

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

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| <p><b>Jamess Allan Turcios Castro,</b></p> <p><i>Petitioner,</i></p> <p>v.</p> <p><b>MARKWAYNE MULLIN</b>, Secretary of the U.S. Department of Homeland Security, in his official capacity;<br/><b>PAMELA BONDI</b>, Attorney General of the United States, in her official capacity;<br/><b>TODD M. LYONS</b>, Acting Director, U.S. Immigration and Customs Enforcement, in his official capacity;<br/><b>MICHAEL ROSE</b>, Director of the Philadelphia Field Office of the U.S. Immigration and Customs Enforcement, in his official capacity;<br/>and <b>JAMAL L. JAMISON</b>, Warden of the Federal Detention Center in Philadelphia, in his Official Capacity,</p> <p><i>Respondents.</i></p> | <p>Case No. 2:26-cv-01936</p> |
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**PETITION FOR WRIT OF HABEAS CORPUS  
PURSUANT TO 28 U.S.C. § 2241**

**EMERGENCY FILING TO PRESERVE JURISDICTION**

**EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS PURSUANT  
TO 28 U.S.C. § 2241**

Petitioner Jamess Allan Turcios Castro, A# , respectfully petitions this Honorable Court for a writ of *habeas corpus* to remedy Petitioner's unlawful detention by Respondents, as follows:

**I. INTRODUCTION**

1. This Petition challenges the unlawful civil detention of Petitioner Jamess Allan Turcios Castro by Immigration and Customs Enforcement ("ICE").
2. Petitioner is a citizen of Honduras who entered the United States without inspection on or about April 2012 and has resided continuously in the United States for approximately fourteen years. During that time, Petitioner established deep family and community ties, including raising his children in the United States.
3. Petitioner was previously ordered removed in 2004 and again in 2011. Following those prior removal orders, Petitioner re-entered the United States in or about 2012 and has remained in the United States continuously since that time.
4. Despite this history, at present, Petitioner is not subject to a reinstated removal order and has not been provided with a Notice to Appear initiating removal proceedings. Nor has the Petitioner been provided with any opportunity to seek release through custody determination mechanisms. Accordingly, the legality of

Petitioner's detention must be evaluated based on the Government's present statutory authority, not on speculative future enforcement actions that DHS has not yet undertaken.

5. On or about March 19, 2026, ICE arrested and detained Petitioner in Philadelphia, Pennsylvania, within the interior of the United States, without providing any bond hearing and without identifying a lawful statutory basis for his continued detention.
6. Because Petitioner is detained pending potential removal proceedings, his detention is governed by 8 U.S.C. § 1226(a), which requires individualized custody determinations. DHS cannot justify Petitioner's continued detention based on unexercised authority to reinstate a prior removal order, as detention authority must be grounded in the Government's actual, present statutory posture. Nonetheless, ICE detained Petitioner without providing access to a bond hearing, in violation of the Immigration and Nationality Act and the Fifth Amendment's Due Process Clause.
7. Petitioner challenges Respondents' reliance on 8 U.S.C. § 1225(b) as a matter of law. Section 1225 governs the inspection and detention of noncitizens who are "seeking admission" to the United States, not to noncitizens like Petitioner who have lived in the United States for over a decade. Federal district courts have overwhelmingly rejected the Government's attempt to apply § 1225(b) to individuals apprehended in the interior after long-term residence; likewise, they

have held that detention in such circumstances must proceed, if at all, under 8 U.S.C § 1226, which provides for discretionary detention and individualized bond determination.

8. Petitioner therefore seeks immediate release, or at minimum, a prompt individualized bond hearing before an Immigration Judge where the burden of proof rests upon the Government.

## II. PARTIES

9. Petitioner, Jamess Allan Turcios-Castro is a noncitizen currently in the custody of and detained by Respondents in the Eastern District of Pennsylvania. On March 19, 2026 the Department of Homeland Security (“DHS”) issued a Form I-200, Warrant for Arrest of Alien. Agents of Immigration and Customs Enforcement (“ICE”) subsequently detained Petitioner.
10. Respondent Jamal L. Jamison is named in his official capacity as the Warden of the Federal Detention Center–Philadelphia (“FDC Philadelphia”), located in Philadelphia, Pennsylvania. As Warden, Respondent Jamison has immediate physical custody of Petitioner pursuant to a contract with ICE to detain noncitizens and is a proper respondent to this habeas petition. See *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004).
11. Respondent Michael Rose is named in his official capacity as the Philadelphia Field Office Director for ICE Enforcement and Removal Operations (“ERO”). In this capacity, he is responsible for the administration and management of ICE

detention and enforcement operations within the Eastern District of Pennsylvania and exercises legal control over Petitioner's custody.

12. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. In this capacity, Respondent Lyons is responsible for the administration and enforcement of federal immigration laws, including detention determinations, and is a legal custodian of Petitioner. Respondent Lyons's office is located at 500 12th Street, S.W., Washington, D.C. 20536.
13. Respondent Markwayne Mullin is named in his official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws and for Petitioner's detention. Secretary Mullin is the ultimate legal custodian of Petitioner. His office is located in the U.S. Department of Homeland Security, Washington, D.C. 20528.
14. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States and senior official of the U.S. Department of Justice. In that capacity, she has the authority to adjudicate removal cases and oversees the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals (BIA).

### **III. JURISDICTION AND VENUE**

15. This action arises under the Constitution and laws of the United States, including the Immigration and Nationality Act (“INA”), 8.U.S.C. § 1101 et seq, and the Fifth and Fourteenth Amendments to the U.S. Constitution.
16. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 1361. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.
17. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against one of its agencies and that agency’s officers who are sued in their official capacities. *See* 5 U.S.C. § 702.
18. Venue is proper in this District because the Petitioner is detained in this district. 28 U.S.C. § 1391; *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004).

#### IV. STATEMENT OF FACTS

19. Petitioner James Allan Turcios Castro is a native and citizen of Honduras born on [REDACTED] in Juticalpa, Olancho, Honduras, who is in ICE custody pursuant to DHS’s order, and is currently detained at FDC in Philadelphia, Pennsylvania. **(See Exhibit A, Birth Certificate).**
20. Petitioner is the father of two United States Citizen children, [REDACTED] [REDACTED] (born [REDACTED], who has autism, and J [REDACTED]

 (born , who has ADHD. (See **Exhibit B, Child Passports**).

21. One of Petitioner's children has autism and the other has ADHD; Petitioner serves as their primary financial and caregiving support. (See **Exhibit C, Medical Record**).

22. Petitioner first entered the United States without inspection on or about August 13, 2004, with his wife, who remains in the United States. Petitioner re-entered the U.S. in or about April 2005.

23. In May 2011, Petitioner was removed from the United States pursuant to a prior removal order.

24. Petitioner last re-entered the United States without inspection in January 2012. He was not apprehended at the border at that time and has resided in the United States continuously for about fourteen years since that time.

25. Petitioner has maintained continuous employment as a self-employed individual since 2012 and has no criminal history.

26. Petitioner is a dedicated leader in his community, serving at the   
 hurch for several years. (See **Exhibit D, Letter of support**)

27. After years of adherence to immigration conditions and establishing a presence in the community, Petitioner was abruptly arrested by ICE on March 19, 2026,

without prior notice, without a bond hearing, and without any contemporaneous explanation of the statutory basis for this action.

28. To the extent ICE is asserting detention authority under 8 U.S.C. § 1225(b), as it has repeatedly done in materially identical cases throughout this District, such detention is unlawful because Petitioner is not an applicant for admission and is not “seeking admission” within the meaning of § 1225(b), but rather is a long-term resident apprehended in the interior of the United States.
29. As of the filing of this Petition, DHS has neither reinstated Petitioner’s prior removal order nor initiated removal proceedings by filing a Notice to Appear with the Immigration Court. In the absence of either action, there is no active statutory mechanism by which Petitioner’s removal may be effectuated, yet he remains detained without any access to a custody determination process.
30. Because Petitioner is being detained without clear statutory authorization and in violation of the Fifth Amendment's Due Process Clause, Petitioner requests that this Court issue the writ of *habeas corpus* and order Petitioner's immediate release, or at minimum, an individualized bond hearing under 8 U.S.C. § 1226(a).

## **V. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

31. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Arango Marquez v. I.N.S.*, 346 F.3d 892, 897 (9th Cir. 2003). Any requirement of administrative

exhaustion is therefore purely discretionary. *See Santos v. Lowe*, No.

1:18-cv-1553, 2020 WL 4530728, at \*2 (M.D. Pa. Aug. 2020) (“[T]he exhaustion requirement imposed by courts relating to habeas corpus petitions filed by immigration detainees is a prudential benchmark which is not compelled by statute.”).

32. In making that decision, the Court should consider the urgency of the need for immediate review. “Where a person is detained by executive order . . . the need for collateral review is most pressing. In this context the need for habeas corpus is more urgent.” *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).
33. Moreover, the exhaustion “doctrine is not without exception.” *Ashley v. Ridge*, 288 F. Supp. 2d 662, 666. (D.N.J. 2003). “Courts have found that the exhaustion of administrative remedies may not be required when available remedies provide no opportunity for adequate relief, an administrative appeal would be futile, or if the plaintiff has raised a substantial constitutional question.” *Id.* at 666-67.
34. Finally, the Immigration Court and/or BIA do not have jurisdiction to adjudicate Petitioner’s present claim. The Third Circuit has held that the BIA does not have jurisdiction to adjudicate Constitutional issues. *Qatanani v. Att’y Gen. of the U.S.*, 144 F.4th 485, 500 (3d Cir. 2025); *see also Ashley*, 288 F. Supp. 2d at 667 (citation omitted). Here, Petitioner raises a Constitutional due process issue, making his claim ripe for adjudication by this Court, rather than the

Immigration Court. Therefore, any administrative proceedings would be futile. *Qatanani*, 144 F.4th at 500.

## VI. LEGAL FRAMEWORK

### A. Noncitizens Who Entered Without Inspection (EWI) and were Later Detained in the Interior

1. The Government frequently asserts that noncitizens who entered without inspection (“EWI”) are categorically subject to mandatory detention under 8 U.S.C. § 1225(b) based solely on the manner of their entry. Courts have repeatedly rejected that position. Entry without inspection, standing alone, does not permanently subject a noncitizen to mandatory detention under § 1225(b).
2. As courts in the Eastern District of Pennsylvania have emphasized, the legally operative inquiry for determining detention authority is not the manner of initial entry, but whether the individual is being detained after being encountered in the interior of the United States. *See Rios Porras v. O’Neill*, No. 25-6801, slip op. at 3–4 (E.D. Pa. Dec. 22, 2025); *Kashranov v. Jamison*, No. 25-5555, 2025 WL 3188399, at \*6 (E.D. Pa. Nov. 14, 2025).
3. Where a noncitizen is present in the United States and detained in connection with potential removal proceedings, detention authority, if any, arises under 8 U.S.C. § 1226(a), which governs discretionary detention pending a decision on removal and provides access to an individualized custody determination.

4. In *Maldonado Bautista v. Santacruz*, the United States District Court for the Central District of California squarely rejected DHS's position that noncitizens who entered without inspection remain categorically subject to mandatory detention under § 1225(b) after release into the United States. The court held that noncitizens already present in the United States who entered without inspection and were not apprehended upon arrival are detained—if at all—under 8 U.S.C. § 1226(a) and are therefore entitled to individualized bond hearings. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, slip op. at 12–16 (C.D. Cal. Nov. 20, 2025), final judgment entered, slip op. at 10–11 (C.D. Cal. Dec. 18, 2025).

5. The court further certified a nationwide Bond-Eligible Class consisting of:

All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination. *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, slip op. at 2, 15 (C.D. Cal. Nov. 25, 2025), clarified and incorporated into final judgment, slip op. at 2 (C.D. Cal. Dec. 18, 2025).

6. Importantly, in entering final judgment, the court expressly clarified that the Board of Immigration Appeals' decision in *Matter of Yahure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), “cannot be squared” with its statutory analysis and that

*Yahure Hurtado* is “no longer controlling,” as “the legal conclusion underlying the decision is no longer tenable.” *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, slip op. at 6 (C.D. Cal. Dec. 18, 2025). [1]

7. Accordingly, even where DHS argues that a noncitizen’s EWI status places them outside the scope of § 1226(a), courts have consistently rejected that interpretation. *Maldonado Bautista* confirms that such individuals are bond-eligible once released and that *Yahure Hurtado* cannot be relied upon to deny access to a bond hearing.

8. Accepting the Government’s contrary theory—that all EWI noncitizens remain permanently subject to § 1225(b)—would effectively eliminate § 1226(a) for a broad class of individuals Congress plainly intended to place within the discretionary detention regime. Courts have rejected that interpretation as inconsistent with the INA’s text, structure, and statutory design. See *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at \*9 (E.D. Pa. Nov. 18, 2025); *Kashranov*, 2025 WL 3188399, at \*10.

## **B. The INA Establishes Two Distinct and Mutually Exclusive Detention Regimes**

9. The statutory structure of the Immigration and Nationality Act (“INA”) establishes two distinct and mutually exclusive detention regimes governing noncitizens during removal proceedings. Mandatory detention under 8 U.S.C. § 1225(b) applies to noncitizens who are “*seeking admission*” at or near the border and remain in the inspection process. By contrast, 8 U.S.C. § 1226 governs

discretionary detention of noncitizens who are *already present in the United States* pending a decision on removal. See *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (distinguishing § 1225(b), which applies to noncitizens “seeking admission,” from § 1226, which governs noncitizens “already in the country”).

10. Courts have consistently recognized that these provisions “can be reconciled only if they apply to different classes of aliens.” *Romero v. Hyde*, No. 25-11631, 2025 WL 2403827, at \*11 (D. Mass. Aug. 19, 2025) (quoting *Matter of M-S-*, 27 I. & N. Dec. 509, 516 (A.G. 2019)); see also *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at \*5 (E.D. Pa. Nov. 18, 2025); *Kashranov v. Jamison*, No. 25-5555, 2025 WL 3188399, at \*6 (E.D. Pa. Nov. 14, 2025).

11. Thus, detention authority must correspond to the noncitizen’s actual procedural posture. The Government may not apply the mandatory detention framework of § 1225(b) to individuals apprehended in the interior after long-term residence where that statutory framework does not apply.

As explained below, DHS’s attempt to apply § 1225(b) to individuals apprehended in the interior after long-term residence finds no support in the INA’s text or structure and has been repeatedly rejected by federal courts.

### **C. Section 1225(b) Does Not Apply to Individuals Arrested in the Interior After Long-Term Presence**

13. Section 1225(b) applies only to individuals who are “seeking admission” to the United States.

14. Courts have consistently held that the phrase “seeking admission” refers to individuals at or near the border who are in the process of entry, not to individuals who have lived in the United States for years and are later apprehended in the interior. *See Diaz Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, at \*6 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588, at \*6 (S.D.N.Y. Aug. 13, 2025).

15. Reading § 1225(b) to apply to all noncitizens who entered without inspection—regardless of how long they have lived in the United States—would render the statutory distinction between § 1225 and § 1226 meaningless and violate the canon against surplusage.

16. Accordingly, courts have overwhelmingly rejected DHS’s attempt to apply § 1225(b) to noncitizens who are apprehended in the interior after long-term residence. *See Demirel*, 2025 WL 3218243, at \*6–9; *Kashranov*, 2025 WL 3188399, at \*6–10; *Diaz Martinez*, 2025 WL 2084238, at \*6–8.

#### **D. Post-Order Detention Under 8 U.S.C. § 1231**

17. Section 1231 governs the detention of noncitizens who are subject to final orders of removal. 8 U.S.C. § 1231(a).

18. Under the statute, the Government is required to remove a noncitizen within a 90-day “removal period,” during which detention is mandatory. 8 U.S.C. § 1231(a)(1)–(2).

19. After the expiration of the removal period, continued detention is permitted only in limited circumstances and is subject to constitutional constraints. 8 U.S.C. § 1231(a)(6).

20. In *Zadvydas v. Davis*, the Supreme Court held that § 1231 does not authorize indefinite detention and must be construed to include an implicit temporal limitation. 533 U.S. 678, 689 (2001). The Court explained that detention is permissible only for the period reasonably necessary to effectuate removal. *Id.* at 689–90.

21. The Court further established that six months is a presumptively reasonable period of detention, after which continued detention is lawful only if there is a “significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

22. Even prior to the six-month mark, detention must bear a reasonable relation to the purpose of effectuating removal and may not be arbitrary. *See id.* at 690; *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

22. Courts have recognized that where removal is contingent on unresolved legal proceedings, delayed by the absence of travel documents, or otherwise not practically attainable, detention may become constitutionally suspect because it is not reasonably related to its purpose. *See Zadvydas*, 533 U.S. at 690.

Therefore, even where § 1231 applies, detention is not automatic or indefinite and must be justified by a realistic prospect of removal in the reasonably foreseeable future.

## **VI. ARGUMENT**

### **A. PETITIONER’S DETENTION VIOLATES THE IMMIGRATION AND NATIONALITY ACT**

17. Respondent’s detention of Petitioner is unlawful because it violates the Immigration and Nationality Act (“INA”).

18. Petitioner is currently detained and subject to potential removal proceedings. He intends to seek cancellation of removal. As such, his detention is governed by 8 U.S.C. § 1226(a), which applies to non-citizens “pending a decision on whether the [noncitizen] is to be removed.” *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018).

19. Section 1226(a) provides for discretionary detention and requires access to an individualized custody determination. It does not authorize mandatory detention without process.

20. Nonetheless, Respondents have detained Petitioner without providing any bond and without any individualized determination that he poses a risk of flight or a danger to the community.

21. To the extent that Respondents assert detention authority under 8 U.S.C. § 1225(b), such reliance is unlawful. Section 1225(b) applies only to noncitizens who are “seeking admission,” not to individuals like Petitioner who have lived in

the United States for over a decade and are now in removal proceedings. He is not seeking permission to enter the United States; he has already effected entry and is now seeking permission to *remain*. ADD CASE CITATION

22. Courts across the country have overwhelmingly rejected DHS's position that noncitizens who entered without inspection remain subject to mandatory detention under § 1225(b) after being encountered in the interior. Instead, courts have held that such individuals are detained—if at all—under § 1226(a) and are entitled to bond hearings. *See, e.g., Demirel v. Fed. Det. Ctr. Phila.*, 2025 WL 3218243, at \*6–9; *Kashranov v. Jamison*, 2025 WL 3188399, at \*6–10; *Diaz Martinez v. Hyde*, 2025 WL 2084238, at \*6–8.

23. Because Petitioner is detained under § 1226(a), he is entitled to an individualized custody determination. Respondents' failure to provide any bond hearing exceeds statutory authority and violates the INA.

#### **B. INITIAL ENTRY WITHOUT INSPECTION DOES NOT SUBJECT PETITIONER TO PERMANENT MANDATORY DETENTION**

24. The Government frequently argues that individuals who entered without inspection remain permanently subject to mandatory detention under § 1225(b), based solely on their manner of entry. Courts have uniformly rejected that argument.

25. As multiple courts in this District have explained, initial apprehension is not the legally operative event for detention purposes, but rather his current posture—namely, that he has established a long physical presence in the United States.

26. The statutory phrase “seeking admission” refers to present-tense conduct at or near the border. It does not encompass individuals who entered the United States years ago, established residence, and are now defending against removal. *See Diaz Martinez*, 2025 WL 2084238, at \*6; *Lopez Benitez v. Francis*, 2025 WL 2371588, at \*6.

27. Accepting the Government’s contrary interpretation would collapse the distinction between § 1225(b) and § 1226(a), rendering § 1226(a) meaningless for a broad class of noncitizens. Courts have rejected that interpretation as inconsistent with the INA’s text and structure. *See Demirel*, 2025 WL 3218243, at \*6–9; *Kashranov*, 2025 WL 3188399, at \*6–10.

28. Accordingly, Petitioner’s initial entry without inspection is legally irrelevant to the present detention analysis.

**C. THE GOVERNMENT’S INTERPRETATION IS AN EXTREME OUTLIER REJECTED BY THE OVERWHELMING NATIONAL CONSENSUS**

29. Federal courts across the country have repeatedly addressed the precise legal question presented here: whether DHS may categorically treat all individuals who entered the United States without inspection as “applicants for admission” subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), thereby denying them access to bond hearings.

30. As Judge Diamond recently summarized:

“As of November 2025, at least 289 district court decisions have addressed this issue. In all but six, the Government’s interpretation of the INA—the same

interpretation it urges here—was rejected.” *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at \*1 (E.D. Pa. Nov. 18, 2025).

31. Courts have concluded that DHS has misread the INA, that detention in these circumstances is governed by 8 U.S.C. § 1226(a)—which provides access to a bond hearing—not § 1225(b), and that the Government’s categorical application of § 1225(b) in this context violates the Fifth Amendment’s Due Process Clause. *See, e.g., Demirel*, 2025 WL 3218243, at \*6–9; *Kashranov*, 2025 WL 3188399, at \*12–13; *Cantu-Cortes v. O’Neill*, No. 25-6338, 2025 WL 3171639 (E.D. Pa. Nov. 13, 2025); *Bethancourt Soto v. Soto*, 2025 WL 2976572 (D.N.J. Oct. 22, 2025); *Sanchez Ballesteros v. Noem*, 2025 WL 2880831 (W.D. Ky. Oct. 9, 2025); *Hernandez-Alonso v. Tindall*, 2025 WL 3083920 (W.D. Ky. Nov. 4, 2025); *Rodriguez Serrano v. Noem*, 2025 WL 3122825 (W.D. Mich. Nov. 7, 2025); *Ochoa Ochoa v. Noem*, No. 25-CV-10865, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *Rosales Ponce v. Olson*, 2025 WL 3049785 (N.D. Ill. Oct. 31, 2025); *Loza Valencia v. Noem*, 2025 WL 3042520 (N.D. Ill. Oct. 31, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Guerrero Lepe v. Andrews*, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *E.C. v. Noem*, 2025 WL 2916264 (D. Nev. Oct. 14, 2025); *Garcia Domingo v. Castro*, 2025 WL 2941217 (D.N.M. Oct. 15, 2025); *Artiga v. Genalo*, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025).

32. Petitioner’s case falls within this overwhelming national consensus. Like the petitioners in these cases, Petitioner entered the United States without

inspection, lived in the United States for years, and was later detained in the interior without access to a bond hearing.

33. Respondents' attempt to subject him to mandatory detention under § 1225(b) is therefore contrary to law.

**D. IIRIRA CONFIRMS THAT § 1226(a), NOT § 1225(b), GOVERNS THE DETENTION OF INDIVIDUALS LIKE PETITIONER WHO WERE RELEASED INTO THE UNITED STATES AND LATER DETAINED IN THE INTERIOR**

34. The Immigration and Nationality Act contains multiple detention provisions that apply at different stages of the removal process. Section 1226(a) governs discretionary detention of noncitizens arrested within the United States pending a decision on removal and entitles many of such individuals to an individualized bond hearing. 8 U.S.C. § 1226(a); INA § 236(a); 8 C.F.R. § 1236.1(d). Section 1226(c) creates a narrow exception for certain noncitizens with specified criminal convictions, requiring mandatory detention without bond. Section 1225(b), by contrast, governs mandatory detention of noncitizens subject to expedited removal under § 1225(b)(1) and other recent arrivals who are “seeking admission” under § 1225(b)(2). Finally, § 1231 governs post-final-order detention.

35. Both § 1226(a) and § 1225(b)(2) were enacted as part of IIRIRA. Pub. L. No. 104-208, Div. C §§ 302–03, 110 Stat. 3009-546. In enacting § 1226(a), Congress expressly stated that the provision “restates the current provisions in the predecessor statute,” which had long permitted noncitizens who entered without inspection to seek release on bond. *See Rodriguez v. Bostock*, 779 F. Supp. 3d

1239, 1260 (W.D. Wash. 2025) (citing H.R. Rep. No. 104-469, pt. 1, at 229; H.R. Rep. No. 104-828, at 210).

36. Consistent with that understanding, shortly after IIRIRA's enactment, EOIR promulgated regulations clarifying that noncitizens who entered without inspection and were later present in the United States were generally detained under § 1226(a), not § 1225(b), and were eligible for bond hearings. *See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens*, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled ... will be eligible for bond and bond redetermination.").

37. For decades thereafter, the government uniformly treated noncitizens who had entered the United States, even without inspection, and were placed in standard removal proceedings as subject to § 1226(a), with access to bond hearings unless barred by criminal history. *See, e.g., Diaz Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, at \*4 (D. Mass. July 24, 2025). That practice was consistent not only with IIRIRA, but with longstanding pre-IIRIRA practice under which noncitizens physically present in the United States were entitled to custody determinations before an immigration judge. *See* 8 U.S.C. § 1252(a) (1994).

38. Only recently did DHS reverse course. In July 2025, ICE issued an internal memorandum asserting—contrary to decades of practice—that § 1225, rather than § 1226, governs the detention of noncitizens present in the United States

without admission. *Diaz Martinez*, 2025 WL 2084238, at \*4. Shortly thereafter, the Board of Immigration Appeals adopted that position in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding that all noncitizens present without admission are subject to mandatory detention under § 1225(b)(2)(A).

39. Federal courts have overwhelmingly rejected that interpretation as inconsistent with the INA’s text, structure, and history. *Demirel*, 2025 WL 3218243, at \*6–9; *Kashranov*, 2025 WL 3188399, at \*6–10; *Diaz Martinez*, 2025 WL 2084238, at \*6–8; *Lopez Benitez v. Francis*, 2025 WL 2371588, at \*6–9 (S.D.N.Y. Aug. 13, 2025).

40. The statutory text confirms why. Section 1226(a) applies by default to noncitizens detained “pending a decision on whether the alien is to be removed.” *Jennings v. Rodriguez*, 583 U.S. at 288. It expressly applies to individuals charged as inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Indeed, Congress’s recent enactment of the Laken Riley Act—which carved out specific categories of inadmissible noncitizens from § 1226(a)’s bond provision—confirms that, absent those narrow exceptions, inadmissible noncitizens are ordinarily governed by § 1226(a). See *Rodriguez Vazquez*, 2025 WL 1193850, at \*12.

41. By contrast, § 1225(b)(2) applies only to individuals who are *both* “applicants for admission” and actively “seeking admission.” 8 U.S.C. § 1225(b)(2)(A). Courts have correctly recognized that the phrase “seeking admission” denotes present-tense, border-focused conduct, not individuals who entered the United

States, remained in the country for years and built a life here, and are pursuing relief from removal. *Diaz Martinez*, 2025 WL 2084238, at \*6; *Lopez Benitez*, 2025 WL 2371588, at \*6.

42. Reading § 1225(b)(2) to apply to all inadmissible noncitizens would render the “seeking admission” language meaningless and violate the canon against surplusage. *See Gomes v. Hyde*, 2025 WL 1869299, at \*7 (D. Mass. July 7, 2025).

43. Applying § 1226(a) to individuals like Petitioner is also consistent with the government’s longstanding practice, which “can inform a court’s determination of what the law is.” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 386 (2024). DHS’s abrupt reversal of that practice underscores, rather than undermines, the conclusion that § 1226(a) is the correct statutory framework.

44. Finally, construing § 1225(b)(2) to mandate detention without bond for all noncitizens present without admission would raise serious constitutional concerns. Detention without any individualized determination of flight risk or danger implicates both substantive and procedural due process. Where a statute is susceptible to two interpretations, courts must adopt the construction that avoids serious constitutional doubts. *Clark v. Martinez*, 543 U.S. 371, 381–82 (2005).

45. Because Petitioner entered the United States without inspection, has been physically present in the community for over a decade, and is now detained in connection with removal proceedings, his detention falls within § 1226(a). DHS’s attempt to resurrect § 1225(b) after that release is inconsistent with IIRIRA’s

text, history, and structure and cannot sustain Petitioner’s continued detention without a lawful, individualized bond determination.

## **E. PETITIONER’S CONTINUED DETENTION VIOLATES THE FIFTH AMENDMENT**

### **i. Procedural Due Process**

35. The Fifth Amendment’s Due Process Clause protects all “persons” within the United States—including noncitizens—from deprivation of liberty without due process of law. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Freedom from physical restraint “lies at the heart of the liberty that the Due Process Clause protects.” *Zadvydas*, 533 U.S. at 690.
36. At minimum, procedural due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner before liberty is restrained. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). In the immigration detention context, that principle is typically satisfied through an individualized bond hearing where the government must justify continued detention.
37. Petitioner received no such process, he was detained at his home without notice, without explanation, and without any hearing. DHS provided no individualized determination that detention was necessary and no opportunity for Petitioner to contest his confinement.
38. Courts in this District have found similar conduct to be procedurally unconstitutional. See *Rios Porras*, slip op. at 4–5 (finding detention without a bond hearing after parole violated due process). The absence of any hearing or individualized assessment creates a substantial risk of erroneous deprivation of

liberty and fails even the most basic procedural requirements of the Fifth Amendment.

**ii. Substantive Due Process**

39. Substantive due process imposes an independent constraint on civil detention.

Even where procedures are provided, detention must bear a reasonable relation to a legitimate governmental purpose and may not be arbitrary or punitive. *Zadvydas*, 533 U.S. at 690; *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

40. In the immigration context, the Supreme Court has recognized only two legitimate purposes for civil detention: preventing flight and protecting the community. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 528 (2003). Detention that does not reasonably further either purpose violates substantive due process.

41. Petitioner’s detention serves neither. DHS has made no individualized determination that Petitioner poses a risk of flight or danger to the community, yet continues to detain him without any process.

42. Detention imposed under these circumstances is arbitrary. As the Supreme Court has cautioned, justification based on flight risk “is weak or nonexistent US where removal seems a remote possibility.” *Zadvydas*, 533 U.S. at 690. Moreover, detention imposed without statutory authorization is itself substantively unconstitutional. *Clark v. Martinez*, 543 U.S. 371, 386–87 (2005) (holding that detention beyond statutory limits violates due process).

43. Because DHS lacks statutory authority to detain an individual without a bond hearing, Petitioner's continued confinement is not merely excessive—it is unlawful and unconstitutional.
44. Although Petitioner's detention has not yet exceeded six months, the Supreme Court has made clear that immigration detention is constitutionally limited to the period reasonably necessary to effectuate removal. *Zadvydas v. Davis*, 533 U.S. 678, 689–90 (2001). Here, removal is not reasonably foreseeable because DHS has not reinstated any prior removal order and has not initiated removal proceedings. In the absence of any active mechanism to effectuate removal, Petitioner's detention is not reasonably related to its purpose and is therefore constitutionally impermissible.

**F. IN THE ALTERNATIVE, PETITIONER IS ENTITLED TO A BOND HEARING UNDER *MALDONADO BAUTISTA***

48. Even if this Court were to conclude that Petitioner is detained under 8 U.S.C. § 1225(b), which he is not, his continued detention without a bond hearing is independently unlawful under *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.).
49. On November 20, 2025, the United States District Court for the Central District of California granted partial summary judgment holding that noncitizens detained under circumstances identical to Petitioner's are properly detained under 8 U.S.C. § 1226(a) and therefore may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3289861, at \*11 (C.D. Cal. Nov. 20, 2025).

On November 25, 2025, the court certified a nationwide Bond Eligible Class and expressly extended that declaratory judgment to all class members. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025).

50. Critically, on December 18, 2025, the court entered final judgment after finding that immigration courts and the Department of Homeland Security were continuing to deny bond hearings and disregard the Court’s declaratory relief. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, slip op. at 8–11 (C.D. Cal. Dec. 18, 2025) (entering final judgment pursuant to Fed. R. Civ. P. 54(b) based on evidence of agency noncompliance). The court expressly recognized that immigration judges had been instructed to continue following *Matter of Yajure Hurtado* despite the Court’s ruling, and that such noncompliance created exigent circumstances and ongoing irreparable harm to detained class members. *Id.* at 8–9.

51. The *Maldonado Bautista* declaratory judgment, now a final judgment, holds that application of mandatory detention under § 1225(b)(2) to Bond Eligible Class members violates the Immigration and Nationality Act, and that such individuals are detained under § 1226(a) as a matter of law. *Maldonado Bautista*, 2025 WL 3289861, at \*11. That judgment has the full “force and effect of a final judgment.” 28 U.S.C. § 2201(a).

52. Courts in the Eastern District of Pennsylvania have repeatedly relied on *Maldonado Bautista* in ordering release or bond hearings for similarly

situated petitioners. See, e.g., *Demirel v. Fed. Det. Ctr. Phila.*, No. 25-5488, 2025 WL 3218243, at \*5 (E.D. Pa. Nov. 18, 2025); *Anirudh v. McShane*, No. 25-6458, 2025 WL 3527528 (E.D. Pa. Dec. 9, 2025); *Ndiaye v. Jamison*, No. 25-6007, 2025 WL 3229307 (E.D. Pa. Nov. 19, 2025).

53. Accordingly, even under Respondents' erroneous theory of detention, Petitioner is entitled to immediate release, or at minimum, an individualized bond hearing under 8 U.S.C. § 1226(a) within seven days.

54. Where detention exceeds statutory or constitutional limits, habeas relief is appropriate. *Zadvydas*, 533 U.S. at 699–701.

55. Courts in this District regularly order immediate release or bond hearings in materially similar cases. *Rios Porras*, slip op. at 5; *Ndiaye*, 2025 WL 3229307, at \*4.

**G. IN THE ALTERNATIVE, EVEN IF DHS REINSTATES A PRIOR REMOVAL ORDER, PETITIONER'S DETENTION REMAINS UNLAWFUL**

56. In the alternative, to the extent Respondents assert or seek to rely upon reinstatement of Petitioner's prior removal order pursuant to 8 U.S.C. § 1231(a)(5), Petitioner's continued detention remains unlawful.

57. Civil immigration detention is constitutionally permissible only for the period reasonably necessary to secure removal. As the Supreme Court held in *Zadvydas v. Davis*, detention must be limited to a period reasonably necessary to bring about removal and may not become indefinite or arbitrary. 533 U.S. 678, 689–90 (2001).

58. Here, removal is not reasonably foreseeable at this time. Respondents have not demonstrated that travel documents have been secured, that removal has been scheduled, or that there is any concrete timeline by which Petitioner's removal will occur. In the absence of such evidence, Petitioner's detention is not meaningfully connected to its purported purpose.

59. Moreover, detention that is not reasonably related to effectuating removal violates substantive due process. The Supreme Court has long held that civil detention must bear a reasonable relation to its purpose. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Where that connection breaks down, continued detention becomes arbitrary and unconstitutional.

60. To the extent Petitioner seeks, or may seek, protection from removal—including withholding of removal under 8 U.S.C. § 1231(b)(3) or protection under the Convention Against Torture—removal is necessarily contingent on the outcome of those proceedings. Where removal depends on unresolved legal processes, it cannot be considered reasonably foreseeable.

61. Petitioner's continued detention also imposes severe hardship on his U.S. citizen children. Petitioner is a primary caregiver and financial support for his child, who has autism and requires ongoing care and stability. While civil immigration is not intended to be punitive, the prolonged and unjustified detention of Petitioner inflicts substantial collateral harm on his family. These considerations further underscore the arbitrary and excessive nature of continued detention under these circumstances.

62. Accordingly, even if Respondents invoke 8 U.S.C. § 1231, Petitioner's continued detention violates the Constitution.

#### **H. PETITIONER'S DETENTION VIOLATES THE FOURTH AMENDMENT**

63. Petitioner's arrest violated the Fourth Amendment because it was not supported by reasonable suspicion or probable cause. Immigration officers may conduct a warrantless arrest only where they have reason to believe that the individual is removable and likely to escape before a warrant can be obtained. 8 U.S.C. § 1357(a)(2).

64. Here, Respondents have not identified any specific, articulable facts known to officers prior to the encounter that would establish reasonable suspicion that Petitioner was removable. Petitioner's mere presence in a public place does not justify an immigration stop.

65. To the extent that Respondent's rely on Petitioner's alleged flight, such conduct cannot retroactively justify an unlawful seizure. The Fourth Amendment inquiry focuses on the facts known to officers at the time they initiated the encounter.

66. Therefore, Petitioner's arrest was unlawful, and his continued detention is tainted by the constitutional violation.

#### **VII. FIRST CLAIMS FOR RELIEF**

**Violation of the Immigration and Nationality Act  
Alternative Claim Under *Maldonado Bautista*  
8 U.S.C. § 1226(a)**

58. Petitioner re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.
59. In the alternative, even if this Court were to conclude that Respondents are detaining Petitioner under 8 U.S.C. § 1225(b)—which they may not—Petitioner’s continued detention without a bond hearing is unlawful under *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.).
60. In *Maldonado Bautista*, the district court granted partial summary judgment holding that similarly situated noncitizens are detained under § 1226(a) and may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3289861, at \*11 (C.D. Cal. Nov. 20, 2025).
61. The court subsequently certified a nationwide Bond Eligible Class and extended declaratory relief to all class members. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025).
62. On December 18, 2025, the court entered final judgment after finding that immigration courts and DHS were continuing to deny bond hearings and disregard the court’s declaratory relief. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, slip op. at 8–11 (C.D. Cal. Dec. 18, 2025). The court expressly recognized that such noncompliance created exigent circumstances and ongoing irreparable harm to detained noncitizens.
63. The declaratory judgment in *Maldonado Bautista*—now reduced to final judgment—has the full “force and effect of a final judgment.” 28 U.S.C. §

2201(a). Respondents' continued detention of Petitioner without a bond hearing therefore violates the INA.

## **SECOND CLAIM FOR RELIEF**

### **Violation of the Fifth Amendment Due Process Clause Procedural and Substantive Due Process**

64. Petitioner re-alleges and incorporates by reference all preceding paragraphs.
65. The Fifth Amendment's Due Process Clause protects all "persons" within the United States from deprivation of liberty without due process of law. U.S. Const. amend. V; *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
66. Procedural due process requires, at minimum, notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Petitioner was detained without notice, without a hearing, and without any individualized determination, rendering his detention procedurally unconstitutional.
67. Substantive due process further requires that civil immigration detention bear a reasonable relation to a legitimate governmental purpose and may not be arbitrary or punitive. *Zadvydas*, 533 U.S. at 690; *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).
68. Petitioner poses no flight risk and no danger to the community. Detention imposed without statutory authorization and without any individualized justification violates substantive due process. *Clark v. Martinez*, 543 U.S. 371, 386–87 (2005).

**THIRD CLAIM FOR RELIEF**  
**Violation of the Fifth Amendment**  
**Unlawful Post-Order Detention Under 8 U.S.C. § 1231**  
**In the Alternative**

69. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

70. In the alternative, to the extent Respondents assert that Petitioner is detained pursuant to 8 U.S.C. § 1231 following reinstatement of a prior removal order, his continued detention violates the Fifth Amendment.

71. The Supreme Court has held that post-removal-order detention is constitutionally limited to the period reasonably necessary to effectuate removal. *Zadvydas v. Davis*, 533 U.S. 678, 689–90 (2001). Detention that is not reasonably related to that purpose becomes arbitrary and unconstitutional. *Id.* at 690.

72. Here, removal is not reasonably foreseeable at this time. Respondents have not demonstrated that travel documents have been secured, that removal has been scheduled, or that there is any concrete timeline by which Petitioner’s removal will occur.

73. Moreover, where removal is contingent on unresolved legal proceedings, including potential claims for withholding of removal or protection under the Convention Against Torture, detention cannot be justified as reasonably foreseeable. *See id.* at 690.

74. The Supreme Court has further made clear that civil detention must bear a reasonable relation to its purpose. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Where that connection is absent, continued detention violates substantive due process.

75. Accordingly, even if Respondents invoke 8 U.S.C. § 1231, Petitioner's continued detention is unlawful and unconstitutional.

**FOURTH CLAIM FOR RELIEF**  
**Violation of the Fourth Amendment**  
**Unlawful Seizure**

76. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

77. The Fourth Amendment prohibits unreasonable searches and seizures. A warrantless civil immigration arrest must be supported by reasonable suspicion or probable cause based on specific, articulable facts known to officers at the time of the encounter. *See* 8 U.S.C. § 1357(a)(2).

78. Here, Respondents have not identified any individualized or particularized facts known to officers prior to the encounter that would establish reasonable suspicion that Petitioner was removable. Petitioner's mere presence in a public place does not justify an immigration stop or seizure.

79. To the extent Respondents rely on Petitioner's alleged flight, such conduct cannot retroactively justify an otherwise unlawful seizure. The legality of a stop must be evaluated based on the facts known to officers at the time the seizure was initiated, not after the fact.

80. As courts have recognized, the absence of individualized or particularized facts increases the risk of arbitrary deprivation of liberty. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Here, Petitioner was seized without any such individualized basis.

81. Accordingly, Petitioner's arrest violated the Fourth Amendment, and his continued detention is tainted by that unlawful seizure.

### **VIII. PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Grants the Petition for Writ of Habeas Corpus;
- 2) Orders Petitioner's immediate release from ICE custody;
- 3) In the alternative, hold a bond hearing at which the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present;
- 4) Awards Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- 5) Grants such further relief as the Court deems just and proper.

Respectfully submitted,

Dated: March 24, 2026

VASSOR LAW, LLC.

/s/ Dean Vassor  
**Dean Vassor, Esq.**  
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*Attorney for Petitioner*

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

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys, and I have discussed the claims with Petitioner's legal team. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully submitted,

Dated: March 24, 2026

VASSOR LAW, LLC.

/s/ Dean Vassor

**Dean Vassor, Esq.**

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*Attorney for Petitioner*

**LIST OF EXHIBITS**

1. EXHIBIT A .....Respondent Passport
2. EXHIBIT B .....U.S.Citizen children Passport
3. EXHIBIT C .....Child's Medical Record
4. EXHIBIT D ..... 4 Letter of support with ID from family and friends