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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

JAVIER SOLANO-CASIMIRO,

Petitioner,

v.

PAM BONDI, *Attorney General of the
United States*, KRISTI NOEM, *Secretary of
the Department of Homeland Security*,
TODD M. LYONS, *Acting Director, United
States Immigration and Customs Enforcement*,
in their official capacities, BRIAN FLANAGAN,
*Acting Deputy Field Office Director for ICE in
New York City Area, in their official capacities,*

Respondents.

Case No. 1:26-cv-1511

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Javier Solano-Casimiro (“Petitioner” or Solano-Casimiro”)  is a native of Mexico who has lived in the United States since approximately 2009.
2. Petitioner entered the United States through the U.S./Mexico border, without inspection in or around May of 2009.
3. Petitioner was detained by ICE in Mount Vernon, New York, on or about January 28, 2026. He is currently detained at the Metropolitan Detention Center (MDC) in Brooklyn, New York.

4. Petitioner is scheduled for a master calendar hearing on March 17, before Immigration Judge Dara Reid of the Varick Immigration Court.
5. Petitioner resides at [REDACTED].
6. Until 2025, people in Petitioner's position have been able to seek bond before the Executive Office for Immigration Review ("EOIR"), as their detention is clearly discretionary under 8 U.S.C. § 1226.
7. DHS has recently significantly altered its interpretation of the Government's detention authority during the pendency of removal proceedings to require mandatory detention of all noncitizens charged with entering the United States without inspection, subjecting millions of noncitizens such as Petitioner to mandatory prolonged detention without opportunity for release on bond, allegedly under 8 U.S.C. § 1225, no matter how long they have resided in the country.
8. The plain language of § 1225 does not apply to petitioner, and denial of a bond hearing violates the INA, the APA, and the Due Process Clause of the Fifth Amendment.
9. Petitioner asks this Court to find that his detention is covered by § 1226, and order that he be released.
10. Petitioner asks this Court to find that his detention is governed by § 1226 and order his release. In the alternative, even if Respondents assert that § 1225 applies, Petitioner's detention is unlawful because Respondents failed to properly establish that the statutory requirements for mandatory detention under § 1225 were met. Accordingly, his continued detention violates the INA, the APA, and the Due Process Clause of the Fifth Amendment.

JURISDICTION & VENUE

11. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution (“Suspension Clause”); 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201, 2202 (Declaratory Judgment Act).
12. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
13. A district court’s authority includes jurisdiction to hear habeas challenges to immigration-related detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).
14. Federal courts also have federal question jurisdiction, through the APA, to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by “any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus”). The APA affords a right of review to a person who is “adversely affected or aggrieved by agency action.” 5 U.S.C. § 702.
15. Venue is proper in this district pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) as Petitioner is a resident of Bronx County but is presently being held at the Brooklyn Metropolitan Detention Center (MDC), in Kings County, and was detained in Westchester County.

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court must grant the petition for writ of habeas corpus or issue an order to show cause

(OSC) to the Petitioners “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Petitioners to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

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

PARTIES

18. Petitioner resides in Bronx, New York, and was detained by ICE in Mount Vernon, New York, on January 29, 2026. He is being detained at the Metropolitan Detention Center (MDC) in Brooklyn, New York.
19. Pam Bondi is the Attorney General of the United States. She oversees the immigration court system, which is located within the Executive Office for Immigration Review (“EOIR”) and includes all Immigration Judges and the Board of Immigration Appeals (“BIA”). She is sued in her official capacity.
20. Kristi Noem is the is the Secretary of DHS, which oversees ICE, and is responsible for administering and enforcing the immigration laws. She is the ultimate custody of Petitioner. She is sued in her official capacity.
21. Todd M. Lyons is the Acting Director of United States Immigration and Customs Enforcement, the agency that detained Petitioner. He is sued in his official capacity.

22. Brian Flanagan is the Acting Deputy Field Office Director for ICE in the New York City Area. He is sued in his official capacity.

LEGAL FRAMEWORK

8 U.S.C. § 1225(b) DOES NOT APPLY TO RESPONDENT

23. The INA generally provides for three forms of civil detention for noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens arrested “on a warrant” pending the resolution of standard removal proceedings before an IJ. See 8 U.S.C. § 1229(a). Unless they have been arrested, charged with, or convicted of certain enumerated crimes, which would subject them to mandatory detention until their removal proceedings are concluded, see 8 U.S.C. § 1226(c), an individual detained under § 1226(a) can be released by ICE on bond or conditional parole. See 8 U.S.C. § 1226(a)(1); 8 C.F.R. § 236.1(c)(8). If release is denied by ICE, the detainee can seek a custody redetermination before an IJ (*i.e.*, bond hearing) at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d). At the hearing, the noncitizen may present evidence to show they are not a flight risk or danger to the community and should therefore be released on bond. See generally *Matter of Guerra*, 24 I. & N. Dec. 37, 50 (BIA 2006); *Maldonado Vasquez v. Feeley, et al.*, 2:25-cv-01542-RFB-EJY (D. Nevada, 09/17/2025).
24. Second, the INA imposes mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and of 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” under § 1225(b)(2). Individuals detained under § 1225(b) receive no bond hearing, see 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV), (b)(2)(A), and can only

be released under humanitarian parole at the arresting agency's (i.e., ICE) discretion. See Jennings v. Rodriguez, 583 U.S. 281, 288 (2018); 8 U.S.C. § 1192(d)(5).

25. Lastly, and not relevant here, the INA provides for detention of noncitizens who have been issued a final order of removal. See 8 U.S.C. § 1231(a)-(b).
26. This case concerns the mandatory versus discretionary detention provisions under § 1226(a) and § 1225(b)(2), which were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
27. DHS is holding Petitioner in mandatory detention based on the Board of Immigration Appeal's ("BIA's") decision in Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025) holding that anyone who entered without inspection, no matter how long ago, is subject to 8 U.S.C. § 1225(b).
28. Respondent's longstanding practice has been to apply § 1226(a) to noncitizens like Petitioner, who are charged as removable under INA § 212(a)(6)(A)(i).
29. The Respondents' new policy of applying § 1225(b)(2)(A) to all noncitizens present in the United States without admission is unpersuasive. Such an interpretation of the statute (1) disregards the plain meaning of § 1225(b)(2)(A); (2) disregards the relationship between §§ 1225 and 1226; (3) would render a recent amendment to § 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory interpretation and practice.
30. Courts have given great weight to the manner in which DHS treated the petitioner in determining which detention statute applies. See Lopez Benitez, 2025 WL 2371588, at *3 (holding that § 1225 did not apply because (1) DHS had consistently treated petitioner as

subject to discretionary detention under § 1226(a) and (2) the “plain text, overall structure, and uniform case law interpreting” the statutory provision compels the conclusion).

31. For nearly 30 years, § 1225 has applied to noncitizens who are either seeking entry to the United States or have a close nexus to the border, and § 1226 has applied to those aliens arrested within the interior of the United States. Rivera Zumba v. Bondi, 2025 WL 2753496 at 19 (D.N.J. Sept. 26, 2025). The Jennings Court explicitly adopts this distinction, describing § 1225 as the detention statute for noncitizens affirmatively “seeking admission” into the United States, and § 1226 as the detention statute for noncitizens who are “already in the country.” 583 U.S. at 289. And although the Jennings Court characterizes § 1225(b)(2) as the “catchall” detention provision for noncitizens who are “seeking admission,” it identifies § 1226(a) as the “default rule” for the arrest, detention, and release of non-criminal aliens who are already present in the United States. *Id.* at 303.
32. This Court need not defer to the September 5, 2025 BIA decision, Matter of Yajure Hurtado, and its newly-minted interpretation of § 1225(b)(2)(A). See Loper Bright Enters. v. Raimondo, 603 U.S. 369, 400-01 (2024) (observing that while “agencies have no special competence in resolving statutory ambiguities,” “[c]ourts do”); see also Skidmore v. Swift & Co., 323 U.S. 134, 140 (1944) (explaining that the “weight of such a judgment in a particular case will depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control”).
33. As explained by the District Court in Salcedo Aceros v. Kaiser, et al., the BIA’s “current position is inconsistent with its earlier pronouncements” which took the opposite position,

and under Loper, “the Court has no obligation to defer to the BIA’s view, particularly when that view has not ‘remained consistent over time.’” 2025 WL 2637503, at *9 (N.D. Cal. Sept. 12, 2025) (quoting Loper, 603 U.S. at 386; citing Skidmore, 323 U.S. at 140).

34. To suddenly hold § 1225(b)(2)(A) to apply to all noncitizens who have not been admitted to the United States disregards the plain meaning of § 1225(b)(2)(A) and is inconsistent with decades of prior statutory interpretation and practice.

35. Since DHS’ has implemented its new policy, Courts around the country have found Petitioners such as Respondent to be detained under § 1226(a).¹

EVEN IF 8 U.S.C. § 1225(b)(2)(A) COULD APPLY, RESPONDENTS FAILED TO FOLLOW THE PROCEDURES REQUIRED TO INVOKE IT

36. Even assuming arguendo that 8 U.S.C. § 1225(b)(2)(A) could apply to Petitioner, Respondents did not follow the statutory and procedural requirements necessary to invoke that provision. The record demonstrates that Petitioner was arrested within the

¹ See, e.g., *Belsai v. Bondi, et al.*, No. 25-cv-3862 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, --- F.Supp.3d ---, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025); *Salazar v. Dedos*, No. 1:25-cv-00835-DHU-JMR, 2025 WL 2676729 (D. N.M. Sept. 17, 2025); *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Aguilar Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Rocha Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *9 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025).

interior of the United States and immediately subjected to mandatory detention without any meaningful determination that the statutory prerequisites of § 1225 had been satisfied.

37. Section 1225(b)(2)(A) authorizes detention only after an examining immigration officer determines that an “alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). The statute therefore contemplates a threshold determination by immigration authorities that the individual is properly treated as an applicant for admission subject to inspection.
38. That determination did not occur here. Instead, Petitioner was arrested in the interior of the United States and automatically placed into mandatory detention without any individualized assessment of whether § 1225 properly applies to him. The record contains no evidence that immigration officials conducted any inspection process comparable to the inspection procedures contemplated by § 1225.
39. The record instead demonstrates that Petitioner was taken into custody during a vehicle stop in Mount Vernon, New York, while he was merely a passenger in the vehicle. According to the form I-213, ICE officers asked Petitioner for identification and, after he stated that he had entered the United States without inspection, he was arrested and transported to an ICE facility for processing.
40. These circumstances further underscore that Respondents did not follow the statutory procedures contemplated by § 1225. Immigration officers may conduct a warrantless arrest only under limited circumstances defined by statute. Under 8 U.S.C. § 1357(a)(2), an immigration officer may arrest a noncitizen without a warrant only if the officer has

reason to believe that the individual is removable and that the individual “is likely to escape before a warrant can be obtained.”

41. The statute therefore imposes two independent requirements for a warrantless immigration arrest: (1) probable cause to believe the individual is removable, and (2) probable cause to believe that the individual is likely to escape before a warrant can be secured. Both requirements must be satisfied before officers may bypass the warrant process.
42. Respondents’ submissions contain no indication that immigration officers made any contemporaneous determination that Petitioner was likely to escape before a warrant could be obtained. Nor do Respondents identify any exigent circumstances that would justify bypassing the statutory warrant requirement. Instead, the record reflects that Petitioner was taken into custody during a routine vehicle stop and immediately transported for processing.
43. The absence of any documented determination that Petitioner was likely to escape further demonstrates that Respondents did not follow the statutory procedures governing immigration arrests before placing Petitioner into mandatory detention. Where the government fails to comply with the procedural safeguards established by Congress, it cannot rely on the resulting arrest as the basis for imposing mandatory detention under § 1225(b)(2)(A).
44. Courts addressing similar circumstances have recognized that the government must actually follow the statutory framework associated with § 1225 before invoking mandatory detention under that provision. See, e.g., *Rivera Zumba v. Bondi*, 2025 WL 2753496, at *19–21 (D.N.J. Sept. 26, 2025) (rejecting the government’s attempt to apply

§ 1225 where the statutory framework and procedures associated with that provision were not followed).

45. Moreover, immigration law has long recognized procedures allowing individuals to challenge whether they are properly subject to mandatory detention in the first place. For example, individuals detained under the mandatory detention provision of 8 U.S.C. § 1226(c) may request a *Joseph hearing*, at which an Immigration Judge determines whether the government has correctly classified the individual as subject to mandatory detention. See *Matter of Joseph*, 22 I. & N. Dec. 799, 806 (BIA 1999).
46. These procedures reflect a fundamental principle of immigration detention law: even where detention may ultimately be mandatory, individuals must have an opportunity to challenge the government's threshold determination that the mandatory detention statute applies.
47. Respondents' approach here eliminates that procedural safeguard entirely. Under Respondents' interpretation, individuals arrested in the interior of the United States may be subjected to mandatory detention under § 1225 without any opportunity to challenge whether the statute actually applies to them.
48. Such a procedure is inconsistent with the structure of the INA and with longstanding immigration detention practices. Prior to Respondents' recent change in policy, individuals in Petitioner's position were routinely detained under § 1226(a) and permitted to seek bond before an Immigration Judge.
49. The government now seeks to rely on this arrest to impose mandatory detention under 8 U.S.C. § 1225(b)(2)(A). But where the underlying arrest itself failed to comply with the

statutory safeguards governing immigration arrests, the government cannot rely on that seizure to justify detention without any opportunity for custody review.

50. Because Respondents did not follow the procedures required to properly invoke § 1225(b)(2)(A), Petitioner's detention under that provision is unlawful.

EVEN IF § 1225(b)(2)(A) APPLIES, DETENTION WITHOUT MEANINGFUL REVIEW VIOLATES THE FIFTH AMENDMENT

51. Even if this Court were to determine that Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2)(A), the Constitution imposes meaningful limits on the government's ability to detain individuals without process. The Fifth Amendment's Due Process Clause protects all "persons" within the United States, including noncitizens, from arbitrary deprivations of liberty. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens.").
52. The Supreme Court has repeatedly emphasized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Due Process Clause protects." *Id.* at 690 (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Civil detention therefore requires meaningful procedural safeguards to ensure that the government's deprivation of liberty is justified.
53. The Supreme Court has repeatedly cautioned that interpretations of immigration detention statutes that authorize prolonged detention without review raise serious constitutional concerns. See *Zadvydas*, 533 U.S. at 690–91 (warning that a statutory interpretation permitting indefinite detention would present a "serious constitutional problem").

54. These constitutional limits apply even where Congress has authorized or mandated immigration detention by statute.
55. The Second Circuit's immigration detention jurisprudence illustrates this principle. In *Velasco Lopez v. Decker*, the court held that prolonged detention under the discretionary detention statute, 8 U.S.C. § 1226(a), violated due process where the detainee remained incarcerated for fifteen months without a bond hearing at which the government bore the burden of justifying continued detention. 978 F.3d 842, 851–56 (2d Cir. 2020). The court emphasized that civil immigration detention implicates a “fundamental liberty interest” and that “[t]he government’s interest in detaining noncitizens during removal proceedings is strong, but it is not unlimited.” *Id.* at 851, 855.
56. The Second Circuit has also recognized similar constitutional concerns in the context of statutes mandating detention. In *Lora v. Shanahan*, the court addressed detention under the mandatory detention provision of 8 U.S.C. § 1226(c) and concluded that prolonged detention without an individualized hearing raised serious constitutional concerns. 804 F.3d 601, 614–16 (2d Cir. 2015). The court therefore construed the statute to require a bond hearing in order to avoid those constitutional difficulties.
57. Likewise, in *Hechavarria v. Sessions*, the Second Circuit recognized that prolonged immigration detention without meaningful procedural safeguards raises serious due process concerns. 891 F.3d 49, 57 (2d Cir. 2018). The court explained that although immigration detention serves civil purposes, detention must remain reasonably related to those purposes and cannot continue without adequate procedural protections.
58. Although the Supreme Court later abrogated *Lora* in *Jennings v. Rodriguez* with respect to the statutory interpretation adopted by the court, the decision did not resolve the

underlying constitutional questions. 583 U.S. 281, 302–03 (2018). Instead, the Court held only that the immigration detention statutes themselves do not implicitly require periodic bond hearings as a matter of statutory construction.

59. Importantly, the Supreme Court expressly declined to decide whether the Constitution independently requires such procedural safeguards. The Court remanded the case for consideration of the detainees’ constitutional claims, instructing the lower courts to determine “whether the Constitution requires such procedures.” *Jennings*, 583 U.S. at 314.
60. As a result, *Jennings* did not eliminate the constitutional due process principles recognized by the Second Circuit in cases such as *Velasco Lopez* and *Hechavarria*. Rather, it clarified that the source of those protections is the Constitution itself rather than the statute. Courts within this Circuit have continued to recognize that prolonged immigration detention without meaningful procedural safeguards raises serious due process concerns even after *Jennings*. See, e.g., *Velasco Lopez*, 978 F.3d at 855–56.
61. The adequacy of procedural protections in civil detention cases is evaluated under the balancing test articulated in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). That test considers:
- (1) the private interest affected by the official action;
 - (2) the risk of erroneous deprivation of that interest through the procedures used; and
 - (3) the government’s interest.
62. Each of these factors weighs strongly in Petitioner’s favor.
63. First, the private interest at stake—the individual’s freedom from physical restraint—is one of the most significant liberty interests protected by the Constitution. The Supreme

Court has repeatedly recognized that detention constitutes a severe deprivation of liberty. See *Zadvydas*, 533 U.S. at 690.

64. Second, the risk of erroneous deprivation is substantial where individuals are detained without any opportunity to challenge the legal basis for their detention before a neutral decision-maker. Under Respondents' interpretation of § 1225(b)(2)(A), individuals arrested in the interior of the United States may be subjected to mandatory detention without any opportunity to seek a custody hearing before an Immigration Judge.
65. The absence of any individualized review creates a significant risk that individuals will remain detained even where detention is unnecessary to achieve the government's legitimate objectives.
66. Third, the government's interest does not justify detention without review. Immigration detention is civil rather than punitive and is intended primarily to ensure attendance at removal proceedings and protect the public from danger. See *Zadvydas*, 533 U.S. at 690.
67. Those interests can be adequately protected through an individualized custody determination, such as a bond hearing before an Immigration Judge. Such procedures are routinely provided for individuals detained under 8 U.S.C. § 1226(a).
68. Respondents' interpretation of § 1225(b)(2)(A), by contrast, would permit detention for the entire duration of removal proceedings without any opportunity for individualized review. Because removal proceedings can take many months or even years to resolve, such an interpretation would authorize prolonged detention without meaningful procedural safeguards.
69. Courts have repeatedly rejected statutory interpretations that would permit civil detention to continue indefinitely without adequate procedural protections. See *Zadvydas*, 533 U.S.

at 689 (courts should avoid interpreting statutes in a manner that raises serious constitutional concerns).

70. Accordingly, even if § 1225(b)(2)(A) applies to Petitioner, the Constitution requires that he receive a meaningful opportunity to challenge the necessity of his continued detention before a neutral decision-maker.

71. Courts have repeatedly rejected such a sweeping view of executive detention authority. See *Zadvydas*, 533 U.S. at 689 (explaining that statutes should not be interpreted to permit indefinite detention absent a clear statement from Congress). Even where Congress has mandated detention in certain immigration contexts, the Constitution still requires that detention bear a reasonable relationship to its purpose and remain subject to meaningful procedural safeguards.

72. Respondents may argue that individuals detained under § 1225(b)(2)(A) are not entitled to meaningful procedural protections based on cases involving noncitizens detained at the threshold of entry to the United States. Those authorities, however, arise from a distinct doctrinal context known as the “entry fiction,” which treats certain individuals stopped at the border as if they were outside the United States for limited constitutional purposes. See *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 213 (1953).

73. In *Mezei*, the Supreme Court upheld the continued exclusion of a noncitizen who had been stopped at Ellis Island while attempting to enter the United States and who had never been admitted into the country. *Id.* at 212–13. The Court’s analysis rested heavily on the principle that an arriving noncitizen “stopped at the border” is treated differently from individuals who have entered and developed ties within the United States. *Id.*

74. More recently, in *Department of Homeland Security v. Thuraissigiam*, the Supreme Court reaffirmed this distinction when addressing the constitutional rights of an individual apprehended “just 25 yards inside the border” shortly after entering the United States unlawfully. 140 S. Ct. 1959, 1967 (2020). The Court emphasized that the case involved a noncitizen who had been apprehended immediately upon entry and therefore was treated as an arriving applicant for admission. *Id.* at 1982.

75. Those cases do not govern the circumstances presented here. Petitioner was not stopped at the border or immediately upon entry. Instead, he was arrested within the interior of the United States after residing in this country for many years. Courts have long recognized that individuals physically present in the United States possess greater constitutional protections than those seeking admission at the border. See *Zadvydas*, 533 U.S. at 693 (explaining that the Due Process Clause applies to all persons within the United States).

76. Accordingly, Respondents cannot rely on border-entry cases such as *Mezei* or *Thuraissigiam* to justify prolonged detention without process for individuals arrested in the interior of the United States. Extending those cases to the present context would dramatically expand the entry fiction doctrine and would permit the government to detain long-term residents of the United States without meaningful procedural protections, a result inconsistent with both the Constitution and longstanding principles of immigration law.

77. Respondents’ interpretation would also undermine the fundamental territorial principle underlying the Due Process Clause. The Supreme Court has long recognized that the protections of the Due Process Clause extend to all persons *physically present* within the

United States, regardless of citizenship or immigration status. More than a century ago, the Court held that constitutional guarantees apply to “all persons within the territorial jurisdiction” of the United States. *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886). The Court reaffirmed this principle shortly thereafter in *Wong Wing v. United States*, holding that even noncitizens who are unlawfully present in the country may not be subjected to imprisonment without the constitutional safeguards required by due process. 163 U.S. 228, 238 (1896). Consistent with those decisions, the Supreme Court has repeatedly emphasized that the Fifth Amendment protects every person within the United States from deprivation of liberty without due process of law. See *Mathews v. Diaz*, 426 U.S. 67, 77 (1976) (noting that even one whose “presence in this country is unlawful” is entitled to due process protections); *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (“The Due Process Clause applies to all ‘persons’ within the United States.”).

78. Respondents’ theory would effectively erase this constitutional floor. If noncitizens who entered without inspection possessed no due process protections while physically present within the United States, then such individuals could be imprisoned without the basic safeguards that the Constitution guarantees to all persons—including the protections that apply in criminal proceedings. The Supreme Court rejected that proposition more than a century ago in *Wong Wing*. Once the Government exercises custody over a person within the territorial United States, the Constitution constrains that exercise of power. Because Petitioner was arrested and detained within the interior of the United States after years of residence here, the Government cannot deprive him of liberty without the meaningful procedural protections required by the Due Process Clause.

CLAIMS FOR RELIEF

FIRST CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Substantive Due Process); 5 U.S.C. §§ 702, 706

79. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.
80. Civil immigration detention must bear a reasonable relationship to its legitimate purposes.
81. Petitioner is not a flight risk nor is he a danger to the community. Respondents' detention of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in violation of his Constitutional right to Due Process under the Fifth Amendment.
82. Petitioner's detention is unlawful because the Government is improperly subjecting him to mandatory detention under 8 U.S.C. § 1225, rather than the discretionary detention framework of § 1226.
83. Even if § 1225 could apply, Respondents failed to follow the statutory procedures required to invoke that provision.
84. As a result, Petitioner's continued detention bears no reasonable relationship to any legitimate civil immigration purpose.

SECOND CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process); 5 U.S.C. §§ 702, 706

85. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

86. The Due Process Clause of the Fifth Amendment protects all “person[s]” from deprivation of liberty “without due process of law.”
87. The Due Process Clause entitles Petitioner to a meaningful process assessing whether his detention is justified.
88. The arrest and detention of Petitioner without an opportunity for him to contest his detention in front of a neutral decisionmaker after he had been living and in the United States provide insufficient process and violates the Due Process Clause of the Fifth Amendment of the Constitution.
89. Petitioner has been denied any meaningful opportunity to challenge the Government’s determination that § 1225 applies to him
90. The Government’s approach eliminates the procedural safeguards traditionally available under § 1226, including the right to seek a custody determination before an Immigration Judge.

THIRD CLAIM

Violation of the Immigration and Nationality Act

91. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.
92. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being detained by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

93. Petitioner was arrested within the interior of the United States after residing here for many years. Accordingly, his detention is governed by § 1226(a), not § 1225(b)(2).

FOURTH CLAIM

Violation of the Administrative Procedures Act (“APA”)

94. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

95. Respondents’ detention of Respondent is arbitrary and capricious.

96. The APA requires the Court to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by “any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus”). The APA affords a right of review to a person who is “adversely affected or aggrieved by agency action.” 5 U.S.C. § 702.

97. Respondents’ newly adopted interpretation of § 1225 represents a significant departure from decades of prior agency practice.

98. This shift subjects individuals arrested within the interior of the United States to mandatory detention without bond and is contrary to the INA and therefore arbitrary and capricious.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

- (2) Issue an Order to Show Cause ordering Petitioners to show cause why this Petition should not be granted within three days;
- (3) Issue an Order Preventing Respondents from transferring Petitioner outside of the New York City metropolitan area to allow him to meaningfully participate in these proceedings;
- (4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment and the APA;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner;
- (6) Issue an Order for Respondents to return any of Petitioner's personal belongings; and
- (7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Sarah M. Coniglio, Esq.

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Attorney for Petitioner

Dated: March 13 2026

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

I represent Petitioner, Javier Solano-Casimiro, and submit this verification on his behalf.

I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 13th day of February, 2026.

/s/ Sarah M. Coniglio, Esq.