**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF NEW YORK**

SHAUN RICARDO RAMBARRAT,

Petitioner,

v.

TODD LYONS, ACTING DIRECTOR, UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, AND FREDERICK AKSHAR, SHERIFF BROOME COUNTY JAIL,

Respondents.

Civil Action No.
9:26-cv-00448 (ECC)

# FEDERAL RESPONDENT'S RESPONSE TO PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. 2241

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## PRELIMINARY STATEMENT

Petitioner Shaun Ricardo Rambarrat ("Petitioner") challenges his detention and seeks immediate release, arguing that (i) an immigration judge's ("IJ") denial of bond violates his Fifth Amendment right to due process; (ii) his civil immigration arrest violated the Fourth Amendment; and (iii) the Government has interfered with his Fourteenth Amendment right to marry by detaining him. *See* Dkt. 1 ¶¶ 6, 23-24, 34, 42. Petitioner is currently detained pursuant to 8 U.S.C. § 1226(a), as an alien who was previously admitted to the United States on a visa but is subject to removal for staying longer than permitted. As such, this Petition does not implicate the question that has been litigated in hundreds of habeas petitions across the country in recent months: whether noncitizens encountered in the interior who entered the country without admission are subject to detention under 8 U.S.C. § 1225 or § 1226.[1]

The Petition should be dismissed because Petitioner's appeal challenging the IJ's denial of bond (alongside his appeal of his removal order) is still pending, and he should administratively exhaust that challenge to his detention before seeking habeas relief in this Court. Otherwise, Petitioner's due process challenges to his detention fail because 8 U.S.C. § 1226(a) authorizes his detention as a visa overstayer; his approximately three-month detention is not prolonged; and

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[1] Because this case concerns detention under § 1226(a) of a noncitizen who has been admitted and been provided multiple bond hearings before the immigration court—rather than detention under than § 1225(b)(2)—prior adverse decisions from this Court concerning the Government's reliance on § 1225(b)(2) do not control the outcome here. *See, e.g.*, *Noguez v. Brophy*, No. 26-cv-00030, Dkt. 14 at 6 (N.D.N.Y. Feb. 13, 2026) (D'Agostino, J.); *Gaspar v. Akshar*, No. 9:26-CV-00118 (BKS), 2026 WL 699369, at *1 (N.D.N.Y. Feb. 17, 2026) (Sannes, C.J.); *Alvarez v. Philips*, No. 26-cv-00058, Dkt. 11 at 6 (N.D.N.Y. Feb. 17, 2026) (Brindisi, J.); *Perdomo Perez v. Akshar et al.*, No. 26-cv-00120, Dkt. 19 at 5 (N.D.N.Y. Mar. 5, 2026) (Coombe, J.); *Olivares v. ICE Custodian*, No. 9:26-CV-00203 (AMN), 2026 WL 686090 (N.D.N.Y. Mar. 11, 2026) (Nardacci, J.). In other words, for the reasons discussed herein, the applicability of § 1225 versus § 1226 is not at issue in this case.

because Petitioner has received the process he was due when he was provided two bond hearings. To the extent Petitioner challenges the substance of the IJ's discretionary bond determinations, 8 U.S.C. § 1226(e) precludes him from doing so in this proceeding. Finally, his claims challenging his arrest and concerning his right to marry are not cognizable in habeas proceedings and are otherwise meritless. Accordingly, the Court should dismiss this Petition.

## FACTUAL BACKGROUND

Petitioner, a native and citizen of Guyana, was admitted to the United States at JFK Airport on January 23, 2024, as a nonimmigrant B-1/B-2 visa visitor with authorization to remain in the United States until February 10, 2024. Declaration of Scott Prezepasniak ("Prezepasniak Decl.") ¶ 4. As set forth on the U.S. Department of State's website, "[v]isitor visas are nonimmigrant visas for persons who want to enter the United States temporarily for business (B-1 visa), for tourism (B-2 visa), or for a combination of both purposes (B-1/B-2 visa)." Visitor Visa, U.S Department of State, https://travel.state.gov/content/travel/en/us-visas/tourism-visit/visitor.html/visa (last visited Mar. 24, 2026). Petitioner remained in the United States beyond February 10, 2024, without authorization. Prezepasniak Decl. ¶ 5.

On January 6, 2026, U.S. Border Patrol agents encountered Petitioner in Massena, New York, at approximately 2:44 AM. *Id.* ¶ 6. According to the Form I-213, Record of Deportable/Inadmissible Alien which was prepared by U.S. Border Patrol, Petitioner was inside a vehicle that bore a Maryland license plate and that was parked near a walking trail on the Wilson Hill Causeway, an area known to Border Patrol agents as one used for alien smuggling. *Id.* Based on those circumstances, including the odd hour of the night and the fact that alien smugglers often come from out of state to the border area to transport illegal aliens from the border area, Border Patrol agents interviewed Petitioner, who identified himself. *Id.* Border Patrol agents conducted a

records check and confirmed that Petitioner a B-1/B-2 visa overstay as of February 10, 2024. *Id.* As such, Petitioner was arrested and taken into DHS custody. *See id.*; *see also id.*, Ex. A at 1-4. He was served with a Form I-200, Warrant for Arrest of Alien, that day. *See id.* ¶ 7.

On January 6, 2026, the same date as his arrest, Petitioner requested voluntary departure to Guyana and signed a declaration verifying his willingness to depart and waive any opportunity to file applications for relief or protection from removal or deportation. *See id.* ¶ 8.

On January 27, 2026, Petitioner, through counsel, withdrew his voluntary departure and requested a Notice to Appear. *Id.* ¶ 9.

On February 5, 2026, Petitioner was served with a Notice to Appear, alleging that he is subject to removal in that after admission as a nonimmigrant under the Immigration and Nationality Act ("INA"), he remained in the United States for a time longer than permitted, in violation of law. *Id.* ¶ 10. He was also notified that he would be detained pending removal proceedings. *Id.* Also on February 5, 2026, Petitioner requested review of his custody determination by an IJ. *See id.*

On February 9, 2026, Petitioner was afforded a bond hearing, and an IJ denied bond. *Id.* ¶ 11. According to the order of the IJ, bond was denied for the following reasons:

> [Petitioner] has overstayed his visa and obtained work, despite not having a work authorization. He does not have sufficient roots in the community as he rents his home on a month to-month basis. Although he has a USC child, he is not married to the child's mother, despite [Petitioner]'s claim he is making arrangements to do so. [Petitioner]does not appear to have any form of prospective immigration relief, besides filing an I-130, once he is married. Such an application could take close to 18 months to be reviewed and potentially favorably adjudicated, if meritorious. [Petitioner]does not intend to file an I-589 application [for asylum].

*Id.*, Ex. A at 13.

According to Petitioner, he has initiated the process for requesting permission to marry his fiancé while detained in the Broome County Correctional Facility. *See* Dkt. 1 ¶¶ 29-44; Dkt. 1, Ex. N (outlining steps Petitioner has taken to request permission to marry from the Broome County Sheriff's Department while incarcerated). According to Petitioner's counsel, Petitioner must first request permission to marry while incarcerated from the *Broome County Sheriff's Department*—not DHS. Dkt. 1, Ex. N ¶ 4. The Broome County Sheriff's Department investigates the proposed marriage "for security concerns," *id.*, and then the Broome County Sheriff's Department "contacts ICE to ascertain whether it has any objections," *id.* Petitioner alleges that "[o]n February 23, 2026, Lt. Snyder [of the Broome County Sheriff's Department] initiated the request for the Broome County Sheriff's Department to conduct its security inquiry," which "should be completed within 30-60 days." *Id.* ¶ 6. Petitioner alleges he would like to marry his fiancée so they can file a Form I-130 Petition for Alien Relative, and in turn, seek adjustment of status. *See* Dkt. 1 ¶ 18.

On March 2, 2026, an IJ issued three orders as to Petitioner. *See* Prezepasniak Decl. ¶¶ 12-13. First, the IJ ordered Petitioner removed to Guyana. *See id.* ¶ 12. Second, the IJ denied Petitioner's motion to terminate or administratively close proceedings, reasoning that he had "no immediate factual or legal basis for immigration relief and had not file[d] any applications for such relief." *Id.* The IJ also denied bond a second time, reasoning that "there are no significant or material changes in the facts since [Petitioner's] first bond motion." *Id.* ¶ 13. The IJ further stated as follows:

> [Petitioner] still presents as a flight risk as he overstayed his visa and then engaged in work without obtaining a work authorization. Although he now claims to have a fixed address with a lease, previously he was renting his home on a month-to-month basis. He has not filed, nor will he be filing, an I-589 application. He is attempting to arrange a marriage between himself and his fiancé while he is in immigration detention. No date has been set for their marriage ceremony. Even if he is married in the near future, the filing of an I-130 would take over a year to be processed,

> even if it were granted. Under these circumstances, there are no material changed facts which would support release on bond.

*Id.*, Ex. A at 19.

On March 17, 2026, Petitioner filed appeals with the Board of Immigration Appeals ("BIA") of the decisions of the IJ (i) ordering his removal and (ii) denying bond to the BIA, both dated March 2, 2026. *Id.* ¶ 14. Both of Petitioner's BIA appeals are currently pending. *See id.*

Petitioner has been in immigration custody since January 6, 2026, just under three months. *Id.* ¶ 15. He is detained at Broome County Correctional Facility, where he remains today. *Id.*

On March 23, 2026, Petitioner filed the instant petition for writ of habeas corpus, raising claims under the Fourth, Fifth, and Fourteenth Amendments to challenge his detention. *See generally* Dkt. 1. Petitioner seeks immediate release. *See id.* at 9. The Court ordered that Petitioner not be transferred out of the Northern District of New York during the pendency of this action, and that responses to the Petition be filed on or before March 30, 2026. Respondent Frederick Akshar, Sheriff of Broome County, filed a response on March 24, 2026. *See* Dkt. 5.

## LEGAL BACKGROUND

28 U.S.C. § 2241(c)(3) authorizes federal courts to grant habeas relief to prisoners or detainees who are "in custody in violation of the Constitution or laws or treaties of the United States." In that regard, the Supreme Court has long recognized that "detention during deportation proceedings [is] a constitutionally valid aspect of the deportation process." *Demore v. Kim*, 538 U.S. 510, 523 (2003). Moreover, various provisions of the Immigration and Nationality Act ("INA") authorize the detention of aliens both before and after they are ordered removed from the United States. *See Hechavarria v. Sessions*, 891 F.3d 49, 54 (2d Cir. 2018).

## I. Statutory Detention Authorities

### A. Pending Removal Proceedings: 8 U.S.C. §§ 1225 and 1226

Statutory detention authority for aliens who are in pending removal proceedings can be found in either 8 U.S.C. § 1225 or 8 U.S.C. § 1226. Section 1225 generally mandates detention, without the possibility of bond, for the duration of removal proceedings for certain aliens who come within its scope, who are—generally speaking—aliens who have not been admitted to the United States. *See* 8 U.S.C. § 1225. It does not apply to Petitioner because he was previously "admitted" to the United States on a B-1/B-2 visitor visa with authorization to remain in the United States until February 10, 2024. Prezepasniak Decl. ¶ 4.

Section 1226 governs the arrest, detention, and release of aliens who are detained "pending a decision on whether the [noncitizen] is to be removed from the United States." 8 U.S.C. § 1226(a). Section 1226(a) gives the Government discretion after the arrest of an alien believed to be removeable to either detain the alien or release him on bond or conditional parole. *See id.* § 1226(a)(1), (2). By contrast, § 1226(c) mandates detention for the duration of removal proceedings where the alien has committed one of the specifically enumerated offenses identified in that provision.

When an alien is apprehended, a DHS officer makes an initial custody determination. See 8 C.F.R. § 236.1(c)(8). DHS "may continue to detain the arrested alien." 8 U.S.C. § 1226(a)(1). "To secure release, the alien must show that he does not pose a danger to the community and that he is likely to appear for future proceedings." *Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (citing 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8); *Matter of Adeniji*, 22 I. & N. Dec. 1102, 1113 (BIA 1999)).

If DHS decides to release the noncitizen, it may set a bond or place other conditions on release. *See* 8 U.S.C. § 1226(a)(2); 8 C.F.R. § 236.1(c)(8). If DHS determines that a noncitizen should remain detained during the pendency of his removal proceedings, the noncitizen may request a bond hearing before an IJ. *See* 8 C.F.R. §§ 236.1(d)(1), 1003.19, 1236.1(d). The IJ then conducts a bond hearing and decides whether to release the noncitizen, based on a variety of factors that account for the noncitizen's ties to the United States and evaluate whether the noncitizen poses a flight risk or danger to the community. *See Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006); *see also* 8 C.F.R. § 1003.19(d) ("The determination of the Immigration Judge as to custody status or bond may be based upon any information that is available to the Immigration Judge or that is presented to him or her by the alien or [DHS].").

Section 1226(a) does not provide a noncitizen with a right to release on bond. *See* 8 U.S.C. § 1226(a). Rather, it grants DHS and the Attorney General broad discretionary authority to determine whether to detain or release a noncitizen during his removal proceedings. *See id.* If, after the bond hearing, either the alien or DHS disagrees with the decision of the immigration judge, either party may appeal that decision to the BIA. *See* 8 C.F.R. §§ 236.1(d)(3), 1003.19(f), 1003.38, 1236.1(d)(3). If the noncitizen's circumstances change following his initial bond hearing, he may request a subsequent hearing, *see* 8 C.F.R. § 1003.19(e), and the outcome of that hearing is also appealable to the BIA, *see Matter of Uluocha*, 20 I. & N. Dec. 133, 134 (BIA 1989).

**B. Post-Removal Order Statutory Detention Authority: 8 U.S.C. § 1231**

Once an alien has been ordered removed and the removal order becomes administratively final, "[t]he statutory authority for the alien's detention shifts to 8 U.S.C. § 1231." *Lucce v. Freden*, No. 25-CV-6342-MAV, 2025 WL 3214485, at *2 (W.D.N.Y. Nov. 18, 2025). Section 1231(a)(1)(A) states that "when an alien is ordered removed, the Attorney General shall

remove the alien from the United States within a period of 90 days (in this section referred to as the 'removal period.')." 8 U.S.C. § 1231(a)(1)(A). Section 1231(a)(1)(B) specifies that the "removal period" shall begin on the latest of the following:

> (i) The date the order of removal becomes administratively final.
>
> (ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order.
>
> (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

*Id.* § 1231(a)(1)(B). As relevant here, a removal order "shall become final" upon, *inter alia*, "dismissal of an appeal by the Board of Immigration Appeals" or "[i]f certified to the Board of Attorney General, upon the date of the subsequent decision ordering removal." 8 C.F.R. § 1241.1(a), (d); *see also Riley v. Bondi*, 606 U.S. 259, 267 (2025) (citing 8 U.S.C. § 1101(a)(47)(B) and noting that the "statutory definition ties finality to agency review").

During the removal period, detention is mandatory under 8 U.S.C. § 1231(a)(2). The removal period lasts 90 days but can be extended in some circumstances. 8 U.S.C. § 1231(a)(1)(A), (C). After the removal period expires, the Government can either release an individual pursuant to an Order of Supervision as directed by § 1231(a)(3), or it may continue detention under § 1231(a)(6) for certain aliens. 8 U.S.C. § 1231(a)(6).

## II. Prolonged Detention Concerns Related to § 1226(a)

As discussed, statutory detention authority for certain aliens pending removal flows from § 1225 or § 1226(a), but then shifts to § 1231(a) once a final order of removal is in place.

In *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), the Supreme Court interpreted § 1231(a)(6) to limit the time an alien can be detained after the alien is subject to a final order of removal to the period "reasonably necessary to bring about the alien's removal from the U.S." *Id.*

The Supreme Court held that the removal period could be extended to six months and remain presumptively reasonable. *Id.* Only after the six-month period of detention would an alien be entitled to release, and even then only if they could show "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*

The Second Circuit has identified similar due process rights for aliens subject to "prolonged detention" under § 1226(a).[2] *See Velasco Lopez v. Decker*, 978 F.3d 842, 850-57 (2d Cir. 2020). In *Velasco Lopez*, the Second Circuit considered the process due to an alien under § 1226(a) after that alien had been detained for nearly *15 months*. *See* 978 F.3d at 851. The *Velasco Lopez* court concluded that the petitioner's 15-month incarceration under § 1226(a), without a determination that he was a danger to the community or flight risk, violated due process. *Velasco Lopez*, 978 F.3d at 855. Accordingly, based on its fact-specific analysis, the Second Circuit found that the petitioner was entitled to a bond hearing and "concluded that the district court's order requiring the Government to prove that [petitioner] is a danger to the community or a flight risk by clear and convincing evidence to justify his continued detention strikes a fair balance between the rights of the individual and the legitimate concerns of the state." *Id.* at 857 (quotation omitted).

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[2] Relatedly, the Second Circuit has held that despite the mandatory nature of § 1226(c) detention, the due process clause entitles aliens who are detained under § 1226(c) for a "prolonged" period to an individualized bond hearing at which the Government bears the burden of proof to show by clear and convincing evidence that continued detention is justified. *See Black v. Decker*, 103 F.4th 133, 145-55 (2d Cir. 2024).

## ARGUMENT

### I. Petitioner Has Not Exhausted His Administrative Remedies Before Challenging His Detention Through a Writ of Habeas Corpus.

The Court should dismiss the Petition because Petitioner has not exhausted his administrative remedies before filing his habeas petition.

Although "[t]here is no statutory requirement of administrative exhaustion before immigration detention may be challenged in federal court by a writ of habeas corpus," such exhaustion "is generally required as a prudential matter. *Paz Nativi v. Shanahan*, No. 16-CV-8496 (JPO), 2017 WL 281751, at *1 (S.D.N.Y. Jan. 23, 2017); *see also Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) ("Since Congress is silent on the issue, courts have applied a judicially created requirement that, generally, a petitioner must exhaust his administrative remedies before seeking federal court intervention."); *Howell v. I.N.S.*, 72 F.3d 288, 291 (2d Cir. 1995) ("Under the doctrine of exhaustion of administrative remedies, 'a party may not seek federal judicial review of an adverse administrative determination until the party has first sought all possible relief within the agency itself.'" (quoting *Guitard v. U.S. Sec'y of Navy*, 967 F.2d 737, 740 (2d Cir. 1992))).

Courts within the Second Circuit have applied this prudential exhaustion requirement "to defer decision on habeas petitions where a BIA appeal of a bond determination is pending." *Paz Nativi*, 2017 WL 281751, at *1; *see also, e.g.*, *Palaniandi v. Jones*, No. 15 Civ. 4021, 2016 WL 1459607, at *2 (S.D.N.Y. Mar. 10, 2016) ("In these circumstances, Petitioner's remedy lies with the BIA, to which he has already filed an appeal. Should the BIA affirm [the immigration judge's] decision, Petitioner may seek the appropriate judicial review at that time."); *Herrera v. Mechkowski*, No. 15 Civ. 07058, 2016 WL 595999, at *1 (S.D.N.Y. Feb. 11, 2016) ("Herrera has

already filed with the BIA an appeal to contest the bond denial on the same grounds he contends warrant permission to amend his habeas petition. If the BIA reverses the immigration judge's decision and grants Herrera a new hearing, then his request to amend his petition would be moot. If the BIA affirms the immigration judge's decision, Herrera may file another habeas petition . . . ."); *Molina Posadas v. Shanahan*, No. 15 Civ. 5691, 2016 WL 146556, at *1 (S.D.N.Y. Jan. 12, 2016) ("To the extent that Petitioner wishes to argue that the [Bond] Hearing did not satisfy the requirements of § 1226(a) and the Due Process Clause, once any administrative exhaustion requirements have been satisfied, he may file another habeas petition raising these new arguments.").

Here, Petitioner has appealed to the BIA his bond determination, as well as his order of removal. Those appeals are currently pending as of this filing. In resolving the appeals, the BIA could reverse the bond determination of the IJ. Accordingly, the pendency of a BIA appeal that could potentially moot this habeas petition should "counsel[] for the Court to stay its hand until the exhaustion of administrative review in the name of preserving scarce judicial resources and avoiding the possibility of duplicative or conflicting rulings." *Paz Nativi*, 2016 WL 1459607, at *2.

Additionally, administrative exhaustion should be required even though Petitioner also raises additional constitutional claims under the Fourth, Fifth, and Fourteenth Amendments. *See generally* Dkt. 1. This is because those claims are meritless, as discussed below. Therefore, Petitioner has not raised a "substantial constitutional question" or demonstrated any of the other

bases for the Court to exercise its discretion to excuse administrative exhaustion.[3] *See, e.g.*, *Castillo Lachapel v. Joyce*, 786 F. Supp. 3d 860, 864 (S.D.N.Y. 2025) (explaining exhaustion may be excused when "(1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) in certain instances a plaintiff has raised a substantial constitutional question" (internal quotation marks and citations omitted)). Thus, the constitutional claims Petitioner raises in this proceeding do not compel a different outcome with respect to requiring administrative exhaustion before the BIA.

## II. Petitioner's Detention is Authorized by 8 U.S.C. § 1226(a).

To the extent that Petitioner challenges his detention as statutorily unauthorized—which is not entirely clear from his Petition, *see generally* Dkt. 1—that challenge should be rejected. Petitioner's detention is authorized by 8 U.S.C. § 1226(a), as an alien (and not applicant for admission, *see* 8 U.S.C. § 1225) in removal proceedings. *See, e.g.*, *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 504-05 (5th Cir. 2026) (observing that "[o]nly § 1226(a) applies to admitted aliens who overstay their visas"). Neither § 1225 nor § 1231 apply to this case. Petitioner was previously "admitted" to the United States, rendering § 1225 inapplicable. Prezepasniak Decl. ¶ 4. And his

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[3] Some courts in the Second Circuit have waived the administrative exhaustion requirement in recent cases which implicate the question whether detention is authorized under § 1225(b)(2)(A) or § 1226(a), reasoning that the "BIA's policy of upholding mandatory detention for individuals in [those] circumstances" rendered exhaustion futile. *See, e.g.*, *Padilla Molina v. DeLeon*, No. 25-CV-06526 (JMA), 2025 WL 3718728, at *2 n.1 (E.D.N.Y. Dec. 23, 2025); *see also Ulloa Montoya v. Bondi*, No. 25-CV-06363 (JMA), 2025 WL 3718694, at *2 n.3 (E.D.N.Y. Dec. 23, 2025) (same). Those cases are distinguishable because Petitioner is detained under § 1226(a), and so that BIA policy is not at issue here. As a result, an appeal to the BIA may still provide relief to Petitioner and should therefore be required.

order of removal is not yet "final" because he has appealed the order of removal to the BIA, and the appeal remains pending; those facts make § 1231 inapplicable. *See id.* ¶ 14.

As an alien detained pursuant to § 1226(a), Petitioner has benefitted from numerous procedural safeguards and received all process due. *See id.* ¶¶ 11-14. Specifically, he has received two bond hearings and has filed two appeals to the BIA. Importantly, the process due to a noncitizen under § 1226(a) is not release from detention, as the statute grants DHS discretionary authority to determine whether to detain or release a noncitizen during his removal proceedings. *See* 8 U.S.C. § 1226(a). The Petition fails to explain why the process expressly contemplated by Congress in § 1226(a) in this situation is inadequate or inapplicable. Accordingly, any argument that his detention is without statutory authority, to the extent raised, should be rejected.

**III. Any Claim that Petitioner's Detention is Unduly Prolonged is Premature.**

To the extent Petitioner objects to his detention as unduly prolonged—which, again, is not entirely clear from the Petition, *see generally* Dkt. 1—such argument should be rejected. Petitioner's approximately three-month-long detention is far less than the 15-month pre-removal detention under § 1226(a) found to be problematic in *Velasco Lopez*, 978 F.3d at 855, and less than the six-month presumptively reasonable period for § 1231 post-removal detention authorized by *Zadvydas*, 533 U.S. at 701. Thus, by any measure, any prolonged detention claim fails.

**IV. Petitioner's Due Process Challenges to The IJ's Denial of Bond Are Barred by 8 U.S.C. § 1226(e).**

Petitioner also appears to challenge the substance of the IJ's discretionary rulings denying bond, but that type of challenge is barred by 8 U.S.C. § 1226(e). *See* Dkt. 1 ¶¶ 1, 6, 42. Section 1226(e) states that "[t]he Attorney General's discretionary judgment regarding the application of this section shall not be subject to review. No court may set aside any action or decision by the

Attorney General under this section regarding the detention of any alien or the revocation or denial of bond or parole." 8 U.S.C. § 1226(e). Indeed, the BIA is the forum from which an alien may seek review of the substance of an IJ's discretionary bond determination, which Petitioner here has done. *See* 8 C.F.R. §§ 1003.19(f), 1003.38, 1236.1(d)(3); *see also Demore v. Kim*, 538 U.S. 510, 516-17 (2003) (noting that 8 U.S.C. § 1226(e) bars federal court review of a "discretionary judgment" or a "decision" of the Attorney General (citing 8 U.S.C. § 1226(e))).

Here, although the precise nature of Petitioner's Fifth Amendment due process claim is not entirely clear, Petitioner appears to be challenging the IJ's discretionary decision to deny him bond and keep him in detention. *See* Dkt. 1 ¶¶ 6 (challenging "legality of Petitioner's continued immigration detention following an immigration judge's denial of bond in violation of . . . the Fifth Amendment Due Process Clause," among others), 28 (arguing why the IJ's decision to deny bond was contrary to evidence presented). Petitioner suggests the IJ's decision was erroneous based on the evidence before the IJ. *See* Dkt. 1 ¶ 28. This type of argument falls squarely within the bar found in § 1226(e) and may not be reviewed by this Court. Rather, Petitioner should exhaust those arguments before the BIA in his still-pending appeals, as discussed above.

## V. Petitioner's Substantive Due Process Claim Fails.

Petitioner also asserts that the IJ's denial of relief is a "violation of his Fifth Amendment substantive rights to due process because of, what amounts to, arbitrary confinement." Dkt. 1 ¶ 42 (citing *Mathews v. Diaz*, 426 U.S. 67 (1976)). His Petition fails to elaborate on this substantive due process claim or engage with the statutory basis for Petitioner's detention, described above. In any event, Petitioner's loosely defined substantive due process claim challenging his detention is meritless.

Substantive due process protects "only 'those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition.'" *Dep't of State v. Muñoz*, 602 U.S. 899, 910 (2024) (quoting *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997)). Although the Supreme Court recognizes due process rights for aliens present in the United States, *see, e.g.*, *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025), it has long affirmed the constitutionality of executive immigration procedures. The "through line of history," the Supreme Court recently explained, is "recognition of the Government's sovereign authority to set the terms governing the admission and exclusion of noncitizens." *Muñoz*, 602 U.S. at 911-12. To that end, "Congress regularly makes rules that would be unacceptable if applied to citizens." *Diaz*, 426 U.S. at 80.

The principle applies equally to immigration detention. The Supreme Court has endorsed the constitutionality of detaining aliens without bond during the pendency of removal proceedings. In *Demore v. Kim*, the Supreme Court acknowledged that "the Fifth Amendment entitles aliens to due process of law in deportation proceedings." 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). But it clarified that "detention during deportation proceedings" is nevertheless a "constitutionally valid aspect of the deportation process." *Id.* Indeed, "when the Government deals with deportable aliens, the Due Process Clause does not require it to employ the least burdensome means to accomplish its goal." *Id.* at 528. It follows that "the Government may constitutionally detain deportable aliens during the limited period necessary for their removal proceedings." *Id.* at 526. Against that backdrop, Petitioner's claim that his detention under § 1226(a) is "arbitrary" and violates due process must fail.

## VI. Petitioner's Fourth Amendment Challenge is Meritless.

The Court should reject Petitioner's argument that he is entitled to immediate release from his civil immigration detention because, in his view, his Fourth Amendment rights were violated

because Border Patrol agents unreasonably seized him without a warrant and without reasonable suspicion. That argument is not cognizable in a habeas proceeding, but even if it was, it is meritless.

As an initial matter, it is not clear that Petitioner's immigration detention is a "seizure" within the meaning of the Fourth Amendment. Nor is it clear that Petitioner is part of "the people" whose right against unreasonable seizures is protected by the Fourth Amendment. U.S. Const. amend. IV (protecting "[t]he right of *the people* . . . against unreasonable searches and seizures" (emphasis added)). "'[T]he people' seems to have been a term of art employed in select parts of the Constitution . . . [to] refer[ ] to a class of persons who are part of a national community or who have otherwise developed sufficient connection with this country to be considered part of that community." *United States v. Verdugo-Urquidez*, 494 U.S. 259, 265 (1990); *accord District of Columbia v. Heller*, 554 U.S. 570, 580 (2008) ("[I]n all six other provisions of the Constitution [aside from three provisions that refer to 'the people' in a context other than rights], that mention 'the people,' the term unambiguously refers to all members of the political community, not an unspecified subset."); *Palma v. Arteta*, 25 Civ. 9340 (JPC), 2026 WL 697015, at *13 (S.D.N.Y. Mar. 12, 2026) (rejecting immigration habeas petitioner's argument that his detention was unlawful because his arrest was an unreasonable seizure in violation of the Fourth Amendment). And, Petitioner does not explain why the remedy for an allegedly problematic immigration arrest is to order his release from immigration detention. *See Ekiu v. United States*, 142 U.S. 651, 662 (1892) ("[I]f sufficient ground[s] for [a noncitizen's] detention by the government is shown, he is not be discharged for defects in the original arrest or commitment."); *Martinez Aranda v. LaRose*, No. 25-cv-2730-AGS-AHG, 2025 WL 3199416, at *1 (S.D. Cal. Oct. 16, 2025) (rejecting habeas claim stemming from immigration arrest and noting that the petitioner did not "explain why release from immigration detention is a proper remedy for an allegedly problematic seizure" (citing *United*

*States v. Crews*, 445 U.S. 463, 474 (1980) (noting, in the criminal context, that the Fourth Amendment's "exclusionary principle" "delimits what proof the Government may offer against the accused at trial, closing the courtroom door to evidence secured by official lawlessness," but an individual "is not himself a suppressible 'fruit'"))). For all these reasons, Petitioner's Fourth Amendment claim is likely not cognizable in this habeas proceeding.

But even if Petitioner could overcome those fundamental questions about his entitlement to Fourth Amendment protection, his arrest and subsequent detention were lawful.

First, his assertion that his arrest was warrantless is wrong. *See* Dkt. 1 ¶ 23. Petitioner was served with a Form I-200, Warrant for Arrest of Alien, on the same day that he was arrested. *See* Prezepasniak Decl. ¶ 7. The fact that the warrant was issued a few hours after his arrest is of no moment because DHS may issue a warrant of arrest within 48 hours after the arrest occurs (or an "additional reasonable period of time" given any emergency or other extraordinary circumstances). *See* 8 C.F.R. § 287.3(d). Doing so does not constitute "post-hoc issuance of a warrant," *Matter of Q. Li*, 29 I. & N. Dec. 66, 69 n.4 (BIA 2025). What's more, an arrest warrant is not required in all cases. *See* 8 U.S.C. § 1357(a). For example, an immigration officer has the authority "to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation" or "to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest . . . ." *Id.* § 1357(a)(2); 8 C.F.R. § 287.3(a), (b) (recognizing the availability of warrantless arrests); *see Matter of Q. Li*, 29 I. & N. Dec. at 70 n.5 (same).

In any event, the Form I-213 was completed on the day of Petitioner's arrest and contains factual information about the arrest which supports probable cause to believe Petitioner was in

violation of a law or regulation. *See* Prezepasniak Decl. ¶ 6. The Form I-213 states in detail that Petitioner was arrested based on a combination of circumstances: (1) Petitioner was in a car parked in an area known to be used for alien smuggling; (2) Petitioner's car bore out-of-state plates; (3) Petitioner's car was parked there at 2:44 AM, an odd hour; and (4) a subsequent records check revealed that he had overstayed his visa as of February 10, 2024. *See id.* As such, the Border Patrol agent had sufficient "reason to believe" that Petitioner was "in violation of [a] law or regulation." *Zhuang v. Bondi*, No. 1:25-CV-00201-CMS, 2026 WL 352872, at *2 (E.D. Mo. Feb. 9, 2026) (rejecting Fourth Amendment claim brought by immigration habeas petitioner). Importantly, Petitioner fails to acknowledge any of these critical facts concerning the circumstances of his arrest. Instead, Petitioner merely speculates that his arrest was because "he is black" and that "[n]o reasonable suspicion existed for any inquiry of Petitioner or request for identification." Dkt. 1 ¶ 23. Petitioner's sheer speculation is belied by the Form I-213, which demonstrates that his arrest was lawful. Prezepasniak Decl. ¶ 6.

For these reasons, Petitioner's Fourth Amendment challenge should be rejected as not cognizable in habeas and otherwise meritless.

## VII. Petitioner's Challenge Based on the Fourteenth Amendment Right to Marry is Meritless.

The Court should reject Petitioner's claim that the Government is infringing on his right to marry under the Fourteenth Amendment. As an initial matter, Petitioner's own allegations belie this claim, as he acknowledges that the "request to marry" within the Broome County Correctional Facility is "still pending" with the Broome County Sheriff's Department. Dkt. 1 ¶ 37; *see also* Dkt. 1, Ex. N (Perticone Decl.). As a result, it is not at all clear, even by Petitioner's own allegations, that the Government is standing in the way of Petitioner's ability to marry his fiancé. As

Petitioner's counsel's affidavit explains, the request to marry is pending with the Broome County Sheriff's Department, *see* Dkt. 1, Ex. N ¶¶ 3-4, and the security inquiry by the Broome County Sheriff's Department was submitted on February 23, 2026, and "should be completed within 30-60 days," *id.* ¶ 6. Petitioner does not allege that action on the request to marry is pending with ICE. *See generally* Dkt. 1; Dkt. 1, Ex. N.

In any event, the claim should be rejected because it is not cognizable in this habeas proceeding. Although the Supreme Court has recognized that detained individuals have a constitutional right to marry, that right is subject to reasonable restrictions related to the Government's legitimate detention-related interests. *See Turney v. Safley*, 482 U.S. 78, 95 (1987) ("The right to marry, like many other rights, is subject to substantial restrictions as a result of incarceration."); *see also Davis v. Samuels*, 962 F.3d 105, 111 n.3 (3d Cir. 2020) (recognizing same). And, a claim which seeks to vindicate a detainee's civil rights and which does not necessarily impact the fact or length of a detainee's detention is outside the scope of habeas. *See, e.g.*, *Thuraissigiam*, 591 U.S. at 119 (noting that the traditional function of a writ of habeas corpus is release from unlawful detention, and that "[c]laims so far outside the core of habeas may not be pursued through habeas" (internal quotations and citations omitted)).

Petitioner's marriage claim does not go to the core of habeas relief as it does not challenge the fact or length of his detention. *See Wahi v. Pittman*, No. CV 24-10314 (MAS), 2025 WL 62914, at *3 (D.N.J. Jan. 8, 2025) (dismissing immigration habeas petitioner's claim arising out of the right-to-marry for lack of jurisdiction, reasoning that "Petitioner's marriage claim does not go to the core of habeas relief because it does not challenge the fact or length of Petitioner's detention"), *reconsideration denied*, No. CV 24-10314 (MAS), 2025 WL 834889 (D.N.J. Mar. 17, 2025). Thus,

his detention would remain lawful regardless of whether he marries his fiancé in the Broome County Correctional Facility.

To that end, Petitioner's claim that his inability to marry has prejudiced his ability to file a Form I-130, Petition for Alien Relative, is of no moment in this habeas proceeding because not even the *approval* of a Form I-130—let alone the mere filing of one—has any impact on ICE's statutory authority to detain him under § 1226(a). Nor would the filing or approval of a Form I-130 actually change Petitioner's immigration status. *See, e.g.*, *Metreveli v. Flanagan*, No. 25-CV-8039 (MKV), 2025 WL 3496754, at *1 (S.D.N.Y. Dec. 5, 2025) (citing *Dep't of State v. Munoz*, 602 U.S. 899, 904 (2024)). Rather, "[a]n approved I-130 Form does not establish eligibility for adjustment of status but rather establishes only the Petitioner's relative status to a citizen." *Id.* Once a Form I-130 is approved, "[t]he non-citizen relative may in turn submit a separate application for a visa or adjustment of status."[4] *Id.* As a result, the link between the issues Petitioner raises (his desire to marry so he can file Form I-130), ICE's responsibility for those issues (given that Petitioner alleges action on the request is pending with the Broome County Sheriff), and the relief he seeks (immediate release) is tenuous at best.

For these reasons, Petitioner's marriage claim should be dismissed, as it is not cognizable in a habeas proceeding and this Court lacks jurisdiction to consider it.

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[4] *See also* 6 USCIS Policy Manual Pt. B, Ch. 5 ("[A] family-based petition accords no immigration status nor does it bar removal.") (USCIS PM), https://www.uscis.gov/policy-manual; 7 USCIS PM Pt. B, Ch. 3 ("A pending or approved petition does not confer lawful immigration status . . . . [It] merely classifies the beneficiary in a particular immigrant visa category, which forms the basis for the beneficiary's adjustment application.").

## CONCLUSION

For these reasons, this Court should enter an Order denying the Petition for a Writ of Habeas Corpus, along with such further relief as this Court deems fair, just, and equitable.

Dated: March 30, 2026

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