arrest conducted without any statutory authority is an unreasonable seizure in violation of the Fourth Amendment. Because the initial seizure was void, the government's custody over Petitioner's person is the direct "fruit of the poisonous tree" and is incurably tainted. A subsequent bond hearing cannot remedy a detention that never had a lawful beginning. The only proper remedy for this fundamental statutory and constitutional violation is immediate and unconditional release.

COUNT TWO
Unlawful Detention in Violation of a Binding Final Judgment

75. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

76. Petitioner is a member of the nationwide class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). As a class member, their rights have been adjudicated by a Final Judgment which **DECLARES** that their detention is governed by 8 U.S.C. § 1226(a) and **VACATES** the very DHS policy that Respondents rely on as a reason for Petitioner's mandatory detention. Similarly, *Matter of Yajure Hurtado*, now officially **VACATED** as of February 18, 2026 and can no longer be used to deny bond.

77. Respondents' continued detention of Petitioner based on a vacated policy and in direct defiance of a binding Final Judgment is independently unlawful. This conduct renders Petitioner's detention illegal and warrants their immediate release as the proper enforcement of the rights adjudicated in their favor.

COUNT THREE
Statutory Violation of the Immigration and Nationality Act, Agency Regulations And the Accardi Doctrine

78. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

79. Petitioner's detention is the direct result of a cascade of unlawful agency actions that violate the plain text of the Immigration and Nationality Act (INA), contravene decades of binding agency regulations, and therefore constitute a flagrant violation of the Accardi doctrine. Respondents are unlawfully detaining Petitioner by misclassifying them as an "arriving alien" subject to mandatory detention under 8

U.S.C. § 1225(b) when the statutes and the agency's own rules unambiguously require their case to be processed under 8 U.S.C. § 1226(a), which provides for discretionary release on bond.

80. First, Respondents' actions defy the clear statutory scheme established by Congress. The INA creates two distinct detention frameworks: § 1225 governs the inspection and mandatory detention of aliens "arriving in the United States," while § 1226(a) governs the discretionary detention of aliens arrested "in the United States" on a warrant. Petitioner, a long-term resident apprehended in the interior, falls squarely within the latter category. By applying the "arriving alien" framework to her, Respondents unlawfully erase this critical statutory distinction.

81. Second, Respondents' actions violate their own binding regulations and long-standing practice. For over two decades, agency regulations have implemented the statutory distinction by explicitly providing for bond eligibility for interior apprehensions. After Congress amended the INA in 1996, the agency issued an interim rule clarifying that noncitizens "present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination" under 8 U.S.C. § 1226. This policy is enshrined in regulations such as 8 C.F.R. §§ 236.1 and 1236.1. The new policy articulated in the July 2025 ICE memorandum and the *Yajure Hurtado* decision represents a radical and unlawful departure from these established rules. Both have now been VACATE under the APA.

82. Finally, by defying their own statutes and regulations, Respondents have violated the Accardi doctrine, a bedrock principle of administrative law that commands that federal agencies are bound by their own rules. *See United States ex rel. Accardi v.*

Shaughnessy, 347 U.S. 260 (1954). The *Accardi* doctrine applies with full force not only to formal regulations but also to internal policies and guidance that confer "important procedural benefits upon individuals," such as the right to a bond hearing. *Am. Farm Lines v. Black Ball Freight Serv.*, 397 U.S. 521, 538 (1970); *see* also *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991).

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

84. This is not a mere procedural error; it is a fundamental breach of the rule of law. Respondents cannot simply ignore decades of their binding procedures to achieve a policy goal of mass mandatory detention. Because Respondents' actions were taken in direct contravention of the INA and their own established rules, those actions are invalid, rendering Petitioner's resulting detention unlawful and requiring this Court to set it aside.

COUNT FOUR
Violation of the Fifth Amendment of the U.S. Constitution
Procedural and Substantive Due Process

85. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

86. Petitioner's detention is a profound offense to the Fifth Amendment, violating their rights to both substantive and procedural due process. It is axiomatic that the Due Process Clause applies to all persons within the United States, regardless of immigration status, and that "freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Respondents' actions trample upon this fundamental right.

87. **Substantive Due Process**: The detention is substantively unconstitutional because it is arbitrary and serves no legitimate, non-punitive purpose. Civil immigration detention is permissible only to prevent flight or danger to the community. See *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018). As established, Petitioner is neither a flight risk nor a danger. Petitioner's mandatory detention, without any individualized assessment, bears no reasonable relation to any legitimate government purpose and is therefore arbitrary deprivation of liberty, excessive, and unconstitutional.

88. **Procedural Due Process**: Even if a legitimate purpose for detention existed, the procedures used to effectuate it are constitutionally rotten. Due process demands a "meaningful opportunity to be heard at a meaningful time and in a meaningful manner" before a neutral decision-maker. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). The current scheme—whereby Respondents unilaterally subject Petitioner to mandatory detention based on an

unlawful policy—entirely lacks these fundamental safeguards and fails the three-part balancing test set forth in *Mathews*:

89. **The Private Interest**: Petitioner's liberty interest is paramount; the risk of erroneous deprivation is extreme considering that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c), is not a flight risk, and does not pose a danger to the community. Being free from physical detention by one's own government "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The right to be free of detention of indefinite duration pending a bail determination, is "without question, a weighty one." *Landon v. Plasencia.* Petitioner is being held in jail in the same conditions as criminal inmates, unable to work and is far from family. At minimum, the government must come forward with concrete, case-specific reasons that outweigh Petitioner's substantial liberty interest in continued release.

90. **The risk of erroneous deprivation** of liberty is extreme. The system lacks any neutral adjudicator, as ICE is acting as both prosecutor and judge, a structural defect that creates a constitutionally intolerable risk of wrongful deprivation, as highlighted in *Marcello v. Bonds*, 349 U.S. 302, 305-306 (1955). Respondents are effectuating prolonged detention based on their own self-serving interpretation of the law, with no check on their power. This risk is exacerbated by the coordinated actions of both DHS and EOIR, which operate under a unified approach that effectively denies bond to noncitizens in Petitioner's situation, thereby unilaterally depriving them of their liberty.

91. **The Government's Interest**: The government's interest in enforcing its detention policy is minimal, if not entirely illegitimate. There is no valid government interest in

enforcing an interpretation of the law that is contrary to the plain text of the INA, that conflicts with its own regulations providing for bond hearings under 8 U.S.C. § 1226(a), and that is based on a policy (*Matter of Yajure Hurtado*) that has been judicially declared untenable. The government has no cognizable interest in violating the law or wasting taxpayer resources on the unnecessary detention of individuals who are neither dangerous nor flight risks.

92. All three *Mathews* factors weigh decisively in Petitioner's favor. The current scheme is fundamentally unfair, unconstitutional, and deprives Petitioner of liberty without the process that is, and has always been, due.

XII. REMEDY

THE ONLY CONSTITUTIONALLY SUFFICIENT REMEDY IS IMMEDIATE AND UNCONDITIONAL RELEASE

93. When a person's liberty is taken without any lawful authority, the only effective and constitutionally sufficient remedy is to restore that liberty immediately and unconditionally. A subsequent bond hearing cannot cure a detention that was void from its inception (*ab initio*). Federal courts possess broad equitable power under 28 U.S.C. § 2243 to "dispose of the matter as law and justice require," which includes ordering immediate release when the government's custody is illegal. See *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987); *Rosado v. Figueroa*, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025). Here, law and justice demand nothing less than Petitioner's release, as their detention is a legal nullity built upon a foundation of statutory and constitutional violations.

94. Petitioner's detention is unlawful at its core because the arrest itself was executed in open defiance of the Immigration and Nationality Act's clear commands. Whether viewed as an arrest under 8 U.S.C. § 1225 or 8 U.S.C. § 1226(a), the seizure was illegal. Respondents claim authority under § 1225, but that statute applies to arriving aliens at the border, not long-term interior residents like Petitioner. The correct statute for an interior apprehension, § 1226(a), unequivocally requires that an arrest be made "**[o]n a warrant**." Respondents had no such warrant.

95. A bond hearing is a wholly inadequate remedy for such a fundamental violation. The purpose of a bond hearing is to assess the propriety of continued detention following a lawful arrest. It presupposes that the government's custody was, at some point, legitimate. That is not the case here. To order a bond hearing would be to retroactively sanitize an illegal seizure and give the government a "pass for not securing a warrant." *Javier De Jesus Aguilar v. English*, No. 3:25-CV-898 DRL-SJF, 2025 WL 3280219 (N.D. Ind., Nov. 25, 2025). As that court correctly reasoned when ordering immediate release under similar facts, "[t]he simple matter is this: the government has not established a lawful basis for detention... and the government must live by the rules that Congress has instituted." *Id.*

96. Granting a bond hearing would not only fail to cure the violation, it would compound the harm. It would force Petitioner to languish in unlawful custody for weeks longer while awaiting a hearing, spend additional money on a bond (if one is even granted, as bonds grants are diminishing even after habeas grants) all while Respondents have failed to produce a single shred of evidence that Petitioner is a flight risk or a danger to the community. This Court should not reward the government's disregard for the

law by prolonging the very illegal detention it created. When the government's custody over a person is the "fruit of the poisonous tree"—the poisonous tree being the illegal arrest itself—the only just remedy is to sever the connection by ordering immediate and unconditional release.

97. Furthermore, should this Court nonetheless order a bond hearing as an alternative to immediate release, it is critical that the order contain specific procedural safeguards to make that remedy meaningful. There is a troubling trend of immigration judges denying bond after a habeas grant based on rote assertions of flight risk or danger, often without the government presenting any actual evidence. To counteract this and ensure Petitioner is afforded a constitutionally adequate hearing so we do not have to return to this Court, this Court should follow the sound reasoning of another court in this District and place the burden of proof squarely on the government. In *J.G. v. Warden, Irwin Cty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1341 (M.D. Ga., 2020), the court, observing that "Circuit courts considering the standard of proof in the immigration bond context have also adopted the clear and convincing standard," held that "the government must prove by clear and convincing evidence that an alien is a flight risk . . . to justify denial of bond." **Therefore, to prevent a perfunctory and meaningless hearing that would only prolong Petitioner's unlawful detention, any order for a bond hearing must explicitly direct that the government bears the burden of establishing by clear and convincing evidence that Petitioner's detention is necessary**.

98. Finally, to ensure the remedy of release is not rendered illusory, the Court must explicitly ENJOIN Respondents from immediately substituting physical custody with

another form of unlawful restraint: electronic monitoring. There is a now-common agency practice of subjecting virtually every noncitizen released from custody to GPS ankle monitoring—a blanket policy applied without the individualized assessment of flight risk required by due process. This reflects a de facto agency policy of imposing GPS monitoring, even after an immigration judge has made a finding that a bond is sufficient to mitigate flight risk. This practice allows the agency to unilaterally subvert a judicial release order by replacing one form of custody with another. To provide a truly meaningful remedy and prevent Petitioner from being forced to return to this Court to challenge these new custody-like restraints, the Court should exercise its broad equitable power under 28 U.S.C. § 2243 to "dispose of the matter as law and justice require." Accordingly, Petitioner requests that the Court's order specify that their release is unconditional and enjoin Respondents from imposing any conditions of supervision, such as electronic monitoring, unless they first demonstrate to this Court, with five days' advance notice, that significantly changed circumstances and a new, particularized assessment of risk justify such a severe restraint on Petitioner's liberty.

XIII. CONCLUSION AND PRAYER FOR RELIEF

99. The continued detention of Petitioner violates due process rights. But for intervention by this Court, Petitioner has no means of release from ICE custody. Petitioner faces ongoing and irreparable harm as a result of unlawful detention, including deprivation of liberty, loss of employment, and separation from his U.S. citizen children and family. These injuries cannot be remedied by monetary damages and will continue

absent immediate judicial intervention. The balance of equities and the public interest strongly favors expedited consideration and equitable relief, including immediate release or a prompt bond hearing. Without such relief, Petitioner will continue to suffer irreparable harm, and the constitutional and statutory violations at issue will persist.

WHEREFORE, Petitioner prays that this Court grant the following relief. Petitioner respectfully requests expedited consideration of this Petition due to the ongoing deprivation of liberty and irreparable harm:

(1) **Grant the Petition for Writ of Habeas Corpus** and, pursuant to its authority under 28 U.S.C. § 2243, order Respondents to **immediately and unconditionally release** Petitioner from custody, because **their** detention is unlawful *ab initio* under both 8 U.S.C. § 1225 (misclassification as an "arriving alien") and 8 U.S.C. § 1226(a) (failure to obtain the statutorily required warrant for an interior arrest), and rests solely on agency actions that are contrary to the INA, ultra vires, arbitrary and capricious, and adopted and applied in violation of the Accardi doctrine, as set forth in the APA/Accardi claim.

(2) **In the alternative**, should the Court decline to order immediate unconditional release, issue an order directing Respondents to provide Petitioner with a bond hearing before an Immigration Judge pursuant to 8 U.S.C. § 1226(a) and its implementing regulations at 8 C.F.R. §§ 236.1 and 1236.1 within forty-eight (48) hours of the Court's order, and further specifying that at any such hearing: (a) the **government bears the burden** of proving that Petitioner is either a flight risk or a danger to the community; and (b) the government must satisfy that burden by **clear and convincing evidence**, consistent with *J.G. v. Warden, Irwin Cty. Det.*

Ctr., 501 F. Supp. 3d 1331, 1341 (M.D. Ga. 2020), which followed circuit precedent adopting this standard in the immigration bond context (including *Singh* and *Lopez*), in order to prevent the recurring problem of perfunctory bond denials based on unsupported assertions of risk rather than actual evidence;

(3) **Enjoining Respondents**, upon Petitioner's release, from subjecting Petitioner to any form of electronic monitoring, GPS ankle bracelet, ISAP enrollment, or other alternative-to-detention program that functions as a custody-like restraint, absent prior leave of this Court. Respondents shall be prohibited from imposing such conditions unless, at least five (5) days in advance, they file notice with this Court and demonstrate—based on a new, particularized assessment of significantly changed circumstances and a concrete, evidence-based showing of flight risk or danger—that such conditions are necessary, and the Court expressly authorizes them pursuant to its authority under 28 U.S.C. § 2243 to dispose of the matter as law and justice require.

(4) **Issue an Order to Show Cause** directing Respondents to file a return within three (3) days, pursuant to 28 U.S.C. § 2243, justifying in fact and law why the writ should not be granted;

(5) **ENJOIN** Respondents from re-detaining Petitioner in the future under 8 U.S.C. § 1225 or the DHS policy vacated by the *Maldonado Bautista* court;

(6) **Award** Petitioner reasonable attorney's fees and costs; and

(7) **Grant** such other and further relief as this Court deems just, proper or equitable under the circumstances.

Respectfully Submitted,

This 13th day of March, 2026.

/s/ Karen Weinstock
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28 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 Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

This is the 13th Day of March, 2026.

/s/ Karen Weinstock
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