UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS, DIVISION

GAURANG CHAUDHARI
A

Petitioner, Case No.

HABEAS CORPUS
PETITON FOR WRIT

Jason Streeval,Warden, Stewart Detention Center, Lumpkin, Georgia
; **TODD LYONS**, Acting Director of Immigration
and Customs Enforcement ("ICE");
; **KRISTI NOEM**, Secretary of the
Department of Homeland Security ("DHS"); U.S.
DEPARTMENT OF HOMELAND SECURITY; **PAMELA**
BONDI, and Attorney General of the United States.

Respondents,

Petitioner, files Petition for Habeas Corpus and Complaint for Declaratory and Injunctive Relief, under 28 U.S.C. §§2241, (habeas corpus) 1331 (federal question), with the Administrative Procedure Act, 5 U.S.C. §702 et seq; 28 U.S.C. §2201 (Declaratory Judgment Act).

I. INTRODUCTION

1. Immigration and Customs Enforcement ("ICE") and the Department of Justice ("DOJ") are unlawfully detaining Petitioner. The Immigration Court, a subcomponent of DOJ, refuses to provide him a bond hearing. As such, his detention violates 8 U.S.C. § 1226(a) and the Fifth Amendment of the United States Constitution.
2. DOJ claims that the statutory basis for the Petitioner's detention is 8 U.S.C. § 1225, which does not allow for release on bond. However, because ICE arrested him within the interior of the United States, 8 U.S.C. § 1226(a) provides the statutory basis for his detention. Section 1226(a) allows for release on bond and conditions during the pendency of immigration proceedings. As such, his continued detention without a hearing violates 8 U.S.C. § 1226(a)

3. Despite a century of settled law and practice, DOJ continues to disclaim its responsibility to provide the Petitioner with a bond hearing pursuant to *Matter of Yajure Hurtado.* This new bond hearing denial policy violates his procedural due process right to be heard concerning whether the government should continue to deprive him of his liberty.

4. Petitioner respectfully petitions this Court for a writ of habeas corpus to review the lawfulness of his detention by the Respondents. Petitioner's continued detention is unlawful.

II. JURISDICTION AND VENUE

5. This action arises under the constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. §1101 et. seq.

6. Petitioner is in Respondents custody at Steward Detention Center, GA.

7. This court has subject matter jurisdiction under 28 U.S.C. §§2241 (habeas corpus), U.S.C. §1331 (federal question), and Article I, §9, cl. 2 of the United States Constitution (Suspension Clause).

8. This court may grant relief under the habeas corpus statutes, 28 U.S.C. §2241 et. seq., the Declaratory Judgement Act, 28 U.S.C. §2201 et. seq., the All-Writs Act, 28 U.S.C. §1651, and the Immigration and Nationality Act, 8 U.S.C. §1252(e)(2).

III. VENUE

9. Venue is proper because Petitioner is in Respondents custody at Steward Detention Center, GA center and Venue lies in the United Stated District Court for the Middle District of Georgia, the judicial district in which petitioner is currently detained.

10. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of

Georgia.

IV. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

11. The Court must grant the petition for writ of habeas corpus or issue an order to how cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

12. 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).

13. Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

V. THE PARTIES

14. Petitioner has been detained by ICE since March 2026. ICE detained him at Stewart Detention Center.

15. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs and Enforcement, and he has authority over the actions of respondent and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

16. Respondent, Jason Streeval Warden, Stewart Detention Center, Lumpkin, Georgia is a legal custodian of Petitioner.

17. Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has

authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

18. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

19. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

20. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

21. This action is commenced against all Respondents in their official capacities.

VI. STATUTORY PROVISIONS GOVERNING DETENTION AND BOND; AND LEGAL FRAMEWORK

22. The Immigration and Nationality Act (INA) authorizes immigration officers to arrest noncitizens without a warrant only under limited circumstances. Pursuant to 8 U.S.C. § 1357(a)(2), such an arrest is lawful only if the officer has probable cause to believe that the individual is (a) in violation of immigration laws and (b) likely to escape before a warrant can be obtained.

23. The implementing regulations at 8 C.F.R. §§ 287.5(c)(1) and 287.8(c)(2)(i)–(iii) impose additional procedural requirements. These include: (a) The officer must identify themselves "as soon as it is practical and safe to do so." 8 C.F.R. § 287.5(c)(2)(iii)(A–B); (b) The officer must state that the person is under arrest and the reason for the arrest; (c)

The officer must document specific, articulable facts supporting both the immigration violation and the likelihood of escape.

24. An arrest executed without a warrant or without a documented flight risk assessment violates the INA, its regulations, and binding agency policy. Such conduct constitutes: (a) Unlawful agency action under the Administrative Procedure Act (APA), 5 U.S.C. § 706(2)(A–D); (b) Ultra vires action, exceeding statutory authority and subject to judicial review.

25. Courts have consistently invalidated immigration enforcement actions that disregard statutory and regulatory limits. See: *Judulang v. Holder*, 565 U.S. 42, 53 (2011); *Calderon v. Sessions*, 330 F. Supp. 3d 944, 955–59 (S.D.N.Y. 2018); *Ramirez v. ICE*, 338 F. Supp. 3d 1, 41–43 (D.D.C. 2018).

26. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar collateral APA challenges to unlawful arrest and detention. Such claims are reviewable under: (a) 28 U.S.C. § 1331 (federal question jurisdiction); (b) 28 U.S.C. § 2241 (habeas corpus). See also: *INS v. St. Cyr*, 533 U.S. 289, 308–09 (2001); *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018); *Canal A Media Holding v. USCIS*, 964 F.3d 1250, 1257 (11th Cir. 2020).

27. The Administrative Procedure Act (APA), 5 U.S.C. § 706(2)(A-D), provides that courts shall set aside agency action that is arbitrary, capricious, an abuse of discretion, in excess of statutory authority, or taken without observance of procedure required by law. An arrest executed without a warrant or flight risk assessment, in violation of the statutory and regulatory framework, as well as the agency's own published policy enacting those laws, constitutes unlawful agency action under the APA.

28. Agency action that exceeds statutory authority is also ultra vires. Where immigration officers act outside the bounds of their delegated powers—such as by failing to satisfy the mandatory predicates for warrantless arrest—the resulting detention is unauthorized. The Supreme Court has recognized that ultra vires agency action is subject to judicial review and may be enjoined. See *Leedom v. Kyne*, 358 U.S. 184, 188 (1958).

29. The APA provides a cause of action to challenge such agency misconduct, and courts have consistently invalidated immigration enforcement actions that disregard statutory limits or binding agency rules. See *Judulang v. Holder*, 565 U.S. 42, 53 (2011); *Calderon v. Sessions*, 330 F. Supp. 3d 944, 955–59 (S.D.N.Y. 2018); *Ramirez v. ICE*, 338 F. Supp. 3d 1, 41–43 (D.D.C. 2018).

30. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not apply to this APA claim. The claim does not challenge a final order of removal, does not arise from removal proceedings, and does not implicate a discretionary decision. It is a collateral legal challenge to the legality of Petitioner's arrest and detention, reviewable under 28 U.S.C. §§ 1331 and 2241. See *INS v. St. Cyr*, 533 U.S. 289, 308–09 (2001); *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018); *Canal A Media Holding v. USCIS*, 964 F.3d 1250, 1257 (11th Cir. 2020).

31. The availability of declaratory relief in this context is well established. In *Nielsen v. Preap*, 139 S. Ct. 954, 962 (2019), the Supreme Court affirmed that district courts retain jurisdiction to entertain requests for declaratory relief even where injunctive relief may be limited under 8 U.S.C. § 1252(f)(1).

32. In *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044–47 (1984), the Court declined to apply the exclusionary rule in civil immigration proceedings, in part, because it reasoned that

declaratory relief remains available as an alternative for individuals in custody. The Court noted that the INS had developed rules and procedures to protect Fourth Amendment rights and that suppression might still be appropriate in cases involving "egregious violations of Fourth Amendment or other liberties that might transgress notions of fundamental fairness" or "widespread violations" of constitutional protections. See id. at 1050–51.

33. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

34. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

35. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

36. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

37. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

38. The detention provisions at § 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(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

39. 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 § 1225 and that they were instead detained under § 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).

40. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

41. Judicial estoppel is an equitable doctrine designed to protect the integrity of the judicial process by prohibiting parties from assuming inconsistent positions in litigation to gain unfair advantage. It is "especially" applicable "if it be to the prejudice of the party who has acquiesced in the position formerly taken by him." *Davis v. Wakelee*, 156 U.S. 680, 689 (1895).

42. The Supreme Court reaffirmed this principle in *New Hampshire v. Maine*, holding that judicial estoppel applies when: (1) a party's later position is "clearly inconsistent" with its earlier position; (2) the party succeeded in persuading a court to accept the earlier position, such that acceptance of the later position would create the perception that the court was misled; and (especially) when (3) the party would derive an unfair advantage or impose an unfair detriment on the opposing party if not estopped. 532 U.S. 742, 749–51 (2001). The

Court emphasized that these factors are not "inflexible prerequisites or an exhaustive formula," and that "additional considerations may inform the doctrine's application in specific factual contexts." Id. at 751.

43. In *New Hampshire*, the Court barred the state from asserting a boundary interpretation that contradicted its prior position, which had been accepted by the Court and had yielded a favorable outcome. The Court found that the reversal would "undermine the integrity of the judicial process" and create a "risk of inconsistent court determinations." Id. at 751, 755.

44. In *Jennings v. Rodriguez*, a case in which the government prevailed, the Department of Homeland Security (DHS) explicitly acknowledged that individuals who have already entered the United States and are not apprehended within 100 miles of the border or within 14 days of entry are subject to discretionary detention under 8 U.S.C. § 1226(a), not mandatory detention under § 1225(b).

45. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

46. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

47. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

48. Since Respondents adopted their new policies, several federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

49. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

50. A growing number of federal courts have rejected ICE and EOIR's expanded interpretation of the Immigration and Nationality Act's detention provisions. These courts have consistently held that § 1226(a), not § 1225(b)(2), governs the detention authority applicable in these cases. This case is seeking relief consistent with the relief sough in the case of *J.A.M. v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

51. Further sever deferral district court across the country have opined to the decision that Specifically, the Court concluded that for noncitizens "who are found in the country

unlawfully and are arrested" without having been inspected by an examining immigration officer, then "an immigration officer or immigration judge has the discretion" under 8 U.S.C. § 1226(a) to grant them release on bond unless a statutory exception applies under 8 U.S.C. § 1226(c) *J.A.M. v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

52. More examples includes courts in Massachusetts, Arizona, New York, Minnesota, California, and Nebraska have reached this conclusion. See: *Gomes v. Hyde*, No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB) (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH) (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM (D. Mass. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF (N.D. Cal. Aug. 21, 2025); *Palma Perez v. Berg*, No. 8:25CV494 (D. Neb. Sept. 3, 2025).\

53. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered without visa and were never apprehended. Petitioner's detention is governed by 8 U.S.C. § 1226, which applies to individuals who are present in the United States and placed in removal proceedings. Petitioner was never arrested at or near the border and was never subject to expedited removal under 8 U.S.C. § 1225. Rather, he was taken into custody by ICE inside the United States after years of residence. Accordingly, his current detention is discretionary under § 1226, and the Department of Homeland

Security lacks lawful authority to continue detaining him arbitrarily or for a punitive purpose.

VII. EXHAUSTION OF ADMINISTRATIVE REMEDIES

54. This Court has jurisdiction to review habeas petitions filed by immigration detainees who assert that they are "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Since exhaustion, as the government recognizes, is not required by statute in this context, its exhaustion argument is measured against the "more permissive" common-law, rather than statutory, exhaustion standard, which "'cedes discretion to a [federal] court to decline the exercise of jurisdiction.'" *Brito v. Garland*, 22 F.4th 240, 255-56 (1st Cir. 2021) (quoting *Anversa v. Partners Healthcare Sys., Inc.*, 835 F.3d 167, 174 (1st Cir. 2016)); *see* ECF 7, at 6. While the exhaustion doctrine often "'serves the twin purposes of protecting administrative agency authority and promoting judicial efficiency,'" there are "'circumstances in which the interests of the individual weigh heavily against requiring administrative exhaustion.'" *Portela-Gonzalez v. Sec'y of the Navy*, 109 F.3d 74, 77 (1st Cir. 1997) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 145-46 (1992)). As relevant here, "a court may consider relaxing the [exhaustion requirement] when unreasonable or indefinite delay threatens unduly to prejudice the subsequent bringing of a judicial action." *Id.* "And, relatedly, if the situation is such that 'a particular plaintiff may suffer irreparable harm if unable to secure immediate judicial consideration of his claim,' exhaustion may be excused even though 'the administrative decision making schedule is otherwise reasonable and definite.'" *Id.* (quoting *McCarthy*, 503 U.S. at 147). Irreparable harm may be established where a petitioner will be incarcerated or detained pending the exhaustion of administrative remedies. *See Brito*, 22

F.4th at 256 ("'[E]xhaustion might not be required if [the petitioner] were challenging her incarceration . . . or the ongoing deprivation of some other liberty interest.'" (quoting *Bois v. Marsh*, 801 F.2d 462, 468 (D.C. Cir. 1986))).

55. Here, the Petitioner did apply for Bond redetermination before the Immigration Judge of Atlanta Immigration Court and via order dated January 28, 2026, the immigration Court found no Jurisdiction to adjudicate the request for Bond Redetermination as a result of *Matter of Yajure Hurtado*.

VIII. FACTUAL ALLEGATIONS

56. Petitioner a native and citizen of India. He entered the United States without being inspected or paroled on or about November 19, 2022. The Petitioner was apprehended and was issued a Notice to Appear ("NTA") on the same day. **Exhibit A**, NTA. Following his surrender, immigration authorities took him into custody. ICE processed him and then, on November 24, 2022, released him on recognizance. **Exhibit B**, Records of Release

57. On or about March 2026, Petitioner was arrested by ICE when he went for his regular ICE reporting.

58. The Petitioner was apprehended during this operation despite engaging in no unlawful activity, presenting no threat to public safety, and offering no resistance or provocation of any kind.

59. This was the first time the Petitioner was apprehended by ICE.

60. Petitioner has been present in the United States for over three years. He has a timely filed asylum application pending before the Immigration Court.

61. The Petitioner was later taken and detained at the Stewart Detention Center, GA.

IX. CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF BOND REGULATION

93. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

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

95. Here the petitioner is detained "pursuant to the authority contained in Section 236 of the INA; He is not "seeking admission" as defined in the caselaw nor has an immigration officer determined he is "not clearly and beyond a doubt entitled to be admitted" as required under 8 U.S.C. § 1225(b)(2)(A).

96. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

97. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT TWO

VIOLATION OF DUE PROCESS

98. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

99. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

100. Petitioner has a fundamental interest in liberty and being free from official restraint.

101. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

<u>COUNT THREE</u>

JUDICIAL ESTOPPEL

102. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

103. The Government is judicially estopped from asserting that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). In prior litigation, including *Jennings v. Rodriguez*, the Government prevailed, and in doing so argued that individuals who entered without inspection and were not apprehended near the border or within 14 days were subject to discretionary detention under § 1226(a), not mandatory detention under § 1225(b)(2)(A). See *Jennings v. Rodriguez*, No. 15-1204, Tr. of Oral Arg. at 7–8 (Nov. 30, 2016).

104. Courts accepted that position. Now, the Government reverses course and asserts the opposite interpretation to deny bond hearings. Under *New Hampshire v. Maine*, 532 U.S. 742 (2001), judicial estoppel applies where a party assumes a position, prevails, and then adopts a

contrary position to gain an unfair advantage. The Government's reversal undermines the integrity of the judicial process and prejudices Petitioners who relied on the prior interpretation.

COUNT FOUR

VIOLATION OF THE INA

105. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

106. 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 noncitizens who were arrested "[o]n a warrant . . . pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Such noncitizens continue to be detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

107. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT FIVE

RELIEF UNDER THE ADMINISTRATIVE PROCEDURE ACT

108. Petitioner incorporates by reference the allegations of fact and legal standards set forth in the preceding paragraphs.

109. Respondents' arrest and continued detention of Petitioner were unlawful under the APA.

110. The arrest and continued detention of Petitioner, executed without a warrant and without any documented flight risk assessment, were unlawful ab initio and remain unlawful. The detention constitutes a continuing seizure of Petitioner's person and is a direct and uninterrupted extension of the original unlawful arrest.

111. Respondents' actions constitute final agency action under 5 U.S.C. § 704, as they reflect the consummation of the agency's decision-making process and determine Petitioner's legal rights and obligations.

112. Under 5 U.S.C. § 706(2)(A), (C), and (D), the APA requires courts to set aside agency action that is arbitrary, capricious, an abuse of discretion, not in accordance with law, in excess of statutory authority, or taken without observance of procedure required by law. Respondents' arrest and detention violate all of these provisions.

113. Petitioner's APA claim is not barred by 8 U.S.C. § 1252. The jurisdiction-stripping provisions of § 1252 do not apply because this claim does not challenge a final order of removal, does not arise from removal proceedings, and does not implicate a discretionary decision. It is a collateral legal challenge to the legality of the arrest and detention, reviewable under 28 U.S.C. §§ 1331 and 2241.

114. Respondents' conduct also exceeds the scope of their statutory authority and is ultra vires. DHS officers are only authorized to arrest without a warrant when both statutory predicates—immigration violation and likelihood of escape—are satisfied. Where they are not, the agency acts beyond its delegated powers.

115. Petitioner therefore seeks declaratory relief under the APA declaring the arrest and detention unlawful, and injunctive relief enjoining Respondents from continuing or repeating detention based on the same unlawful arrest.

116. Petitioner further seeks a declaration that suppression is available in this case under the APA due to the egregious nature of the Fourth Amendment violation, or in the alternative, due to widespread violations of constitutional and statutory protections, as recognized in *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1050–51 (1984).

X. PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this court grant the following relief:

1. Assume Jurisdiction over this matter;

2. Order that Petitioner shall not be transferred outside the Middle District of Georgia while this habeas petition is pending.

3. Issue an Order to Show Cause ordering Respondents to show why this Petition should not be granted within three days.

4. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

5. Declare that Respondents' arrest of Petitioner was unlawful under the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (C), and (D), as it was executed without a warrant or flight risk assessment, in violation of 8 U.S.C. § 1357(a)(2), and 8 C.F.R. § 287.8(c)(2),

6. Declare that Respondents acted ultra vires in arresting and detaining Petitioner without statutory authority, and that the ongoing detention is a continuation of that unlawful seizure and remains unauthorized.

7. Enjoin Respondents from continuing Petitioner's detention or initiating future detention based on the same unlawful arrest or, in the alternative, order that Petitioner be granted a bond hearing.

8. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted on March 17, 2026.

/s/ Ripal Patel

Ripal P. Patel
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GA # 922226

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CERTIFICATE OF SERVICE

I, Ripal Patel, hereby certify that a copy of the foregoing was mailed First class postage prepaid to the office of the Attorney General at the below mentioned address:

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