

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

Cihan Gullu,

Petitioner,

v.

Raul Maldonado Jr., Warden of the Metropolitan
Detention Center, in his official capacity,

Respondent.

Civil Action No.: 1:26-cv-01740

**PETITION FOR
WRIT OF
HABEAS CORPUS**

A: 

Pursuant to 28 U.S.C. § 2241, Cihan Gullu (“Petitioner”) seeks a Writ of Habeas Corpus ordering Respondent to release him from custody or, in the alternative, to provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a).

The Department of Homeland Security (“DHS”) has recently reversed their decades-long practice of providing bond hearings to people in Petitioner’s situation. To justify that reversal, the Department has adopted an indefensible interpretation of immigration statutes and the Executive Office of Immigration Review (“EOIR” or “Immigration Court”) under the Department of Justice (“DOJ”) has promoted this interpretation. Implementing their new interpretation, DHS has unlawfully seized Petitioner and is detaining him without the possibility of release on bond, even though he has resided in the United States for nearly two years. Petitioner asks that this Court declare that he has been detained unlawfully, that the DHS’s interpretation of the governing statute is wrong, and that it orders either his release or that he receive a bond hearing before the Immigration Court.

INTRODUCTION

1. Petitioner is in the physical custody of Respondent at the Metropolitan Detention Center (“MDC”) in Brooklyn, New York. He is unlawfully detained because the Department of Homeland Security (“DHS”), with the concurrence of the Executive Office of Immigration Review (“EOIR”) under the Department of Justice (“DOJ”), has determined that Petitioner is subject to mandatory detention. As a result, Petitioner’s continued detention violates 8 U.S.C. § 1226(a) and the Due Process Clause of the Fifth Amendment to the United States Constitution.
2. Petitioner is charged with removability for having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i). (**Exhibit 1**, Notice to Appear).
3. Petitioner has resided in the United States since at least April 10, 2024. After an initial period of CBP detention, he was released on his own recognizance on April 11, 2024. (**Exhibit 2**, DHS Order of Release on Recognizance), and he remained at liberty until ICE officers apprehended him outside a store in or around the first week of March 2026. He is now subject to immigration detention without the opportunity for release on bond.
4. Based on the charge alleged in the Notice to Appear, DHS has taken the position that Petitioner is subject to mandatory detention and therefore ineligible for release on bond.
5. That action by DHS is also mandated by recent precedent of the Board of Immigration Appeals (BIA). The BIA, on September 5, 2025, issued a precedential decision, which binds all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission or inspection. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board, deviating from decades of established precedent, decided that such individuals are now

subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

6. Despite a nation-wide class action declaratory judgment issued by the U.S. District Court for the Central District of California that confirmed that all class members (of which Petitioner would be one) are subject to detention under § 1226(a) and therefore entitled to a bond hearing, Immigration Judges (“IJs”) have been instructed by the Chief Immigration Judge Teresa L. Riley to ignore this case law that clearly indicated that *Matter of Yajure Hurtado* is no longer controlling. See *Bautista v. Santacruz*, 2025 U.S. Dist. LEXIS 262265; *see also* AILA Practice Alert 01/14/2026.
7. DHS previously released Petitioner on recognizance. Petitioner has filed a Form I-589, Application for Asylum and for Withholding of Removal and protection under the Convention Against Torture, with the EOIR. This filing reflects substantial equities and an intent to pursue lawful status through established legal processes. Petitioner fears persecution and torture in his home country.
8. Section 1226(a) authorizes release on bond or conditions during the pendency of immigration proceedings. Accordingly, Petitioner’s continued detention without an individualized bond hearing violates 8 U.S.C. § 1226(a).
9. Respondent’s new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner and violates his procedural due process right to be heard concerning whether the government should continue to deprive him of his liberty.
10. The government’s continued deprivation of Petitioner’s liberty interest is significant because Petitioner has resided in the United States since April 2024 and remained at liberty

in the community without immigration detention. After living in the community, Petitioner's sudden detention without an individualized hearing under 8 U.S.C. § 1226(a) constitutes a patent violation of the Due Process Clause of the Fifth Amendment.

11. Accordingly, Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus and order his immediate release from unlawful detention, or in the alternative, order a bond hearing before an Immigration Judge ("IJ") where DHS bears the burden of justifying his continued detention.

CUSTODY

12. Petitioner is in the immediate physical custody of Respondent. He is detained at the Metropolitan Detention Center, an immigration detention facility located in Brooklyn, New York, operated by the federal Bureau of Prisons under the supervision of Warden Raul Maldonado, Jr. Petitioner is detained within this District and under the direct control of Respondent.

JURISDICTION

13. This case arises under the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101 *et seq.*, and the Fifth Amendment of the United States Constitution.
14. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, Cl. 2 of the United States Constitution (the Suspension Clause).
15. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

16. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(a)(5), 1252(b)(9), 1225(g), or 1226(e). District courts have jurisdiction under 28 U.S.C. § 2241 to decide habeas claims by individuals challenging the lawfulness or constitutionality of their civil immigration detention. *See Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

VENUE

17. Venue is proper in the Eastern District of New York under 28 U.S.C. §§1391(e)(1) and (2) because the Respondent is an officer, employee, or agency of the United States and detains Petitioner at the Metropolitan Detention Center which is in this District. Venue is also proper in this District because a substantial part of the events or omissions giving rise to the claims occurred in the Eastern District of New York.

REQUIREMENTS OF 28 U.S.C. § 2243

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).

19. Pursuant to 28 U.S.C. § 2243, the Court must grant the Petition for a writ of habeas corpus or order Respondent to show cause “forthwith,” unless the petitioner is not entitled to relief. *Id.* After issuance of an order to show cause, Respondent must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* Upon filing of the return, the Court sets a hearing “not more than five days after the return unless for good cause additional time is allowed.” *Id.* Finally, “[t]he court shall summarily hear and determine the facts and dispose of the matter as law and justice require.” *Id.*

EXHAUSTION OF ADMINISTRATIVE REMEDIES

20. There is no statutory exhaustion requirement for habeas challenges under 28 U.S.C § 2241.

In the absence of a statutory exhaustion requirement, “sound judicial discretion governs.” *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). For example, there is no need to seek an administrative remedy when doing so would be “futile,” *e.g.*, “where the administrative body” has “predetermined the issue before it.” *Id.* at 144, 148; *see also Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 U.S. Dist. LEXIS 226877, at *8 (E.D. Pa. Nov. 18, 2025). Similarly, exhaustion is excused “when the issue presented involves only statutory construction.” *Vasquez v. Strada*, 684 F.3d 431, 434 (3d Cir. 2012).

21. Both exceptions apply here. The BIA’s decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—which binds immigration judges, 8 C.F.R. § 1003.1(g)(1)—plainly denies Petitioner a bond hearing. Due to that binding BIA precedent, Petitioner’s legal issue has been predetermined within the agency, and exhaustion would be futile just as it was in *Demirel*, a fact that clears the way for judicial review. Second, because the central issue here is whether Petitioner may be detained under Section 1225 or Section 1226 of the INA—a purely legal question of statutory interpretation—any exhaustion requirements should therefore be excused.

PARTIES

22. Petitioner Cihan Gullu is currently in the custody of ICE and is detained at the Metropolitan Detention Center in Brooklyn, New York, where he has been held for approximately twenty days.

23. Respondent Raul Maldonado Jr. is the Warden of the Metropolitan Detention Center and is sued in his official capacity as the individual in charge of the detention facility where

Petitioner is currently detained. Respondent is the immediate custodian of Petitioner and, in conjunction with DHS and ICE, has the authority to release him.

FACTUAL ALLEGATIONS

24. Petitioner is a 41-year-old Turkish citizen, who has resided in the United States since April 2024. Petitioner has no criminal convictions and no history of offenses rendering him a danger to the community.
25. Prior to his current immigration detention, Petitioner lived in the United States and was residing in Sheepshead Bay, Brooklyn, New York, where he worked as a delivery driver for local supermarkets and fast-food establishments.
26. Petitioner last entered the United States on or about April 10, 2024, at or near Tecate, CA, without admission or parole.
27. Petitioner has established significant ties to his local community in Sheepshead Bay, Brooklyn, New York, including through his employment as a delivery driver serving local businesses and residents.
28. Petitioner has been in removal proceedings and has pursued relief from removal. Throughout that period, he resided in the community of Sheepshead Bay, Brooklyn, complied with all requirements of his immigration proceedings and the conditions of his release, and actively pursued available immigration and humanitarian relief. He filed a Form I-589, Application for Asylum and Withholding of Removal, with the EOIR. ICE officers apprehended Petitioner outside a store in or around the first week of March 2026. He has since been held at the MDC supervised detention facility for approximately twenty days without an opportunity for release on bond, despite his pending application for relief.

29. Petitioner currently has a master calendar hearing scheduled on March 25, 2026, at the New York Immigration Court in Brooklyn. (**Exhibit 3**, EOIR Hearing Notice). Because Petitioner remains detained while his removal proceedings are pending, an individualized bond hearing is constitutionally significant to determine whether his continued detention is justified during the pendency of those proceedings.

LEGAL FRAMEWORK

31. There are three statutes that govern civil immigration detention. *See* 8 U.S.C. §§ 1225, 1226, 1231.

32. First, Section 1225 provides for mandatory detention of two groups of noncitizens regardless of any criminal record. The first group consists of those who are subject to expedited removal (a) for being apprehended upon arrival at or near the border lacking any valid entry document or (b) for being apprehended at any location and unable to show that they have been physically present in the United States for more than two years. 8 U.S.C. §§ 1225(b)(1)(A)(i), (ii). The second group consists of anyone alleged to be an “applicant for admission” who is “seeking admission” and whom an “examining officer determines . . . is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2). This section mandates detention and is “applied primarily to aliens seeking entry into the United States” who claim fear of return to their home country at a United States border. *Jennings*, 583 U.S.C. at 297.

33. Second, Section 1226(a) authorizes discretionary detention of noncitizens in standard removal proceedings under 8 U.S.C. § 1229a. This section governs detention of noncitizens in removal proceedings not apprehended at the border and grants the Attorney General discretion to determine whether a noncitizen, except those with certain criminal histories,

may be released on bond. 8 U.S.C. § 1226(a). 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).

34. Third, under 8 U.S.C. § 1231(a)(1)(A), ICE must detain a noncitizen for the first ninety days after a removal order becomes final. *Jennings v. Rodriguez*, 583 U.S. 281, 298 (2018). This statute is not at issue in this case.

35. This case presents a pure legal question regarding whether Petitioner's detention is governed by 8 U.S.C. §§ 1225 or 1226.

Statutory Framework for §§ 1226 and 1225

36. 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 in 2025 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

37. 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).

38. 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)).

39. 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. *Martinez v. Hyde*, 792 F. Supp. 3d 211, 223 n.10 (D. Mass. 2025).
40. 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 subject to mandatory detention 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.
41. 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.
42. “At least 282 decisions from district courts. . . find that the application of Section 1225(b)(2)(A) to noncitizens residing in the United States is unlawful.” *Patel v. McShane*, No. 25-5975, 2025 U.S. Dist. LEXIS 228258, at *2 (E.D. Pa. Nov. 20, 2025); *see also Del Cid v. Bondi*, No. 3:25-cv-00304, 2025 U.S. Dist. LEXIS 209136, at *40 (W.D. Pa. Oct. 23, 2025) (determining that petitioners were likely to succeed on their claim that § 1226(a) governed their detention based on years of U.S. residence, but declining to adopt a bright-line rule).

43. Many courts have likewise concluded that § 1225(b)(2)(A) does not apply to individuals like Petitioner who are in standard removal proceedings and were residing in the United States when DHS detained them under § 1225. Instead, such individuals are subject to discretionary detention under Section 1226(a), which allows for release on bond. *See, e.g., Martinez*, 792 F. Supp. 3d at 232. Courts within this District have repeatedly granted habeas relief on materially similar facts, holding that noncitizens who entered without inspection, were released on recognizance, resided in the community, and were later detained by ICE without a bond hearing are entitled to relief under § 1226(a). *See Tacuri Yumbla v. Maldonado*, No. 26-cv-00594 (NCM) 2026 WL 371414 (E.D.N.Y. Feb. 10, 2026), *Ccorihuaman v. Genalo*, No. 26-cv-00554, 2026 WL 328983 (E.D.N.Y. Feb. 6, 2026); *Crespo Tacuri v. Genalo*, No. 25-cv-06896, 2026 WL 35569 (E.D.N.Y. Jan. 6, 2026); *Y-C- v. Genalo*, No. 25-cv-06558, 2025 WL 3653496 (E.D.N.Y. Dec. 17, 2025). Notably, in *Tacuri Yumbla*, the court held that the petitioner was being unlawfully detained under § 1226 and in violation of the Fifth Amendment, granted the habeas petition, and ordered release within 24 hours.
44. Section 1226(a) applies by default to all persons “pending a decision on whether the noncitizen is to be removed from the United States.” These removal hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”
45. 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). *Id.* As one court explained, “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions,

the statute generally applies.” *Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

46. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States without admission or parole. 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 a[] [noncitizen] seeking to enter the country is admissible.” *Jennings*, 583 U.S. at 287; see *Del Cid*, 2025 U.S. Dist. LEXIS 209136, at *40 (recognizing that § 1225 is tethered to the nation’s borders, whereas § 1226 is tethered to individuals within the country).

47. Thus, the mandatory detention provision of § 1225(b)(2) does not apply to individuals like Petitioner who have resided in the United States and are in standard removal proceedings. Instead, such individuals are subject to discretionary detention under § 1226(a), which permits release on bond. See, e.g., *Patel*, 2025 U.S. Dist. LEXIS 228258, at *4.

Detention without Due Process

48. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225. Even if Respondent were correct that § 1225 applied, Petitioner’s continued detention without notice, a meaningful opportunity to be heard, or an individualized determination of the necessity of detention violates the Due Process Clause of the Fifth Amendment. See, e.g., *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025).

49. Petitioner has a protected liberty interest under the Due Process Clause because he has resided in the United States and is entitled to constitutional protections afforded to all “persons” within the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The Supreme Court has repeatedly reaffirmed that noncitizens, regardless of immigration status, are entitled to due process of law before the government may deprive them of their liberty.
50. *Dep’t of Homeland Sec. v. Thuraissigiam* 591 U.S. 103 (2020), underscores the distinction between noncitizens apprehended shortly after unlawful entry and those who have established substantial connections to the United States. Unlike individuals apprehended at or near the border and placed in expedited removal proceedings, Petitioner has resided in the United States and is therefore entitled to the full protections of the Due Process Clause.
51. Petitioner retains a significant liberty interest under the Due Process Clause of the Fifth Amendment in avoiding immigration detention. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972). Having lived in the United States and established substantial ties to his community, Petitioner possesses a protected liberty interest that cannot be extinguished without due process of law.
52. Courts evaluate the procedural protections required using the *Mathews v. Eldridge* factors which consider: (1) the private interest affected; (2) the risk of erroneous deprivation and probable value of additional safeguards; and (3) the government’s interest, including fiscal and administrative burdens. 424 U.S. 319, 335 (1976).
53. Being free from physical detention is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Individuals possess a significant liberty interest in

avoiding physical confinement, a principle repeatedly recognized by the Supreme Court and the lower courts. *See, e.g., Young v. Harper*, 520 U.S. 143, 152 (1997); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019).

54. The risk of erroneous deprivation of Petitioner's liberty interest is high. DHS has adopted an impermissibly broad interpretation of 8 U.S.C. § 1225 that categorically forecloses any opportunity for an individualized bond hearing. Civil immigration detention must be "nonpunitive in purpose and effect" and is constitutionally justified only where the government demonstrates that detention is necessary to prevent flight or danger to the community. *Zadvydas* at 678, 690. By denying Petitioner any individualized assessment of whether continued detention is warranted, DHS's interpretation creates a substantial risk of erroneous deprivation of liberty.
55. While the government has an interest in ensuring that noncitizens appear for removal proceedings and do not pose a danger to the community, that interest is minimal when compared to Petitioner's significant liberty interest. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019). Petitioner has no criminal history and has ties to the United States. Nothing in the record, apart from the government's challenged interpretation of § 1225, supports his continued detention. Providing Petitioner notice and an individualized hearing to assess whether detention is necessary would impose only a minimal administrative burden, as such hearings are routinely conducted in immigration proceedings. *See* 8 C.F.R. § 1236.1(d)(1).
56. On balance, the *Mathews* factors weigh heavily in Petitioner's favor. Because DHS has denied Petitioner any notice or opportunity to be heard before subjecting him to continued

detention, due process requires at minimum an individualized bond hearing to determine whether detention is justified. *See, e.g., Patel*, 2025 U.S. Dist. LEXIS 228258, at *4.

CLAIMS FOR RELIEF

COUNT ONE

FIFTH AMENDMENT DUE PROCESS VIOLATION

(Procedural Due Process)

57. Petitioner alleges and incorporates by reference the paragraphs above.
58. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V. The Supreme Court has long-established that noncitizens are afforded due process rights. *Reno v. Flores*, 507 U.S. 292, 306 (1993); *Demore*, 538 U.S. at 523.
59. Procedural due process requires a custody hearing before an independent and impartial adjudicator. *See Marcello v. Bonds*, 39 U.S. 302, 307 (1955).
60. To determine whether civil detention violates an individual’s due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*.
61. Petitioner has a significant liberty interest in being free from detention.
62. The government’s assertion of the wrong detention authority and its continued detention of Petitioner without notice or an individualized hearing presents a significant risk of erroneous deprivation of Petitioner’s liberty interest. The government’s position lacks support in the plain text of the INA and contravenes longstanding statutory interpretation and prevailing case law. By detaining Petitioner without affording him any procedural safeguards, the government has violated Petitioner’s due process rights.
63. Any motion for bond before the Immigration Court, and any subsequent appeal to the Board of Immigration Appeals, would be futile because the agency has adopted the same

erroneous interpretation of the governing detention statutes that DHS advances here. As a result, Petitioner has no meaningful opportunity, outside of this Petition, to challenge the legality of his detention based on an incorrect reading of the law.

64. The government's interest and any administrative burden associated with providing Petitioner an individualized bond hearing are minimal. Immigration Judges routinely conduct such hearings, and providing basic procedural protections would impose little burden while substantially reducing the risk of erroneous detention.
65. Petitioner's continued detention without notice, a hearing, or any individualized procedural safeguards constitutes a serious deprivation of liberty and violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

VIOLATION OF 8 U.S.C. § 1226(a)

(Misclassification Without Opportunity to Contest)

66. Petitioner alleges and incorporates by reference the paragraphs above.
67. Petitioner's detention is governed by 8 U.S.C. § 1226(a), which authorizes discretionary detention and release on bond or conditional release during the pendency of removal proceedings.
68. Section 1226(a) is the default detention statute governing noncitizens already present in the United States and placed in standard removal proceedings, whereas § 1225 applies to individuals seeking admission at or near the border. *Jennings* at 288–89 (2018). Petitioner has resided in the United States and therefore falls squarely within the category of noncitizens “already in the country” subject to § 1226(a).
69. The Court should reject any argument that Petitioner falls under § 1225(b)(1) or (b)(2) on the basis that he is an “applicant for admission” or was paroled at a port of entry because

such arguments ignore that DHS released Petitioner under § 1226(a) and that Petitioner has an established liberty interest from his time living freely in the United States.

70. DHS's treatment of Petitioner as subject to mandatory detention under § 1225(b), without affording him notice or an opportunity to contest that classification, constitutes an unlawful misapplication of the detention statutes.

71. Section 1226(a) and implementing regulations provide that noncitizens present in the United States pending removal decisions, like Petitioner, are eligible for release on bond unless subject to mandatory detention under § 1226(c). 8 U.S.C. § 1226(a); 8 C.F.R. §§ 1236.1(d), 1003.19(a)-(f).

72. By denying Petitioner a bond hearing and detaining him without an individualized determination of flight risk or danger to the community, DHS has acted contrary to § 1226(a) and in excess of its statutory authority.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause ordering Respondent to show cause within three days why this Petition should not be granted;
3. Enjoin Respondent from transferring Petitioner outside the jurisdiction of this District pending the resolution of this case;
4. Issue a Writ of Habeas Corpus ordering Petitioner's immediate release from detention because his continued detention under an erroneous application of 8 U.S.C. § 1225, without an opportunity to contest that classification, is unlawful;

5. In the alternative, order that Petitioner must receive an immediate bond hearing before an Immigration Judge where DHS shall bear the burden of proving, by clear and convincing evidence of dangerousness or flight risk, that Petitioner's continued detention is justified;
6. Award reasonable attorneys' fees and costs under the Equal Access to Justice Act and on any other basis justified under law; and
7. Grant any further relief this Court deems just and proper.

Date: March 24, 2026.

Respectfully submitted,

/s/ Arif Gozel

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

I am submitting this verification on behalf of Petitioner Cihan Gullu as his attorney. I have not personally met with Petitioner. Rather, I have reviewed the documents referenced herein and have discussed the factual allegations in this Petition with Petitioner's immigration counsel. Based on my review of the records provided, and on information and belief, I hereby verify that the factual statements made in the foregoing Verified Writ of Habeas Corpus under 28 U.S.C. § 2241 are true and correct to the best of my knowledge.

/s/ Arif Gozel

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EXHIBITS

Exhibit 1, Notice to Appear

Exhibit 2, DHS Order of Release on Recognizance

Exhibit 3, EOIR Hearing Notice