

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DE SOUZA SILVA, Lucinei,

Petitioner,

v.

JAMISON, J.L.,
Warden, Federal Detention Center,
Philadelphia;

RIFE, John E.,
Acting Field Office Director, Immigration
and Customs Enforcement, Enforcement
and Removal Operations, Philadelphia
Field Office;

NOEM, Kristi,
Secretary of the Department of Homeland
Security;

BONDI, Pamela,
U.S. Attorney General

U.S. DEPARTMENT OF HOMELAND
SECURITY;

EXECUTIVE OFFICE OF IMMIGRATION
REVIEW,

Respondents.

Case No. 2:26-cv-1680

**PETITION FOR
WRIT OF HABEAS CORPUS**

Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to remedy
Petitioner's unlawful detention by Respondents, as follows:

INTRODUCTION

1. Petitioner Lucinei De Souza Silva is a 40-year-old native of Brazil who is in the custody of the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE). Prior to his detention, Petitioner had lived in Philadelphia for over four years after entering the United States on or about July 2021.

2. On or about March 12, 2026, DHS detained Petitioner while driving out of home depot in Philadelphia. It currently detains Mr. De Souza Silva at the Philadelphia Federal Detention Center. DHS purports to hold Mr. De Souza Silva under 8 U.S.C. § 1225(b)(2)(A), a mandatory detention statute. Its detention of Mr. De Souza Silva followed a drastic recent shift away from decades of prior precedent and practice.

3. The Executive Office of Immigration Review (EOIR), which adjudicates immigration matters, recently adopted the same reinterpretation of the immigration detention laws. EOIR held, in *Matter of Yajure Hurtado*, that noncitizens who have entered the United States without inspection are mandatorily detained under Section 1225(b)(2)(A). *See* 29 I&N Dec. 216, 228 (BIA 2025). DHS and EOIR's new interpretation conflicts with the plain language and structure of the immigration detention statutes. It has been widely rejected by district judges around the country, including within this Circuit. *See Alekseev v. Warden, Philadelphia Fed. Det. Ctr.*, No. 26-0462, 2026 WL 413439, at *1 (E.D. Pa. Feb. 13, 2026) (stating all 201 decisions in this District have rejected Respondents' position). Respondents' application of 8 U.S.C. § 1225(b)(2) to Petitioner is contrary to law, violating both the Immigration and Nationality Act (INA) and the Administrative Procedure Act (APA).

4. Respondents' detention of Mr. De Souza Silva under Section 1225(b)(2)(A) further violates his substantive and procedural due process rights. Respondents' categorical detention of

all noncitizens who are subject to inadmissibility grounds without any individualized hearing lacks a “reasonable relation to the purpose for which the individual was committed.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Their detention of Mr. De Souza Silva without any pre-deprivation assessment or showing that Mr. De Souza Silva presents a flight or danger risk—the only two valid bases for civil immigration detention, *see id.*—violated his substantive due process right to be free from unwarranted custody.

5. Respondents’ detention of Mr. De Souza Silva also violates his procedural due process right for meaningful procedures to reduce the risk of an erroneous deprivation of his liberty. Each of the *Mathews v. Eldridge* balancing test favors Mr. De Souza Silva, a noncitizen who has resided in this country for over four years without any incident. *See* 424 U.S. 319, 335 (1976). Numerous United States District Courts have agreed. *See, e.g., Ndiaye v. Jamison*, No. 25-cv-6007, 2025 WL 3229307, at *2 (E.D. Pa. Nov. 19, 2025) (“[D]ue process and proper statutory interpretation of the INA preclude Ndiaye from being mandatorily detained without bond under § 1225(b)(2).”); *Nogueira-Mendes v. McShane*, No. CV 25-5810, 2025 WL 3473364, at *4 (E.D. Pa. Dec. 3, 2025) (“Because Section 1226(a) provides for a bond hearing and Petitioner has not received one, Petitioner has demonstrated that his continued detention violates his rights under that provision.”).

6. Mr. De Souza Silva respectfully requests that this Court issue a writ of habeas corpus and order Respondents to release him from their custody. *See, e.g., Ndiaye*, 2025 WL 3229307 at *5 n.5 (ordering immediate release and finding that “[a] bond hearing would certainly result in [Petitioner’s] release and only serve to delay relief when the “Government has offered no rationale to refuse bond”); Order, ECF No. 5, *Benitez Crespo v. Jamison*, No. 26-cv-93 (E.D. Pa. Jan. 16, 2026) (same). In the alternative, Petitioner requests that this Court conduct a bond hearing

at which (1) Respondents bear the burden of proving flight or danger risk by clear and convincing evidence, and (2) considers alternatives to detention that could mitigate risk of flight and ability to pay in setting any bond. *See German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203, 213-14 (3d Cir. 2020).

PARTIES

7. Petitioner Lucinei De Souza Silva is a noncitizen currently detained by Respondents pending removal proceedings. He is detained in ICE custody at the Federal Detention Center in Philadelphia, Pennsylvania.

8. Respondent J.L. Jamison is sued in his official capacity as the Warden of the Philadelphia Federal Detention Center (FDC). He has direct custodianship over Petitioner at Philadelphia FDC.

9. Respondent John E. Rife is sued in his official capacity as the Acting Field Office Director of U.S. Department of Homeland Security, Immigration and Customs Enforcement's Philadelphia Field Office. He is responsible for the administration and management of ICE Enforcement Removal Operations in Pennsylvania and exercises administrative control over Petitioner's custody.

10. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security. DHS is responsible for administering and enforcing the immigration laws, including the decision to detain noncitizens during the course of their removal proceedings. Secretary Noem has ultimate legal custodianship over Petitioner.

11. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. She is responsible for the Department of Justice, including the Executive Office of Immigration Review. EOIR adjudicates individual immigration matters, including in

removal and custody proceedings.

12. Respondent the U.S. Department of Homeland Security is the federal agency responsible for implementing and enforcing the Immigration and Nationality Act, including the detention of noncitizens during removal proceedings.

13. Respondent the Executive Office of Immigration Review is the federal agency responsible for administering removal and custody proceedings. EOIR is a component of the U.S. Department of Justice. EOIR includes the Board of Immigration Appeals (BIA) and the immigration courts.

JURISDICTION AND VENUE

14. This action arises under the Fifth and Fourteenth Amendments to the U.S. Constitution.

15. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 1361. 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.

16. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against one of its agencies and that agency's officers are sued in their official capacities. 5 U.S.C. § 702.

17. Venue is proper in this District because the Petitioner is detained in this district. 28 U.S.C. § 1391; *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. There is no statutory requirement of exhaustion of administrative remedies in habeas proceedings under § 2241. *Kashranov v. Jamison*, No. 2:25-CV-05555-JDW, 2025 WL

3188399, at *4 (E.D. Pa. Nov. 14, 2025). Any requirement of administrative exhaustion is therefore purely discretionary. *Ndiaye*, 2025 WL 3229307 at *3 (citing *Cerro Metal Prods. v. Marshall*, 620 F.2d 964, 970 (3d Cir. 1980)).

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

20. A petitioner further “does not need to ‘exhaust administrative remedies where the issue presented involves only statutory construction.” *Ndiaye*, 2025 WL 3229307, at *3 (quoting *Vasquez v. Strada*, 684 F.3d 431, 433–34 (3d Cir. 2012)). Because the “the issue in this case hinges entirely on the statutory construction of 8 U.S.C. §§ 1225 and 1226,” Mr. De Souza Silva should not be required to exhaust administrative remedies. *Id.*

21. The exhaustion “doctrine” is moreover “not without exception.” *Ashley v. Ridge*, 288 F. Supp. 2d 662, 666. (D.N.J. 2003). “Courts have found that the exhaustion of administrative remedies may not be required when available remedies provide no opportunity for adequate relief, an administrative appeal would be futile, or if plaintiff has raised a substantial constitutional question.” *Id.* at 666–67.

22. The BIA issued a published decision holding that noncitizens like Mr. De Souza Silva, who entered the United States without inspection, are ineligible for bond pursuant to 8 U.S.C. § 1225(b)(2)(A). *See Yajure Hurtado*, 29 I. & N. Dec. at 220. The BIA and immigration judges are bound by *Yajure Hurtado*. 8 C.F.R. § 1003.1(g)(1). Exhaustion before the EOIR would therefore be futile because it “would almost certainly result in the BIA persisting in its earlier rulings and applying those rulings to [Petitioner], all while he remains in detention.” *Del Cid v.*

Bondi, No. 25-cv-304, 2025 WL 2985150, at *13 (W.D. Pa. Oct. 23, 2025); *see also Kashranov*, 2025 WL 3188399, at *4 (finding further administrative review would “serve no practical purpose” considering the BIA’s decision in *Yajure Hurtado* “has already fixed its position,” rendering exhaustion “an empty formality”).

23. The BIA also does not have jurisdiction to adjudicate constitutional issues. *Qatanani v. Att’y Gen. of the U.S.*, 144 F.4th 485, 500 (3d Cir. 2025); *see also Ashley*, 288 F. Supp. 2d at 667 (citation omitted). Any administrative proceedings would therefore be futile as to Jesus’s constitutional due process claims. *Qatanani*, 144 F.4th at 500.

1. STATEMENT OF FACTS

24. Mr. De Souza Silva left his country of birth, Brazil, and entered the United States without inspection at San Luis, Arizona on or about July 29, 2021. *See* Ex. 3, Immigration Documents.

25. Mr. De Souza Silva was encountered by DHS officers shortly after entering the country. DHS detained and processed Mr. De Souza Silva, initiated removal proceedings, and released him on his own recognizance to live in New Jersey.

26. Mr. De Souza Silva established community in New Jersey. He resided with his spouse and three children. He worked in construction and was arrested on his way to work. He was the primary financial support for his family.

27. Mr. De Souza Silva complied with all the conditions of his removal proceedings and immigration release. He attended each hearing and checked in with ICE at each scheduled appointment. Upon information and belief, he submitted an asylum application. His immigration proceedings were administratively closed. Respondents have subsequently reopened his immigration proceedings and his next immigration hearing is for March 24, 2026, in the Elizabeth

Immigration Court. *See* Ex. # 1, Exec. Off. of Immigr Rev., *Automated Case Information*, <https://acis.eoir.justice.gov/en/> (last accessed March 16, 2026) (search conducted for A-Number, “A [REDACTED]; Country of Birth, “Brazil”).

28. DHS currently holds Mr. De Souza Silva at the Philadelphia Federal Detention Center. *See* Ex. # 2, U.S. Immigr. & Customs Enft, *Online Detainee Locator System*, <https://locator.ice.gov/odls/#/search> (last accessed March 16, 2026) (search conducted for A-Number, “A# [REDACTED],” and Country of Birth “Brazil”).

29. Upon information and belief, Respondents detained Mr. De Souza Silva under its revised interpretation of the immigration detention statutes; specifically, their new view that all noncitizens who have not been “admitted,” 8 U.S.C. § 1101(a)(13)(A) are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

LEGAL FRAMEWORK

I. Section 1226(a) Governs the Detention of People Like Petitioner Who are Detained in the United States and Have Not Previously Been Admitted

30. The Immigration and Nationality Act contains several provisions authorizing detention of noncitizens. Title 8 U.S.C. § 1226(a) entitles most noncitizens with pending removal proceedings to a hearing before an immigration judge (“IJ”) to determine whether they should be released on bond. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d). Title 8 U.S.C. § 1225(b), meanwhile, mandates the detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for recent arrivals “seeking admission” under (b)(2).

31. The detention provisions at 8 U.S.C. § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585.

Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). “Upon passing IIRIRA, Congress declared that the new Section 1226(a) ‘restates the current provisions in the predecessor statute,’” which allowed noncitizens who entered without inspection to be released on bond. *Rodriguez Vasquez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (citing H.R. Rep. No. 104-469, pt. 1, at 229; H.R. Rep. No. 104-828, at 210).

32. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under 8 U.S.C. § 1225 and that they were instead detained under 8 U.S.C. § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.”).

33. In the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an IJ, unless their criminal history rendered them ineligible. *Ndiaye*, 2025 WL 3229307 at *6 (finding that DHS and EOIR DHS “maintained this practice since § 1225(b)(2) first took effect in 1997”). That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994).

34. Respondents abruptly changed course this past year. On July 8, 2025, ICE Director Todd M. Lyons issued an internal memorandum stating that, “in coordination with the Department of Justice (DOJ),” DHS had “revisited” its legal position and believed that 8 U.S.C. § 1225, not § 1226, governs the detention of noncitizens who are present in the United States without having been admitted. *Martinez v. Hyde*, 792 F. Supp. 3d 211, 218 (D. Mass. 2025).

35. And on September 5, 2025, the BIA followed suit and issued a precedential decision in *Yajure Hurtado*, holding that noncitizens “who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings.” 29 I. & N. Dec. at 220.

36. The *Yajure Hurtado* interpretation has been soundly rejected by Article III Courts. Judges from all around the country, including from the Eastern District of Pennsylvania, have held that people who are present without having been admitted are eligible for bond pursuant to § 1226(a). *See Alekseev*, 2026 WL 413439, at *1 (E.D. Pa. Feb. 13, 2026) (stating all 201 decisions in this District have rejected Respondents’ position); *Ndiaye v. J.L. Jamison, et al*, No. CV 25-6007, 2026 WL 373247, at *7 (E.D. Pa. Feb. 10, 2026) (noting “308 judges[, appointed by every president since Ronald Regan,] have ruled against the [Government]’s mass detention policy—ordering release or bond hearings in more than 1,600 cases” and listing cases in this District) (alterations in original) (internal citation omitted); *Demirel v. Fed. Det. Ctr. Philadelphia*, No. 25-cv-5488, 2025 WL 3218243, at *5–13 (E.D. Pa. Nov. 18, 2025) (listing out 288 cases across the nation that have rejected *Yajure Hurtado*).

37. As these decisions explain, the BIA’s position in *Yajure Hurtado* defies the INA. The plain text of the statute shows that 8 U.S.C. § 1226(a), not § 1225(b), applies to immigrants

like Mr. De Souza Silva. Section 1226(a) applies by default to all persons “pending a decision on whether the[y] . . . [are] to be removed from the United States.” *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (describing 8 U.S.C. § 1226(a) as the “default rule” for the detention of noncitizens pending removal).

38. The text of 8 U.S.C. § 1226 explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Just this year, Congress enacted subparagraph (E) in the Laken Riley Act to exclude certain noncitizens who entered without inspection from § 1226(a)’s default bond provision. Subparagraph (E)’s reference to persons inadmissible under § 1182(6)(A), i.e., persons inadmissible for entering without inspection, makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vasquez* court explained, “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.” *Rodriguez Vasquez*, 779 F. Supp. 3d at 1256–57 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

39. Under the BIA’s interpretation, all noncitizens subject to inadmissibility grounds are detained without the opportunity for a bond hearing under 8 U.S.C. § 1225(b). *Yajure Hurtado*, 29 I&N Dec. at 220; *see* 8 U.S.C. § 1182(a)(6) (making people who are present without having been admitted inadmissible); 8 U.S.C. § 1101(a)(14) (defining an admission). Therefore, this interpretation would render all the grounds of mandatory detention in 8 U.S.C. § 1226(c) applied to inadmissible noncitizens, including the recently-passed Laken Riley Act, superfluous. *Ndiaye*, 2025 WL 3229307 at *6; *Rodriguez Vasquez*, 779 F. Supp. 3d at 1258; *see Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2013) (“[T]he canon against surplusage is strongest when an interpretation would render superfluous another part of the same statutory scheme.”). This

statutory structure demonstrates that Congress did not intend to make 8 U.S.C. § 1226(a) inapplicable to all inadmissible noncitizens, but rather viewed it as the default bond provision for people arrested within the United States, as the Supreme Court confirmed in *Jennings*.

40. By contrast, 8 U.S.C. § 1225(b) applies to people arriving at U.S. ports of entry or who very recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A); *see also Vasquez-Rosario v. Noem*, No. 25-CV-7427, 2026 WL 196505, at *9 (E.D. Pa. Jan. 26, 2026) (collecting cases and holding that “seeking admission” means “‘physically attempting to come into the United States, typically at a border or port of entry and presenting oneself for inspection and authorization’”) (quoting *Kashranov*, 2025 WL 3188399 at *6). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings*, 583 U.S. at 287.

41. “The Government’s interpretation of 8 U.S.C. § 1225(b)(2) [indeed] violates the rule against surplusage” because it reads out the phrase, “seeking admission.” *Ndiaye*, 2025 WL 3229307, at *14; *Demirel*, 2025 WL 3218243, at *9 (“I am not prepared to read this part [“alien[s] seeking admission”] of § 1225(b)(2) out of existence.”). Section 1225(b)(2) only applies to people who are (1) applicants for admission; (2) seeking admission; and (3) not clearly and beyond a doubt entitled to be admitted. 8 U.S.C. § 1225(b)(2)(A); *Demirel*, 2025 WL 3218243, at *9. The BIA’s interpretation makes all applicants for admission subject to mandatory detention, leaving the “seeking admission” criterion unnecessary and violating the rule against surplusage. *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 487 (S.D.N.Y. 2025); *Martinez*, 792 F. Supp. 3d at 217.

42. Instead, the phrase “seeking admission” indicates that 8 U.S.C. § 1225(b)(2)(A) applies to people who are taking “some sort of present-tense action,” in other words, coming or attempting to come into the United States. *Diaz Martinez*, 2025 WL 2084238, at *6; *see also Matter of M-C-D-V-*, 28 I&N Dec. 18, 23 (BIA 2020) (stating that “the use of the present progressive tense . . . denotes an ongoing process”). Therefore, 8 U.S.C. § 1226(a), not § 1225(b)(2)(A), governs the detention of people detained within the United States who are not actively seeking admission, as required by the statute.

43. Applying 8 U.S.C. § 1226(a), rather than § 1225(b), to people detained in the interior who had previously entered without inspection is consistent with the government’s longstanding practice, which “can inform a court’s determination of what the law is.” *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024). This longstanding practice further counsels against the BIA’s abrupt change in policy. *Ndiaye*, 2025 WL 3229307 at *7-8.

44. Finally, as discussed below, the BIA’s interpretation of 8 U.S.C. § 1225(b)(2)(A) to mandate detention without a bond hearing for all noncitizens present in the United States without having been admitted presents serious constitutional concerns. To the degree that the statute remains ambiguous, the Court should presume that Congress “did not intend the alternative which raises serious constitutional doubts” and reject that construction. *Clark v. Martinez*, 543 U.S. 371, 381–82 (2005). Section 1225(b)(2)(A) does not govern Mr. De Souza Silva’s detention.

II. The BIA’s Application of Mandatory Detention to Noncitizens Like Petitioner Violates Substantive and Procedural Due Process

45. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government

custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690. This fundamental due process protection applies to all noncitizens within the United States, including both removable and inadmissible noncitizens. *See id.* at 693; *Plyler v. Doe*, 457 U.S. 202, 212 (1982); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896).

46. Absent adequate procedural protections, substantive due process requires a “special justification” that “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690; *accord, e.g., Torralba v. Knight*, No. 2:25-cv-1366, 2025 WL 2581792, at *12 (D. Nev. Sept. 5, 2025) (describing the standard for a substantive due process violation); *Fernandez v. Lyons*, No. 8:25-cv-506, 2025 WL 2531539, at *4 (D. Neb. Sept. 3, 2025) (same); *Luna Quispe v. Crawford*, No. 25-cv-1471, 2025 WL 2783799, at *7 (E.D. Va. Sept. 29, 2025) (same). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Zadvydas*, 533 U.S. at 693; *Demore*, 538 U.S. at 528. To withstand constitutional scrutiny, the nature and duration of mandatory immigration detention must be reasonably related to these purposes.

47. In *Demore*, the Supreme Court upheld the constitutionality of 8 U.S.C. § 1226(c) against a facial challenge, specifically citing evidence that had been before Congress about noncitizens with criminal convictions. 538 U.S. at 518-520. This justification does not apply, however, to noncitizens with no criminal convictions who have lived in the community for years. The broad policy set forth in *Yajure Hurtado* is not reasonably related to the purposes of prevent danger to the community or flight risk and violates substantive due process.

48. Respondents’ re-detention of Mr. De Souza Silva without any pre-deprivation assessment of his flight or danger risks violates his substantive due process rights. When DHS “first released” Mr. De Souza Silva in 2021, “it could not have done so validly unless it did not consider him to be a flight risk or a danger to the community.” *Lopez Benitez*, 795 F. Supp. 3d at 495. Its detention of Mr. De Souza Silva without showing what, if anything, has changed in that calculus was improper. *See, e.g., Kourouma v. Jamison*, No. 26-cv-182, 2026 WL 120208, at *5 (E.D. Pa. Jan. 15, 2026) (“This Court will order the release of Petitioner because he was unlawfully detained.”); *Tumba Huamani v. Francis*, --- F. Supp. ---, 2025 WL 3079014, at *9 (S.D.N.Y. Nov. 4, 2025) (ordering release after finding “the complete absence of any reason for Petitioner’s arrest” by DHS); *Lopez Benitez*, 795 F. Supp. 3d at 499 (ordering release after rejecting the government’s “suggestion that [its] agents may sweep up any person they wish, for no reason whatsoever . . . so long as the person will, at some unknown point in time, be allowed to ask some other official for his or her release”) (cleaned up).¹

49. Additionally, procedural due process protects noncitizens against deprivation of liberty without adequate procedural protections, including notice and the opportunity to be heard. *A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1367 (2025); *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). In determining the proper procedure to protect a detained noncitizen’s procedural due process rights under the Fifth Amendment, courts

¹ Mr. De Souza Silva’s re-detention further implicates recognized protections from the parole revocation context. The Supreme Court “has made clear that individuals subject to the revocation of their parole are entitled to certain due process rights, including ‘a written statement by the factfinders as to the evidence relied on and reasons for revoking parole.’” *United States v. Patterson*, 957 F.3d 426, 433 (4th Cir. 2020) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 489 (1972)); *see also* 18 U.S.C. § 3583(e) (requiring courts to consider specific factors prior to modifying or revoking a person’s conditions of supervised release).

apply the three-part balancing test in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), weighing (1) “the private interest that will be affected by the official action;” (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;” and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Black v. Decker*, 103 F.4th 133, 147-48 (2d Cir. 2024); *Gayle v. Warden Monmouth C’ty Corr. Facility*, 12 F. 4th 321, 331 (3d Cir. 2021); *Hernandez-Lara v. v. Lyons*, 10 F.4th 19, 28 (1st Cir 2021); *Velasco Lopez*, 978 F.3d at 851 (all quoting *Mathews*, 424 U.S. at 335). Each factor favors providing Mr. De Souza Silva additional process.

50. First, the “importance and fundamental nature” of an individual’s liberty interest is well-established. *United States v. Salerno*, 481 U.S. 739, 750 (1987); *see also Ashley*, 288 F. Supp. at 670 (“[F]reedom from confinement is a liberty interest of the highest constitutional import.”). For people “who can face years of detention before resolution of their immigration proceedings, ‘the individual interest at stake is without doubt particularly important.’” *Linares Martinez v. Decker*, No. 18-cv-6527 (JMF), 2018 WL 5023946 at *3 (S.D.N.Y. Oct. 17, 2018).

51. Weighing this factor in *Velasco Lopez*, the Second Circuit found the private interest to be “on any calculus, substantial,” observing that the petitioner “could not maintain employment or see his family or friends or others outside normal visiting hours. The use of a cell phone was prohibited, and he had no access to the internet or email and limited access to the telephone.” 978 F.3d at 851–52. Similarly, the First Circuit found a substantial private liberty interest for the petitioner in *Hernandez-Lara*, noting that the petitioner there was incarcerated “alongside criminal inmates” at a jail where “she was separated from her fiancé and unable to maintain her

employment.” 10 F.4th at 28. Because Mr. De Souza Silva has the same core interest in his liberty, the first factor weighs in his favor.

52. Second, Respondents’ blanket detention of all inadmissible noncitizens creates a large risk of erroneous deprivation. Particularly, it has led and continues to lead to the detention of many—like Mr. De Souza Silva—who the government cannot prove to be a flight risk or a danger to the community. *See, e.g., Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1187–88 (D. Minn. 2025) (noting that lack of consideration of “individualized or particularized facts . . . increases the potential for erroneous deprivation of individuals’ private rights”); *Ashley*, 28 F. Supp. 2d at 670 (finding a procedural due process violation because “the Government has not proved that Petitioner presents an identified and articulable threat to an individual or the community so as to justify his continued detention”). A bond hearing would have significant value because it is designed to assess the individualized facts of each case and determine whether less restrictive measures can fulfill the same goals. The second factor therefore weighs in Mr. De Souza Silva’s favor.

53. Finally, the burden on the government of returning to the longstanding practice of holding bond hearings for people like Petitioner does not outweigh the liberty interest at stake. To the contrary, the government has an interest in “minimizing the enormous impact of incarceration in cases where it serves no purpose.” *Velasco Lopez*, 978 F.3d at 854; *see also Hernandez-Lara*, 10 F.4th at 33 (noting that “limiting the use of detention to only those noncitizens who are dangerous or a flight risk may save the government, and therefore the public, from expending substantial resources on needless detention”). Additionally, “unnecessary detention imposes substantial societal costs. . . . The needless detention of those individuals thus separates families and removes from the community breadwinners, caregivers, parents, siblings and employees. Those ruptures in the fabric of communal life impact society in intangible ways that are difficult

to calculate in dollars and cents.” *Hernandez-Lara*, 10 F.4th at 33 (citation and internal quotation marks omitted). The cost to the government and society of detaining people unnecessarily for long periods of time is greater than the cost of providing individualized hearings. The third factor therefore weighs in affording Mr. De Souza Silva additional procedural protections.

54. Given Respondents did not conduct any pre-deprivation assessment of Mr. De Souza Silva risks prior to his detention, he merits release, as recognized by many courts in this District. *See, e.g., Kourouma*, 2026 WL 120208, at *5 (“The Court will order the release of Petitioner because he was unlawfully detained.”); *Kashranov*, 2025 WL 3188399, at *8 (“Because the Government detained Mr. Kashranov without the bond hearing that Section 1226(a) and the Due Process Clause require, Mr. Kashranov should not now be in custody.”); *Centeno Ibarra v. Warden of the Fed. Det. Ctr. Philadelphia*, No. CV 25-6312, 2025 WL 3294726, at *8 (E.D. Pa. Nov. 25, 2025) (“Because a bond hearing is unnecessary, this Court will order his immediate release.”); *Patel v. McShane*, No. CV 25-5975, 2025 WL 3241212, at *3 (E.D. Pa. Nov. 20, 2025); *see also Moctezuma v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (given that the government’s repeated use of unlawful detention policies across the country, causing petitioners to “sit in jail waiting for a judicial decision,” the court would order immediate release instead of causing additional delay through a bond hearing) (citing *Lepe v. Andrews*, 801 F. Supp. 3d 1104 (E.D. Cal. 2025)).

55. Mr. De Souza Silva also merits release because a bond hearing before an immigration judge has been shown not to be an adequate remedy. Immigration judges have unreasonably refused to grant bond despite evidence that a noncitizen is not a danger or a flight risk, requiring petitioners to seek further relief from habeas courts. *See A.D. v. Oddo*, Civil Action No. 25-460J, Memorandum Order at 7-8 (W.D. Pa. Feb. 12, 2026) (finding petitioner was unfairly

prejudiced at his habeas ordered bond hearing and ordering immediate release); *Soto-Medina v. Lynch*, No. 1:25-CV-1704, 2026 WL 161002, at *2 (W.D. Mich. Jan. 21, 2026) (noting that at a habeas ordered bond hearing petitioner presented evidence that he is not a flight risk or danger, including “evidence of his family connections, that his daughter attended Chicago Public Schools, and that he has a pending asylum application and valid work authorization,” that the “government did not present any evidence” against granting bond, but “the immigration judge denied Petitioner’s request for bond because Petitioner had ‘not established that he is not a flight risk’”); *Ramirez v. Lynch*, No. 1:25-CV-1800, 2026 WL 212932, at *1 (W.D. Mich. Jan. 27, 2026) (same). A hearing before an immigration judge also does not provide a sufficient assurance of neutrality. Immigration judges, who serve at the pleasure of the U.S. Attorney General—a respondent in this matter—have been removed from service for not following the Executive’s deportation goals. *See, e.g.*, Joshua Goodman, *Military Lawyer Swiftly Fired from Immigration Bench After Defying Trump Deportation Push*, Times Union (updated Dec. 19, 2025), <https://www.timesunion.com/news/politics/article/military-lawyer-swiftly-fired-from-immigration-21252504.php>. And on January 13, 2026, Chief Immigration Judge Teresa L. Riley instructed immigration judges to continue denying bond despite a nationwide declaration against DHS’s detention policies in *Maldonado Bautista v. Santacruz*, No. 25-cv-1873, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025). *See Practice Alert: EOIR Issues Nationwide Guidance on Maldonado Bautista*, AILA Doc. No. 26011404, Am. Immigr. Laws. Ass’n (Jan. 16, 2026), <https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista> (last visited Feb. 8, 2026).

56. If, alternatively, this Court orders for a bond hearing, due process requires that the Government bear the burden of proof by clear and convincing evidence. *See Gayle*, 12 F.4th at

332 (“[W]hen such a severe deprivation is at issue, the Government must bear the burden of proof.”). Such a “standard of proof serves to [properly] allocate the risk of error between the litigants and reflects the relative importance attached to the ultimate decision.” *German Santos*, 965 F.3d at 213 (citing *Addington v. Texas*, 441 U.S. 418, 423 (1979)). The Third Circuit has long ordered for the government to bear a clear and convincing burden at a constitutionally-mandated bond hearing. *German Santos*, 965 F.3d at 214; *Guerrero-Sanchez v. Warden York Cnty. Prison*, 905 F.3d 208, 224 n.12 (3d Cir. 2018), *abrogated on other grounds by Johnson v. Arteaga-Martinez*, 596 U.S. 572 (2022). Other circuit courts have similarly held the same for Section 1226(a) detention. *Hernandez-Lara*, 10 F.4th at 39–40; *Velasco Lopez*, 978 F.3d at 855–56; *see also Soto-Medina*, 2026 WL 161002, at *5-11. Any assessment of custody should include consideration of alternatives to detention and ability to pay. *See, e.g., Black*, 103 F.4th at 155.

57. Should this Court order for a bond hearing, it should preside over such a hearing rather than assign it to an EOIR administrative judge, for the reasons discussed above. *See Centeno-Martinez v. Jamison*, No. CV 25-3593, 2025 WL 3157711, at *3 (E.D. Pa. Nov. 12, 2025) (finding that the district court should hold the bond hearing because it is “a ‘legal and logical concomitant’ of habeas jurisdiction, particularly where delay risks perpetuating the constitutional injury”); *Swann v. Charlotte Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15 (1971) (“[T]he scope of a district court’s equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies.”); *see also Zadvydas*, 533 U.S. at 700 (authorizing federal courts to “condition[]” a noncitizen’s release “on any of the various forms of supervised release that are appropriate in the circumstances.”).

FIRST CLAIM FOR RELIEF

Violation of the Immigration and Nationality Act

Unlawful Application of Mandatory Detention Provision

58. Petitioner re-alleges and incorporates by reference the above paragraphs.

59. 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 grounds of inadmissibility. Specifically, it does not apply to Mr. De Souza Silva, who has been living in the United States since 2021, for over four years prior to his detention in March 2026.

60. Mr. De Souza Silva was not “seeking admission” in 2026. At the time of his detention while leaving Home Depot on March 12, 2026, he was no longer engaged in that “present-tense action.” *Martinez*, 792 F. Supp. 3d at 218. He therefore no longer met the requirements of Section 1225(b)(2)(A).

61. Respondents’ unlawful and arbitrary application of 8 U.S.C. § 1225(b)(2) to Mr. De Souza Silva violates the INA.

SECOND CLAIM FOR RELIEF

Violation of the Administrative Procedure Act Agency Policy and Practice is Arbitrary, Capricious, and Contrary to Law

62. Petitioner re-alleges and incorporates by reference the above paragraphs.

63. An agency decision that “runs counter to the evidence before the agency” is arbitrary and capricious. *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983).

64. An agency decision that “failed to consider important aspects of the problem” is also arbitrary and capricious. *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1910 (2020)

65. 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 grounds of inadmissibility. Specifically, it does not apply to Mr. De Souza Silva, who has been living in the United States since 2021.

66. In taking a contrary position, Respondents have reversed decades of prior practice, and “would expand § 1225(b) face beyond how it has been enforced historically, potentially subjecting millions more undocumented immigrants to mandatory detention, while simultaneously narrowing § 1226(a) such that it would have extremely limited (if any) application.” *Lopez Benitez*, 795 F. Supp. 3d at 490. Respondents have failed to articulate reasoned explanations for their decisions, which represent changes in the agencies’ policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.

67. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). Respondents’ application of 8 U.S.C. § 1225(b)(2) to Mr. De Souza Silva is arbitrary, capricious, and not in accordance with law.

THIRD CLAIM FOR RELIEF

Violation of the Fifth Amendment Due Process Clause Detention Without Any Relation to Limited Goals of Civil Immigration Detention Violates Substantive Due Process

68. Petitioner re-alleges and incorporates by reference the above paragraphs.

69. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V. Substantive due process requires that immigration detention without a bond hearing be reasonably related to the goals of ensuring the appearance of noncitizens at future proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690.

70. The BIA’s application of mandatory detention under 8 U.S.C. § 1225(b)(2) is not reasonably related to those goals and thus violates substantive due process. DHS previously released Mr. De Souza Silva in 2021. Mr. De Souza Silva has a history of full compliance with all conditions of his release and removal proceedings. Upon information and belief, Mr. De Souza Silva applied for asylum previously. His immigration proceedings were administratively closed. He has never missed a court hearing for his removal proceedings and he has no criminal history. He has never been charged with a violent crime and has never been convicted of any crime at all, anywhere in the world.

71. Respondents’ detention of Mr. De Souza Silva without any consideration of his particular flight or danger risks bears no relation to the limited goals of immigration detention.

FOURTH CLAIM FOR RELIEF

Violation of the Fifth Amendment Due Process Clause Detention Without Any Procedures to Limit Erroneous Deprivation of a Core Private Right Violates Procedural Due Process

72. Petitioner re-alleges and incorporates by reference the above paragraphs.

73. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V. Courts

apply the *Mathews v. Eldridge* balancing test to determine what procedures the due process clause requires. *Gayle*, 12 F.4th at 331.

74. The first factor is the private interest that will be affected by the official action. *Id.* Here, the deprivation of Petitioner’s liberty is a particularly weighty interest. *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (describing the substantial private interest in remaining out of custody, which “enables [one] to do a wide range of things open to persons” who are free from custody).

75. The second factor is the risk of erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional safeguards. *Id.* Here, there is a great risk of unnecessary detention because the BIA’s interpretation of the statute does not permit any individualized determination of whether detention during removal proceedings is necessary. *See Ashley*, 288 F. Supp. 2d at 670. Respondents’ procedures—or lack thereof—create an erroneously high risk of wrongly depriving those, like Mr. De Souza Silva, their protected interest in being free from government custody.

76. The final factor is the Government’s interest. *Gayle*, 12 F.4th at 331. The government has no legitimate interest in detaining Petitioner when detention is not necessary to ensure his appearance at future hearings or protect the community, and less restrictive measures like a reasonable bond would serve those purposes. *Hernandez-Lara*, 10 F.4th at 32–33; *see Ousman D. v. Decker*, No. 20-cv-9646, 2020 WL 5587441, at *4 (D.N.J. Sept. 18, 2020) (holding that due process requires consideration of less restrictive alternatives to detention that would address the government’s legitimate purpose); *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 241–42 (W.D.N.Y. 2019) (same). Affording noncitizens pre-deprivation review of their flight or danger risks presents a minimal burden and serves the government’s interest in ensuring only those

individuals that need to be detained are detained. *See Velasco Lopez*, 978 F.3d at 857 (the government “has no interest in the continued incarceration of an individual who it cannot show to be either a flight risk or a danger to his community” and the public has an “interest in seeing that individuals who need not be jailed are not incarcerated”)

77. Respondents’ detention of Petitioner without any hearing to determine whether that detention is necessary violates procedural due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Issue an order administratively staying Respondents from transferring Petitioner outside of this Court’s geographic jurisdiction pending the Court’s adjudication of the petition;²

² Petitioner requests a stay of his transfer to ensure that should this Court grant him relief, he may quickly and reasonably access such relief. *See, e.g.*, Order, ECF No. 4, *Zavala Ulloa v. Jamison*, 2:26-cv-00813-KSM (E.D.P.A. Feb. 9, 2026) (enjoining Respondents “from taking any action that would result in the removal of Petitioner from the Eastern District of Pennsylvania”); Order, ECF No. 3, *Lantiguez Alvarado v. Bondi*, No. 26-cv-768 (S.D.N.Y. Jan. 29, 2026) (administratively staying the noncitizen from transfer out of the Southern and Eastern Districts of New York, or the District of New Jersey).

At a recent show cause hearing, Judge Jerry W. Blackwell of the U.S. District Court for the District of Minnesota outlined the collateral difficulties of acquiring adequate government compliance if the government transfers a noncitizen outside of the habeas court’s jurisdiction. He explained that it takes “repeat, after repeat, after follow-up, after follow-up with the Government” to receive information and procure a noncitizen’s return. Tr. of Show Cause Hr’g, ECF No. 19, *Segundo A.P.G. et al. v. Bondi*, No. 26-cv-603 (D. Minn. Feb. 3, 2026), at 11. And he traced the difficulty in prescribing adequate remedies, describing:

For example, if we say, release the person immediately, then we learn that, having transported [the noncitizen] to El Paso or New Mexico, [the government] do[esn’t] bring him back. We learn that somebody is put out on the street with just the clothes on their backs and have to figure out how to get back here when they should not

3) Declare that Petitioner’s continued detention violates the Immigration and Nationality Act, the Administrative Procedure Act, and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

4) Issue a Writ of Habeas Corpus and order Petitioner’s immediate release from custody without additional or new conditions;³

5) In the alternative, conduct a custody hearing at which Respondents must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner’s release would present;

6) Issue an order requiring Respondents to return Petitioner’s personal property, including identification and documents;⁴

have been arrested here in the first place, let alone flown halfway across the continent of North America. And have to – so now we have to address that. We have to say, bring them back.

And then we say, all right, so you brought them back. We can’t have them released when it’s minus 14 outside. And so now we have to address that. Don’t release them in the circumstances that might endanger their health or safety.

And so once that’s addressed, then we learn they’ve been released, but now conditions have been imposed. That somebody who should not have been arrested in the first place is now being told, you’re going to be released if you wear an ankle monitor, which the Court didn’t order because the person was unlawfully detained in the first place. Then we have to go back and address that now.

Id. at 33–34.

³ See, e.g., Order, ECF 8, *Noicy v. Jamison et al.*, No. CV 26-1388, 2026 WL 637635 (E.D. Pa. Mar. 6, 2026) (ordering that “the Government shall not subject [Petitioner] to any conditions of release including the imposition of any and all GPS monitoring technology or devices”).

⁴ See, e.g., Order, ECF 6, *Juarez Francisco v. Jamison et al.*, No. CV 26-1321, 2026 WL 607988 (E.D. Pa. Mar. 4, 2026) (ordering “immediately upon his release [return] all personal belongings confiscated upon or during his detention, including his identification documents”); Order, ECF 20,

7) Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law, *see Michelin v. Warden Moshannon Valley Corr. Ctr.*, --- F.4th ---, 2026 WL 263483 (3d Cir. Feb. 2, 2026); and

8) Grant such further relief as the Court deems just and proper.

Dated: March 16, 2026

Respectfully submitted,

/s/Mikaela Wolf-Sorokin

Mikaela Wolf-Sorokin, Esq. (Bar # 335725)

DEFENDER ASSOCIATION OF PHILADELPHIA

1441 Sansom Street

Philadelphia, PA 19102

Tel: 267-765-6789

MLWolfSorokin@philadefender.org

Pro Bono Counsel for Petitioner

Abreu v. Baker et al., Civil No. 25-3088-BAH (D. Md) (Dec. 18, 2025) (ordering return of petitioner's personal property confiscated at the time of her detention); *Ortiz Martinez v. Wamsley*, No. 2:25-CV-01822-TMC, 2025 WL 2899116, at *5 (W.D. Wash. Oct. 10, 2025) (same).

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF
PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner as a member of Petitioner's legal team. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: March 16, 2026

Respectfully submitted,

/s/Mikaela Wolf-Sorokin

Mikaela Wolf-Sorokin, Esq. (Bar # 335725)

DEFENDER ASSOCIATION OF PHILADELPHIA

1441 Sansom Street

Philadelphia, PA 19102

Tel: 267-765-6789

MLWolfSorokin@philadefender.org

Pro Bono Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system. I will furthermore send a courtesy copy via email to the office of the United States Attorney for the Eastern District of Pennsylvania.

Dated: March 16, 2026

Respectfully submitted,

/s/Mikaela Wolf-Sorokin

Mikaela Wolf-Sorokin, Esq. (Bar # 335725)

DEFENDER ASSOCIATION OF PHILADELPHIA

1441 Sansom Street

Philadelphia, PA 19102

Tel: 267-765-6789

MLWolfSorokin@philadefender.org

Pro Bono Counsel for Petitioner

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Lucinei De Souza Silva

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mikaela Wolf-Sorokin, Defender Ass'n of Phila, 1441
Sansom St, Phila, PA 19102, 267-765-6789

DEFENDANTS

J.L. Jamison et al.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

AUSA - EDPA

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education PRISONER PETITIONS Habeas Corpus: ☒ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
8 USC section 2241

Brief description of cause:

Civil immigration detention violates INA, APA, and Fifth Amendment of US Constitution

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/16/2026

SIGNATURE OF ATTORNEY OF RECORD

/s/Mikaela Wolf-Sorokin

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESIGNATION FORM

Place of Accident, Incident, or Transaction: Philadelphia, PA

RELATED CASE IF ANY: Case Number: _____ Judge: _____

- | | |
|---|------------------------------|
| 1. Does this case involve property included in an earlier numbered suit? | Yes ☐ |
| 2. Does this case involve a transaction or occurrence which was the subject of an earlier numbered suit? | Yes ☐ |
| 3. Does this case involve the validity or infringement of a patent which was the subject of an earlier numbered suit? | Yes ☐ |
| 4. Is this case a second or successive habeas corpus petition, social security appeal, or pro se case filed by the same individual? | Yes ☐ |
| 5. Is this case related to an earlier numbered suit even though none of the above categories apply?
If yes, attach an explanation. | Yes ☐ |

I certify that, to the best of my knowledge and belief, the within case ☐ is / ☒ is not related to any pending or previously terminated action in this court.

Civil Litigation Categories

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts)
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Wage and Hour Class Action/Collective Action
- ☐ 6. Patent
- ☐ 7. Copyright/Trademark
- ☐ 8. Employment
- ☐ 9. Labor-Management Relations
- ☐ 10. Civil Rights
- ☐ 11. Habeas Corpus
- ☐ 12. Securities Cases
- ☐ 13. Social Security Review Cases
- ☐ 14. Qui Tam Cases
- ☐ 15. Cases Seeking Systemic Relief ***see certification below***
- ☐ 16. All Other Federal Question Cases. (Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. All Other Diversity Cases: (Please specify) _____

I certify that, to the best of my knowledge and belief, that the remedy sought in this case ☐ does / ☒ does not have implications beyond the parties before the court and ☐ does / ☒ does not seek to bar or mandate statewide or nationwide enforcement of a state or federal law including a rule, regulation, policy, or order of the executive branch or a state or federal agency, whether by declaratory judgment and/or any form of injunctive relief.

ARBITRATION CERTIFICATION (CHECK ONLY ONE BOX BELOW)

I certify that, to the best of my knowledge and belief:

☐ Pursuant to Local Civil Rule 53.2(3), this case is not eligible for arbitration either because (1) it seeks relief other than money damages; (2) the money damages sought are in excess of \$150,000 exclusive of interest and costs; (3) it is a social security case, includes a prisoner as a party, or alleges a violation of a right secured by the U.S. Constitution, or (4) jurisdiction is based in whole or in part on 28 U.S.C. § 1343.

☒ None of the restrictions in Local Civil Rule 53.2 apply and this case is eligible for arbitration.

NOTE: A trial de novo will be by jury only if there has been compliance with F.R.C.P. 38.

EX. 1



An official website of the United States government

Here's how you know



EOIR | Automated Case Information

Court Closures Today March 16, 2026

Please check <https://www.justice.gov/eoir-operational-status> for up to date closures.

[Home](#) > **DE SOUZA-SILVA, LUCINEI**



Automated Case Information

Name: DE SOUZA-SILVA, LUCINEI | **A-Number:**



Docket Date: 3/13/2026



Next Hearing Information

Your upcoming **MASTER** hearing is **INTERNET-BASED** on **March 24, 2026** at **1:30 PM.**

JUDGE

Panopoulos, Adam

WEBEX ADDRESS

[HTTPS://EOIR.WEBEX.COM/MEET/IJ.ADAM.PANOPOULOS](https://EOIR.WEBEX.COM/MEET/IJ.ADAM.PANOPOULOS)



Court Decision and Motion Information



This case is pending.



BIA Case Information

No appeal was received for this case.



Court Contact Information

If you require further information regarding your case, or wish to file additional documents, please contact the immigration court.

COURT ADDRESS

625 EVANS STREET ROOM 148A
ELIZABETH, NJ 07201

PHONE NUMBER

(908) 787-1355

[Archive](#)

[Accessibility](#)

[Information Quality](#)

[Privacy Policy](#)

[Legal Policies & Disclaimers](#)

[Social Media](#)

[Budget & Performance](#)

[Office of the Inspector General](#)

[No FEAR Act](#)

[For Employees](#)

[EOIR Freedom of Information Act \(FOIA\)](#)

[USA.gov](#)

[Contact EOIR](#)

[EOIR Home](#)

[Justice.gov](#)

[Immigration Court Online Resource](#)

[Contact Technical Support](#)

This site is protected by hCaptcha:

[hCaptcha Privacy Policy](#)

[hCaptcha Terms of Service](#)

Department of Justice | Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041



EOIR | Automated Case Information

EX. 2



Report

Main Menu

Search Results: 1

LUCINEI DE SOUZA-SILVA**Country of Birth :** Brazil**A-Number:** **Status :** In ICE Custody**State:** PA**Current Detention Facility:** [Philadelphia Federal Detention Center](#)** Click on the Detention Facility name to obtain facility contact information*[BACK TO SEARCH >](#)

Related Information

Helpful Info

[Status of a Case](#)[About the Detainee Locator](#)[Brochure](#)[ICE ERO Field Offices](#)[ICE Detention Facilities](#)[Privacy Notice](#)

External Links

[Privacy](#) - [Terms](#)

Bureau of Prisons Inmate
Locator



[DHS.gov](#)[USA.gov](#)[OIG](#)[OpenFOIA](#)[Metrics](#) [No](#) [Site](#) [Site](#)
[Gov](#) [FearMap](#)[Policies](#)
[Act](#) [&](#)
[Plug-](#)
[Ins](#)

EX. 3

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DD

Form No. 1002 (03-01-2014)

In removal proceedings under section 240 of the Immigration and Nationality Act:
 Subject ID: [REDACTED]
 In the Matter of: [REDACTED] FIVE [REDACTED] File No: [REDACTED]
 Respondent: [REDACTED] DOB: [REDACTED] currently residing at:
 [REDACTED] (Number, Street, City, State and ZIP code) [REDACTED] (Area code and phone number)

☐ You are an arriving alien.
☒ You are an alien present in the United States who has not been admitted or paroled.
☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of BRAZIL and a citizen of BRAZIL;
3. You arrived in the United States at or near SAN LUIS, AZ, on or about July 20, 2021;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(v)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

970 Broad Street, Room 1200, 12th Floor Newark NJ 07102
 (Complete Address of Immigration Court, including Room Number, if any)

on July 15, 2022 at 3:00 PM to show why you should not be removed from the United States based on the charge(s) set forth above.

CORY HAYSINGER - Acting ED00
 (Signature and Title of Issuing Officer) (Sign in blue ink)

Date: August 18, 2021 Ms. Laurel, NJ
 (City and State)

This Notice to Appear Supersedes the Notice to Appear issued on July 30, 2021.

DHS Form I-852 (2/20)

Page 1 of 3

U.S. Department of Homeland Security

Order of Release on Recognizance

File No. [REDACTED]
Date: July 30, 2021
Event: [REDACTED]

Name: LUCINET DE SOUZA-SILVA

You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions:

- ☒ You must report for any hearing or interview as directed by the Department of Homeland Security or the Executive Office for Immigration Review.
- ☒ You must surrender for removal from the United States if so ordered.
- ☒ You must report in (writing) (person) to DUTY OFFICER

970 Broad Street, 11th Floor, Newark, NJ 07102 on OCTOBER 5, 2021 at 08:00 AM
(Location of DHS Office) (Day of each week or month) (Time)

If you are allowed to report in writing, the report must contain your name, alien registration number, current address, place of employment, and other pertinent information as required by the officer listed above.

- ☒ You must not change your place of residence without first securing written permission from the immigration officer listed above.
- ☒ You must not violate any local, State, or Federal laws or ordinances.
- ☒ You must assist the Department of Homeland Security in obtaining any necessary travel documents.
- ☒ Other: Not authorized for employment.

☐ See attached sheet containing other specified conditions. (Continue on separate sheet if required)

NOTICE: Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by the Department of Homeland Security.

[Signature]
JOEL P. CRUZ
ACTING WATCH COMMANDER
(Printed Name and Title of Official)

Alien's Acknowledgment of Conditions of Release on Recognizance

I hereby acknowledge that I have (read) (had interpreted and explained to me in the PORTUGUESE language) and understand the conditions of my release as set forth in this order. I further understand that if I do not comply with these conditions, the Department of Homeland Security may revoke my release without further notice.

VALERIE BECERRA
(Signature of Immigration Officer Serving Order)

[Signature]
(Signature of Alien)

07/30/2021
(Date)

Cancellation of Order

I hereby cancel this order of release because: ☐ The alien failed to comply with the conditions of release.
☒ The alien was taken into custody for removal.

(Signature of Immigration Officer Canceling Order)

(Date)

Form I-220A (Rev. 08/01/07) N