Christopher Vizcardo (Utah Bar No. 19107)
TRUJILLO LAW GROUP
1258 West South Jordan Pkwy Suite 303
South Jordan, UT 84095
Tel: (801) 590-9139
Fax: (801) 931-2009
chris@tagteamlaw.com
Attorneys for Petitioner

UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

REYES DE LA CRUZ GONZALEZ, Petitioner, v. RUBEN LEYVA, Acting Field Office Director, Salt Lake City Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement (ICE/ERO); BRIAN HENKE Field Office Director for Las Vegas/Salt Lake City; KRISTI NOEM, Secretary United States Department of Homeland Security; PAMELA BONDI, U.S. Attorney General, Defendants.	**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 USC § 2241** Case No. 2:26-cv-240 Judge:

Petitioner, REYES DE LA CRUZ GONZALEZ ("Mr. De La Cruz"), by and through counsel, complain of the Defendants, Ruben Leyva, in his official capacity as Acting Field Office Director of the Salt Lake City Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement (ICE/ERO); Brian Henke, in his official capacity as Las Vegas/Salt Lake City Field Office Director, Enforcement and Removal Operations, United States

Immigration and Customs Enforcement (ICE); Kristi Noem in her official capacity as Secretary of Homeland Security, United States Department of Homeland Security; Pamela Bondi in her official capacity as Attorney General of the United States; as follows:

I. INTRODUCTION

1. Petitioner, by and through above-named counsel of record, submits this Petition for Writ of Habeas Corpus against the above-named Respondents for unlawful detention.

2. Mr. De La Cruz is an alien detained by Immigration & Customs Enforcement ("ICE") unlawfully detention because the Department of Homeland Security ("DHS") has concluded, based on novel arguments, that he is subject to mandatory detention. These novel arguments contradict decades of established law.

3. Mr. De La Cruz is a 53-year-old native and citizen of Mexico who has resided in the U.S. since December 1997. He last entered the United States without admission or inspection.[1]

4. He is the main financial support for his wife who lives with him in the United States and also provides financial support to his elderly mother in Mexico. He is also the father of a U.S. citizen adult daughter that lives with him and his wife.

[1] Upon information and believe, the Petitioner entered the United State once before December 1997. The first entry occurred on or about March 1993. He was subsequently deported on or about May 1993 when caught working without authorization. The prior entry is not relevant to the present habeas proceedings. Notably, the 1993 deportation occurred before the effective date of the statutory amendments enacted by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), which took effect on April 1, 1997. Accordingly, that proceeding was conducted under the prior legal framework governing "deportation" rather than the current "removal" system, and it does not bear on the legal issues presently before this Court.

5. Mr. De La Cruz was arrested on March 22, 2026, at 10 a.m. in West Valley City, Utah on an alleged charge of driving with an expired vehicle registration. He was subsequently released to ICE's custody.

6. ICE categorically refuses to issue him a bond based on a new ICE policy interpreting detention statute that is unsupported by the law, its history and precedent as discussed below.

7. Further, according to the Board of Immigration Appeal's (the "BIA") decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), immigration judges lack authority to hear bond requests or to grant bond to "aliens who are present in the United States without admission." This has left Petitioner without any mechanism to review the lawfulness of his detention and request release on bond or otherwise.

8. Mr. De La Cruz's detention on this basis violates the plain language of the Immigration and Nationality Act ("INA") and due process. 8 U.S.C. § 1225(b)(2)(A) does not apply to individuals like Petitioner who do not have lawful status, entered the United States without inspection, and were not apprehended upon arrival.

9. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

10. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

11. Accordingly, Petitioner respectfully requests that this Court issue an order directing EOIR to schedule a bond hearing without further delay, permitting Petitioner to post bond in accordance with the Court's determination.

II. JURISDICTION

12. Mr. De La Cruz is in the physical custody of Defendants. Upon information and believe, Petitioner is currently detained at the local ICE Enforcement and Removal Operations office in West Valley City, Utah.

13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

14. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

III. VENUE

15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for Utah, the judicial district in which Petitioner is currently detained.

16. 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 Utah.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

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

18. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

V. PARTIES

19. Petitioner is a native and citizen of Mexico who has been in immigration detention since March 22, 2026. After arresting Petitioner in West Valley City, Utah, ICE did not set bond and Petitioner has been unable to request a bond hearing before an immigration judge because of the BIA's decision under *Yajure Hurtado*, 29 I&N Dec. 216.

20. Respondent Ruben Leyva is the Acting Field Office Director for Salt Lake City Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement (ICE/ERO). He is named in his official capacity.

21. Respondent Brian Henke is the Director of the Las Vegas Field Office of ICE's Enforcement and Removal Operations division. As such, Mr. Henke is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

22. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act

(INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

23. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

VI. LEGAL FRAMEWORK

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

25. First, 8 U.S.C. § 1226 authorizes the detention of aliens in standard removal proceedings before an immigration judge ("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), unless they have been arrested, charged with, or convicted of certain crimes and then they are subject to mandatory detention, see 8 U.S.C. § 1226(c).

26. Second, the INA provides for mandatory detention of aliens 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).

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

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

29. 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 last year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

30. 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).

31. 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. That practice was consistent with many more decades of prior practice, in which all aliens who were not apprehended "arriving" at the border 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)).

32. 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.[2]

[2] Available at https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission. Also available at https://perma.cc/4Q6X-GAZC.

33. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are 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.

34. ICE has adopted this position even though federal courts have rejected this exact conclusion. For example, after 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, 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 aliens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025); *Diaz Martinez v. Hyde, et al.*, No. CV 25-11613-BEM, 2025 WL 204238, at *2–3 (D. Mass. July 24, 2025).

35. Further, on September 5, 2025, the Board of Immigration Appeals (the "BIA"), part of the Department of Justice, recently made ICE's novel interpretation binding precedent under *Yajure Hurtado*, 29 I&N Dec. 216. There, the BIA held that "under a plain language reading of

... 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to aliens ... who are present in the United States without admission." *Id.* at 225.

36. DHS's interpretation, now binding precedent for all IJs under *Yajure Hurtado*, defies the INA. As the *Rodriguez Vazquez* court explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

37. Section 1226(a) applies by default to all persons "pending a decision on whether the alien is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of an alien."

38. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

39. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

40. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who 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). 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 an alien seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

41. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner, who do not have lawful status, entered the United States without inspection, and were not apprehended upon arrival.

42. A recent decision from the United States District Court for the Central District of California, *Lazaro Maldonado Bautista v. Ernesto Santacruz Jr,* 5:25-cv-01873, (C.D. Cal.), provides significant persuasive authority for this matter. In *Maldonado Bautista*, the court certified two classes of plaintiffs. Most relevant of which is the first class known as the "Bond Eligible Class," defined as noncitizens without lawful status who entered the United States without inspection, were not apprehended at the time of entry, and were not otherwise subject to detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 when DHS made the initial custody determination. Respondent is a member of Bond Eligible Class.

43. The district court held that class members are detained under 8 U.S.C. § 1226(a), not under the mandatory detention provision of 8 U.S.C. § 1225(b)(2). As a result, they cannot be categorically denied bond hearings on the theory that they are "applicants for admission." The court declared that class members must receive consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge. The court also vacated the DHS policy—set forth in July 2025 interim guidance—that had treated such individuals as subject to mandatory detention under § 1225(b)(2). Accordingly, the final

judgment entered December 18, 2025, held that the challenged DHS policy was unlawful and that members of the Bond Eligible Class are entitled to the procedural protections associated with discretionary detention under § 1226(a), including access to bond proceedings before the immigration court. The decision in *Maldonado Bautista* has been administratively "stayed pending a ruling on the government's emergency motion for stay pending appeal, insofar as the district court's judgment extends beyond the Central District of California." *Maldonado Bautista v. U.S. DHS, et al.*, No. 26-1044 (March 6, 2026 Order) at 1, ¶ 1.

44. On the contrary, the Fifth Circuit's recent opinion in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026) and a recent opinion from the District of Utah, *Cisneros v. Noem*, No. 2:25-CV-1170-HCN, 2026 WL 396300 (D. Utah Feb. 12, 2026) uphold the government's interpretation finding that similarly situated petitioner were lawfully detained without bond under § 1225(b)(2).

45. While some have argued that "the persuasiveness of nonbinding precedent turns on quality, not quantity," *Cisneros v. Noem*, No. 2:25-CV-1170-HCN, 2026 WL 396300, at *5 (D. Utah Feb. 12, 2026), "quantity mirrors quality." *Torres Medina v. Tjaden*, 2:26-cv-00195-JNP-DBP, at *5 (D. Utah Mar. 23, 2026). Previous decisions from this district court have granted habeas for other petitioners on similar grounds. *See Tanchez v. Noem*, No. 2:25-CV-1150, 2026 WL 125184, at *1 (D. Utah Jan. 16, 2026) (finding the new interpretation unlawful), and *Velasquez Montillo, v. Nate Brooksby, et al.*, No. 4:26-CV-00018-DN-PK, 2026 WL 592355, at *7 (D. Utah Mar. 3, 2026) (finding the new interpretation unlawful), and *Torres Medina v.*

Tjaden, 2:26-cv-00195-JNP-DBP, at *27 (D. Utah Mar. 23, 2026) (finding the new interpretation unlawful).

VII. DUE PROCESS VIOLATIONS

46. Alternatively, even if Respondents' novel interpretation of §1225(b)(2) was correct, it would still run afoul of Petitioner's Fifth Amendment rights to procedural and substantive due process under the Constitution.

47. The Constitution guarantees every person in the United States due process of law, including persons who are not United States citizens. *E.g., Lopez v. Heinauer*, 332 F.3d 507, 512 (8th Cir. 2003) ("The Supreme Court has long recognized that deportable aliens are entitled to constitutional protections of due process." (citing *Yamataya v. Fisher*, 189 U.S. 86, 100–01, 23 S.Ct. 611, 47 L.Ed. 721 (1903))); *see also, e.g., Trump v. J.G.G.*, 604 U. S. ——, ——, 145 S. Ct. 1003, 1006, —— L.Ed.2d —— (2025) (per curiam) ("'It is well established that the Fifth Amendment entitles aliens to due process of law' in the context of removal proceedings." (quoting *Reno v. Flores*, 507 U.S. 292, 306, 113 S.Ct. 1439, 123 L.Ed.2d 1 (1993))); *Zadvydas v. Davis*, 533 U.S. 678, (2001) ("[T]he Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.").

48. To determine whether a civil detention violates a detainee's due process rights, courts apply a three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

49. Under *Mathews*, courts weigh the following three factors: (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." *Mathews*, 424 U.S. at 335, 96 S.Ct. 893.

50. The first *Mathews* factor considers the private interest affected by the government's ongoing detention of Petitioner without ability for release on bond. *See Mathews*, 424 U.S. at 335. Here, that is Petitioner's interest in being free from imprisonment, "the most elemental of liberty interests." *Hamdi v. Runsfeld*, 542 U.S. 507, 529. In this country, liberty is the norm and detention "is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987); *see also Rodriguez Diaz*, 53 F.4th at 1207 ("An individual's private interest in freedom from prolonged detention is unquestionably substantial.") (citations omitted).

51. Under the Respondents' interpretation of the law, Petitioner may be detained indefinitely which will lead to him experiencing the loss of contact with family and friends, loss of income and inability to provide for his wife and elderly mother, lack of privacy and lack of freedom. Because ICE does not currently operate a long-term detention center in Utah, he will shortly be sent to an out-of-state detention center where he may lose contact with his family and friends and have difficulties contacting counsel.

52. Additionally, Petitioner's liberty interest is not diminished by soon-to-be removal proceedings against or the availability of any existing process to challenge Respondents' decision to detain him without bond. *Cf. id.* at 1208 (holding the habeas petitioner's liberty interest was diminished by the fact that he was subject to a final order of removal, had already

been afforded an individualized bond hearing where bond was denied after presentation of the evidence, and had additional process available to him through a further bonding hearing before an IJ upon a showing of materially changed circumstances). Thus, the first *Mathews* factor also weighs heavily in favor of granting Petitioner recognition of his procedural protections under § 1226(a).

53. The second *Mathews* factor considers "the risk of an erroneous deprivation of [Petitioner's] interest through the procedures used, and the probable value, if any, of additional procedures." 424 U.S. at 335. There are no existing procedures whatsoever for Petitioner to challenge his detention pending the conclusion of removal proceedings without the opportunity for release on bond under the government's policy. The risk of erroneous deprivation is extraordinarily high where ICE and DHS agency officials have sole, unguided, and unreviewable discretion to detain Petitioner without any individualized showing of why his detention is warranted, nor any process for Petitioner to challenge the exercise of that discretion.

54. Petitioner "seek[s] nothing more than some modicum of due process and the rule of law." *Conejo Arias v. Noem*, 5:26-cv-00415, ECF No. 9 at 1 (W.D. Tex., Jan. 31, 2026). A bond hearing in this case would simply be a recognition of, and respect for, existing procedures under § 1226(a), which include an individualized custody redetermination by an immigration judge. These procedures substantially mitigate the risk of erroneous deprivation of Petitioner's liberty, because those procedures require the government to establish that Petitioner presents a flight risk or danger to the community to continue his detention for the pendency of removal proceedings. This would account for the constitutional requirement that "once the flight risk justification

evaporates, the only special circumstance [ ] present is the alien's removable status itself, which bears no relation to a detainee's dangerousness." *Zadvydas*, 553 U.S. at 691-92. As such, the second *Mathews* factor also weighs heavily in favor of granting Petitioner recognition of his procedural protections under § 1226(a).

55. The third and final *Mathews* factor considers the "Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. at 335. Petitioner acknowledges that the government's interests in enforcing immigration laws, including "protecting the public from dangerous criminal aliens" and "securing an alien's ultimate removal," are "interests of the highest order." *Rodriguez Diaz*, 53 F.4th at 1188-89. These interests are in fact served by respecting an individualized determination by an immigration judge, based on a review of evidence presented by the government and the noncitizen, as to whether an individual is dangerous or at risk of fleeing removal proceedings, under existing, well-established procedures.

56. In failing to articulate any individualized reason why detaining Petitioner is necessary to enforce immigration law, the question arises "whether the detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons." *Demore*, 538 U.S. at 532-33 (Kennedy, J. concurring). The government has no interest in the unjustified deprivation of a person's liberty.

57. In sum, the *Mathews* factors weigh heavily in favor of Petitioner, and therefore, his detention without the ability for release on bond violates his procedural due process rights.

58. As to substantive due process, Immigration detention violates the Due Process Clause unless it is ordered in a criminal proceeding with adequate procedural protections, or in non-punitive circumstances "where a special justification . . . outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690.

59. Respondents have so far failed to articulate any individualized justification to continue to deprive Petitioner of his physical liberty outside their novel interpretation of §1225(b)(2). Therefore, his detention is in violation of his substantive due process rights.

VIII. FACTS

60. Petitioner is a husband, father, and long-term Utah resident whose continued detention inflicts severe and unnecessary harm on his family and deprives him of urgently needed medical care. Since his last entry to the United States on or about December 1997, Petitioner has established deep roots in Utah. He settled in Taylorsville, Utah, has been continuously employed in the landscaping industry, and has integrated into his community.

61. Before his detention, Petitioner was the primary breadwinner for his wife and also provided regular financial support to his elderly mother in Mexico. His detention has abruptly cut off this sole source of support to his family.

62. Petitioner is medically vulnerable due to a diagnosis of diabetes received approximately one year ago. He requires daily medication to manage his blood glucose levels and attends periodic consultations with medical professionals for ongoing monitoring and care of his condition.

63. In the interest of full candor, Petitioner acknowledges that he has received a few traffic-related tickets in the last 29 years none of which involved threats, weapons, or injuries and do not suggest any ongoing danger to the community.

64. Petitioner's current detention stems from his arrest by West Valley police officers on March 22, 2026, on alleged charges of driving with an expired vehicle registration. Following that arrest, he was transferred to ICE custody. As of the filing of this petition, no criminal charges have been filed in connection with that arrest.

65. Because of the Board of Immigration Appeals' decision in *Yajure Hurtado*, Petitioner cannot seek a bond hearing before an Immigration Judge and has no other forum in which to challenge the legality or length of his detention. As a direct result, he is unable to work, unable to provide financial support for his family and unable to maintain continuity of care with the medical providers who have been treating him for diabetes.

66. Under these circumstances, continued detention serves no legitimate purpose commensurate with the profound hardships it inflicts. Petitioner has deep family and community ties, a record of lawful employment and only minimal, non-violent criminal involvement.

67. In the absence of any meaningful opportunity to seek bond before the immigration courts, habeas relief from this Court is not only appropriate but necessary to prevent further unjustified deprivation of liberty and to allow Petitioner to return to supporting and caring for his family.

IX. EXHAUSTION OF ADMINISTRATIVE REMEDIES

68. Any suggestion that Petitioner must first seek a bond redetermination before the Immigration Court is misplaced, because such a request would be categorically futile. In *Yajure*

Hurtado, 29 I&N Dec. 216, the BIA adopted ICE's novel interpretation of 8 U.S.C. § 1225 and held that individuals DHS designates as "applicants for admission" fall under § 1225(b)'s mandatory-detention scheme, leaving IJs with no jurisdiction to consider bond. Petitioner is classified by DHS as an "applicant for admission" under their interpretation; therefore, the Immigration Court is legally barred at the outset from granting him a custody redetermination hearing.

69. Because the Immigration Court lacks authority to adjudicate any bond request, the administrative process provides no meaningful avenue for relief, and exhaustion is not required where resort to such a process would be futile. With no statutory or regulatory mechanism permitting an individualized custody determination, habeas corpus is the only available means through which Petitioner can challenge the legality of his continued detention. The district court thus retains jurisdiction to consider the petition without requiring a procedurally empty step that agency precedent has already rendered impossible.

X. CLAIMS FOR RELIEF

COUNT I

(Violation of the Immigration and Naturalization Act)

70. All the foregoing allegations are repeated and realleged as though fully set forth herein.

71. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all aliens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, individuals like Petitioner who do not have lawful status, entered the United States without

inspection, and were not apprehended upon arrival. Such aliens remain detained under § 1226(a), unless they are subject to, § 1226(c), or § 1231.

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

COUNT II

(Violation of Due Process)

73. All the foregoing allegations are repeated and re-alleged as though fully set forth herein.

74. 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 (2001).

75. Persuasive precedent in another circuit has held that "[r]emaining confined in jail when one should otherwise be free is an Article III injury plain and simple[.]" *Gonzalez v. United States Immigr. & Customs Enf't*, 975 F.3d 788, 804 (9th Cir. 2020) (quoting *Mendia v. Garcia*, 768 F.3d 1009, 1012 (9th Cir. 2014)).

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

77. The government's continued detention of Petitioner without bond violates his right to procedural due process as applied to this case.

78. Accordingly, this Court's intervention is needed.

XI. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this action;

2. Issue a writ of habeas corpus requiring that Respondents grant Petitioner a custody redetermination hearing before an IJ immediately;

3. Grant the attorney's fees and costs of court to the Petitioner under the Equal Access to Justice Act ("EAJA"), and on any other basis justified under law; and

4. Award such further relief as the Court deems necessary or proper.

***

Counsel submits this verification pursuant to 28 U.S.C. § 2242 on behalf of Petitioner, an individual currently detained, in my capacity as counsel of record. I have communicated with Petitioner regarding the facts and circumstances set forth in this petition. Based on those communications and my review of the record, I verify that the factual allegations contained herein are true and correct to the best of my knowledge, information, and belief.

RESPECTFULLY SUBMITTED this March 23, 2026.

TRUJILLO LAW GROUP

/s/ Christopher Vizcardo
Christopher Vizcardo
Attorney for Petitioner