

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

H. J. S. A.¹,

Petitioner,

v.

LaDeon FRANCIS, Acting Field Office Director of New York, Immigration and Customs Enforcement; Todd LYONS, in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement; and Markwayne MULLIN, in his official capacity as Secretary of the Department of Homeland Security.

Respondents.

Case No.

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS
AND REQUEST FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

Petitioner H. J. S. A. (“Mr. S. A.”) is an asylum seeker who challenges his sudden, arbitrary, and unlawful detention by Respondents—he remains chained by his leg to a hospital bed without family advocacy or support. On information and belief, Mr. S. A. arrived at the southern border of the United States on or about August 9, 2023. According to family members, Mr. S. A. was apprehended on February 27, 2026 at approximately 10:40am in Kearney, New Jersey. On information and belief, he has no criminal convictions in the United States and was cooperating with immigration authorities, and thus there is no justification for his detention. We can only assume that he is being held under the Respondents’ recently concocted—yet overwhelmingly rejected—legal theory that individuals like Mr. S. A. must be summarily and indefinitely detained under 8 U.S.C. § 1225(b)(2).

¹ Motion to proceed under pseudonym forthcoming. Counsel will provide Respondents’ counsel with the full name and A number.

Mr. S. A. has been without contact with his loved ones or legal counsel for a month. Originally held at Delaney Hall in New Jersey, counsel filed a habeas petition on March 12, 2026 with the District of New Jersey. On March 20, 2026, Judge Shipp ordered the government not to transfer him out of New Jersey until the Court issued a decision on his habeas petition. In violation of this Order, Respondents transferred Mr. S. A. to Maimonides Medical Center in Brooklyn, New York. On information and knowledge, Mr. S. A. underwent surgery on March 24, 2026 due to a complicated, painful medical condition that does not permit him to walk, which predated his detention. As Mr. S. A. is now back in Brooklyn, his New Jersey habeas remains adjudicated, and Respondents had not replied, he voluntarily dismissed that action under Rule 41, and now brings this action in this Court, the new district of confinement. Mr. S. A. asks that a writ issue ordering his immediate release.

JURISDICTION AND VENUE

1. This action arises under the Constitution of the United States, the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*, and the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-706.

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

3. Mr. S. A. is in custody for the purposes of habeas jurisdiction because he is subject to restraints on his liberty not imposed on the general public. *Hensley v. Municipal Court*, 411 U.S. 345, 348–49 (1973); *Rumsfeld v. Padilla*, 542 U.S. 426, 437 & n.10 (2004); *Nowakowski v. New York*, 835 F.3d 210, 215-16 (2d Cir. 2016). Petitioner is in the physical custody of Respondents—he is present being held at Maimonides Medical Center, 4802 10th Ave, Brooklyn, NY 11219.

4. 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.

5. Venue lies in this District Court, the judicial district in which Mr. S. A. is currently detained.²

6. Venue is also properly in this Court pursuant to 28 U.S.C. §§ 1391(b) and (e) because Respondents are employees, officers, and agencies of the United States, Mr. S. A. resides in this judicial district, and no real property is involved in this action.

REQUIREMENTS OF 28 U.S.C. § 2243

7. 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, Respondents must file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

8. 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).

PARTIES

² This Court has jurisdiction over Mr. S. A.’s petition for a writ of Habeas Corpus pursuant to 28 U.S.C. §§ 2241 and 1331 based on his presence in the Eastern District of New York. *See e.g., Louisaire v. Muller*, 758 F. Supp. 2d 229, 233 (S.D.N.Y. 2010) (finding that, when the habeas petition was filed during petitioner’s presence in New York, the court continued to exercise review over petitioner’s detention where the government transferred petitioner to detention in New Jersey); *Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 537–38 (S.D.N.Y. 2014) (“There is no dispute that jurisdiction and venue are proper, as Young was present in this District at the time that the petition was actually filed.”); *Mendoza v. Muller*, No. 11–CV–7857 (RJS), 2012 WL 252188, at *2 (S.D.N.Y. Jan. 25, 2012) (“Although Petitioner is being held in New Jersey, jurisdiction is proper in this Court because he filed the petition while detained in New York in connection with his immigration proceedings.”).

9. Petitioner Mr. S. A. is in the United States to seek asylum from Venezuela. He entered to United States on or about August 9, 2023. On information and belief, Mr. S. A. filed an asylum application in 2024 and subsequently received work authorization. His next hearing in immigration court is currently scheduled for July 21, 2026. Mr. S. A. is presently being detained by Respondents at Maimonides Medical Center in Brooklyn, New York.

10. Respondent LaDeon Francis is named in his official capacity as Acting Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations, New York Field Office. In this capacity, he is also responsible for the administration of immigration laws and the execution of detention and removal determinations and is a legal custodian of Petitioner. Respondent Francis' address is New York ICE Field Office, 26 Federal Plaza, 9th Floor, Suite 9-110, New York, NY 10278.

11. Respondent Todd Lyons is named in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. In this capacity, he is responsible for detaining the Petitioner and efforts to remove him from the United States; as such, he is a legal custodian of the Petitioner. Respondent Lyon's address is U.S. Immigration and Customs Enforcement, 500 12th St., SW, Washington, D.C. 20536.

12. Respondent Markwayne Mullin is named in his official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, he is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a) (2007); is legally responsible for pursuing any effort to remove the Petitioner; and as such is a legal custodian of the Petitioner. Respondent Mullin's address is U.S. Department of Homeland Security, 800 K Street N.W. #1000, Washington, District of Columbia 20528.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

13. 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.”).

14. Prudential exhaustion is not warranted here, given the need for immediate judicial 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).

15. 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 plaintiff has raised a substantial constitutional question.” *Id.* at 666–67.

16. The BIA has issued a published decision holding that people like Mr. S. A. who entered the United States without inspection are ineligible for bond pursuant to 8 U.S.C. § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. at 216. IJs and the BIA are bound by this decision. 8 C.F.R. § 1003.1(g)(1). Exhaustion before the agency would therefore be futile.

17. Further, neither IJ nor the BIA 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. Therefore, administrative proceedings would be futile as petitioner raises due process claims. *Qatanani*, 144 F.4th at 500; *see also Contreras Maldonado v. Cabezas*, No. 25-13004,

2025 WL 2985256, at *6 (D.N.J. Oct. 23, 2025) (waiving exhaustion where BIA could not provide petitioner with relief on due process claim where there was “no doubt that [she] was not afforded an individualized assessment before she was detained”).

STATEMENT OF FACTS

18. On approximately August 9, 2023, Mr. S. A. crossed into the United States from Mexico after fleeing Venezuela. At the border, he sought out Customs and Border Patrol (CBP) agents promptly, who issued a notice to appear for proceedings in immigration court on August 10, 2023. *See* Ex. 1 (NTA). His master calendar hearing was scheduled for July 21, 2026. *See id.* ICE determined that he was held under 8 U.S.C. § 1226(a) before releasing him on his own recognizance on August 29, 2023. *See* Exs. 2-3 (ICE Custody Determination and Order of Release).

19. On information and belief, Mr. S. A. lived briefly in Colorado and Washington with family members before joining his partner in New York City in December 2023. *See* Ex. 8 (Quito First Declaration, March 19, 2026). On February 27, 2026, Mr. S. A. was driving home from a Walmart in Kearny, New Jersey with his partner, Ms. Torres. *Id.* They heard an ambulance and pulled over to the side of the road. *Id.* Once pulled over, another vehicle stopped with them, and ICE agents exited and surrounded their car preventing both Mr. S. A. and Ms. Torres from continuing on their journey. *Id.* Ms. Torres pled that there was no one else to pick her  daughter up from school, the agents released her but took Mr. S. A. into custody. *Id.* At the time of this filing, he is located in Brooklyn, New York at the Maimonides Medical Center. *Id.*

20. On information and belief, Mr. S. A. has an ongoing, painful bone infection on his left femur. *See id.* On February 3, 2026, before his redetention, Mr. S. A. was admitted inpatient at Maimonides Medical Center, and the listed reason for admission was “L. femur chronic

osteomyelitis” and “infected hardware.” *See* Ex. 5 (Maimonides Medical Center Discharge Instructions). He had an operation, and the recommendation was to return to the Bone & Joint Center in 3-weeks for a post-op appointment, where an x-ray would be conducted and staples removed. *Id.* After, a follow up with Infectious Disease was scheduled for February 25, 2026. *Id.* Discharge instructions included multiple medications, including for pain management. *Id.* At the time of discharge, the Medical Center noted that Mr. S. A. has difficulty walking, bathing, dressing, and running errands alone outlining his critical, post-op condition. *See id.*; Ex. 8 (Quito First Declaration).

21. After his arrest, Mr. S. A. was initially taken to Delany Hall in New Jersey but was believed to be held at University Hospital in Newark, New Jersey until March 23, 2026, although Respondents refuse to disclose his exact whereabouts. *See* Ex. 4 (ICE Detainee Locator). On March 23, 2026, on information and belief, Mr. S. A. was transferred to Maimonides Medical Center for a surgery, which was performed on March 24, 2026. He is presently still recovering at Maimonides Medical Center in Brooklyn, New York. On information and belief, he is under 24/7 monitoring by ICE agents who have been preventing any communication with counsel or loved ones, and he has been shackled to his hospital bed by his leg. *See* Ex. 8 (Quito First Declaration).

22. Counsel has made numerous efforts to communicate with Mr. S. A. but to no avail. First, counsel scheduled an ERO eFile appointment with Mr. S. A. on March 6, 2026. *See* Ex. 6 (DFAS Appointment Schedule Confirmation Email). Counsel received a phone call from a Lieutenant Lewis who stated that, while Mr. S. A. was in ICE detention, he was located at a hospital and counsel could not speak with him until he was released from the hospital and returned to the Delaney Hall; he also stated he could not share any information regarding Mr. S. A.’s current whereabouts. A case worker later called counsel back on March 6, 2026 and stated she could not

provide further information on how to reach Mr. S. A. either but provided the following email address: newark.outreach@ice.dhs.gov.

23. Counsel emailed the provided email address three times, on March 9, March 10, and March 18, 2026. *See* Ex. 7 (Emails Requesting Attorney Access). To this date, counsel has received no response.

24. Counsel spoke on the phone to someone named Officer Rodriguez, who stated that a legal call would be scheduled for March 18, 2026 between 1-3:30pm. Counsel never received a call during this scheduled time. At 3:30pm on March 18, counsel spoke to a woman on the phone from Delaney Hall named Hems, who stated that she was unable to transfer the call to Mr. S.A., transfer the call to Officer Rodriguez, nor provide counsel with Officer Rodriguez's direct extension.

25. Counsel scheduled another ERO eFile appointment with Mr. S. A. on March 25, 2026. *See* Ex. 10 (Second DFAS Appointment Scheduled). Counsel never received a phone call. When counsel called the detention center around 11:05am, the woman on the phone stated that Mr. S. A. was speaking with ICE officers and handling paperwork so he could not join the attorney-client call. She asked counsel to reschedule the appointment. Then, at 11:13am, counsel received an appointment cancellation email, with the reason being "Client is currently at a medical appointment/ hospital and will not be able to make it to the appointment. Sorry for any inconvenience and reschedule accordingly," contradicting the woman's statement over the phone. *See* Ex. 11 (DFAS Appointment Cancellation). Counsel rescheduled an upcoming third appointment for Friday, March 27, 2026.

26. On March 25, 2026 Ms. Torres called University Hospital in New Jersey, and the person on the phone stated that Mr. S. A. had been at that hospital but was transferred to a hospital

in New York. *See* Ex. 9 (Quito Second Declaration, March 25, 2026). She then tried calling Maimonides Medical Center, and the individual on the phone stated that Mr. S. A. indeed was at the hospital on the eighth floor. *Id.* He had received a surgery that went well on March 24, 2026, but Ms. Torres was not allowed to speak to Mr. S. A. *Id.* Neither counsel nor Ms. Torres has additional information on what the nature of his surgery was or what his course of recovery is expected to be.

27. Counsel then tried calling Maimonides Medical Center later that day on March 25 to speak with Mr. S. A. A hospital staff person confirmed that Mr. S. A. is indeed presently located at Maimonides Medical Center in the Orthopedic Unit. The staff person stated that “the unit can try to give you a call back, but that you might face resistance because he’s being watched by ICE.”

28. In direct violation of Judge Shipp’s order, Respondents moved Mr. S. A. from the bounds of New Jersey to Maimonides Medical Center in Brooklyn, New York. It has now been a month since Mr. S. A.’s original detention date of February 27, 2026 without contact with his partner nor legal counsel—he has no one to advocate for his legal and medical wishes while detained.

LEGAL FRAMEWORK

Detention

29. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings. Such civil detention is authorized for specific, non-punitive purposes. *See Denmore v. Kim*, 538 U.S. 510, 528 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Jennings v. Rodriguez*, 138 S.Ct. 830, 833 (2018).

30. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally

entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c). The same line delineates ICE's authority to set its own bond and release prior to IJ review. 8 C.F.R. § 236.1.

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

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

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

34. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).

35. 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).

36. Thus, in the decades that followed, most people who entered without inspection were placed in standard removal proceedings, and 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)).

37. 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.

38. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”³ claims that all persons who entered the United States without inspection shall now be subject to the 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.

39. On September 5, 2025, the Board adopted this same position in a published decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). 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.

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

41. Even before ICE or the Board introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered

³ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

42. Subsequently, court after court has adopted the same reading of the INA’s detention authorities and rejected ICE and EOIR’s new interpretation. *See Hyppolite v. Noem*, No. 25-CV-4304 (NRM), 2025 WL 2829511, at *7, 12 (E.D.N.Y. Oct. 6, 2025) (finding that the government cannot point to an Article III court that has adopted the government’s expansive construction of § 1225(b)(2)); *Artiga*, 2025 WL 2829434, at *7 (E.D.N.Y. Oct. 5, 2025) (same).

43. Courts have largely rejected DHS’s and EOIR’s new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and subsequently others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Mr. S. A. And here, § 1226(a) has not been properly applied to Mr. S. A.

44. The Fifth Circuit Court of Appeals, on an unusually expedited basis, recently issued a decision endorsing *Yajure Hurtado. Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026); *see id.* at *10 n.1 (Douglas, J. dissenting and noting government’s expedite requests “appear[] to be virtually unprecedented in this circuit.”). That decision is, of course, not binding here. As it merely repeats the Board of Immigration Appeals’ (“BIA”) rationale in *Yajure Hurtado* over a pointed dissent, it is not persuasive.

45. 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].”

46. 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.” 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

47. 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.

48. 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 a[] [noncitizen] seeking to enter the country is admissible.” *Jennings*, 583 U.S. at 287 (2018).

49. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

50. Respondents also do not have complete discretion where they decide to redetain a noncitizen. The DHS has a longstanding practice of only re-arresting after a material change in circumstance. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017); *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (discussing government counsel’s

representations regarding DHS's practice). DHS makes initial custody determinations pursuant to 8 C.F.R. § 1236.1(c)(8), which requires that noncitizens be released from custody *only* "if they demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." As such, 8 U.S.C. § 1226(a) and its implementing regulations require ICE officials to make an individualized custody determination. *See Crespo Tacuri v. Genalo*, No. 25-cv-06896, 2026 WL 35569, at *7 (E.D.N.Y. Jan. 6, 2026) (finding that post-deprivation review cannot remedy the due process violation of detaining petitioner with no process or individualized assessment); *Qasemi v. Francis*, No. 25-cv-10029, 2025 WL 3654098 at *14, (S.D.N.Y. Dec. 17, 2025) (a bond hearing would not be an adequate remedy for the due process violations in petitioner's sudden arrest and detention).

51. A person's liberty cannot be infringed upon without "adequate procedural protections." *Zadvydas*, 533 U.S. at 690–91. The Second Circuit has held that the *Mathews v. Eldridge* balancing test is applicable to determine the adequacy of process in the context of civil immigration confinement. *Velasco Lopez*, 978 F.3d at 851 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). This test requires process sufficient to mitigate the risk of erroneous deprivation of a liberty interest. Revocation of conditional release from confinement, even civil immigration confinement, infringes on a protected liberty interest. The "importance and fundamental nature" of an individual's liberty interest is well-established. *See United States v. Salerno*, 481 U.S. 739, 750 (1987).

1. As to process, at a minimum, in the context of revocation of civil release, "an individual whose release is sought to be revoked is entitled to due process such as notice of the alleged grounds for revocation, a hearing, and the right to testify at such a hearing." *Villiers v. Decker*, 31 F.4th 825, 833 (2d Cir. 2022).

2. Despite these baseline requirements, Respondents now regularly re-detain individuals notwithstanding an earlier determination to release them and do so without according any notice or process whatsoever. These redetentions violate noncitizens' right to due process. *See e.g., Chipantiza-Sisalema v. Francis*, No. 25 CIV. 5528 (AT), 2025 WL 1927931 at *3 (S.D.N.Y. July 13, 2025) (ordering the immediate release of a petitioner redetained by ICE because she "poses a risk of flight or a danger to the community" and her sudden redetention violated her right to due process); *Bethancourt Soto v. Soto*, 807 F. Supp. 3d 397, 410 (D.N.J. 2025) (ordering Petitioner's immediate release because his redetention violated his due process rights).

1. Release is the customary remedy in habeas proceedings. *See* 28 U.S.C. § 2243 (the habeas shall "dispose of the matter as law and justice require."); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) (finding "that the traditional function of the writ is to secure release from illegal custody"). The most appropriate remedy in a case like this, where Petitioner has been detained in violation of both the INA and due process, is release on recognizance without further conditions of release. *See Ambroladze v. Maldonado*, No. 26-CV-00474 (HG), 2026 WL 280182, at *3 (E.D.N.Y. Feb. 3, 2026) (given that the typical remedy for unlawful detention is release, "the government's ongoing detention of Petitioner, in the face of yet another complete failure of process, entitles him to immediate release.").

2. Dozens of courts across the country have agreed. *See, e.g., Munoz Materano v. Arteta*, 2025 WL 2630826, at *20 (S.D.N.Y. Sept. 12, 2025) (ordering immediate release); *Chipantiza-Sisalema v. Francis*, 2025 WL 1927931, at *4 (S.D.N.Y. July 13, 2025) (same); *Rueda Torres v. Francis*, No. 25-cv-8408, 2025 WL 3168759, at *6 (S.D.N.Y. Nov. 13, 2025) (same); *Cifuentes v. Soto*, No. 25-cv-18029, 2025 WL 3771380, at *4 (D.N.J. Dec. 31, 2025) (same); *Kobilov v. O'Neill*, No. 26-cv-0058, 2026 WL 73475, at *3 (E.D. Pa. Jan. 8, 2026) (same, finding

a bond hearing unnecessary where there was no indication petitioner was a danger or flight risk); *Gonzalez Centeno v. Lowe*, No. 3:25-cv-2518, 2026 WL 94642, at *4 (M.D. Pa. Jan. 13, 2026) (same); *Feisal O. v. Noem*, No. 26-cv-81, 2026 WL 92857, at *3 (D. Minn. Jan. 13, 2026) (same); *Garcia Covarrubias v. Holston*, No. 2:25-cv-02445, 2026 WL 25970, at *4 (D. Nev. Jan. 5, 2026) (same); *Kenzhebaev v. Noem*, No. 1:25-cv-1786, 2025 WL 3737975, at *9 (W.D. Mich. Dec. 29, 2025) (same).

3. Release is the only appropriate remedy for the constitutional violations in this case, including the lack of pre-deprivation notice or individualized review before Petitioner's arrest, which cannot be remedied by a post-deprivation hearing. *See Crespo Tacuri*, 2026 WL 35569, at *7 (finding that post-deprivation review cannot remedy the due process violation of detaining petitioner with no process or individualized assessment); *Qasemi v. Francis*, No. 25-cv-10029, 2025 WL 3654098 at *14, (S.D.N.Y. Dec. 17, 2025) (holding that a bond hearing would not be an adequate remedy for the due process violations in petitioner's sudden arrest and detention).

4. In the alternative, this Court can hold its own custody hearing and determine whether ICE can prove by clear and convincing evidence that Petitioner must remain in custody, or whether he may be released on recognizance, an appropriate bond in light of his ability to pay, or supervised release. This is a more efficient and effective remedy than ordering an immigration judge to conduct a hearing, which may lead to additional enforcement proceedings and delays before the unlawful detention in this case is remedied. *See e.g., L.G.M. v. LaRocco*, 788 F.Supp.3d 401, 405–07 (E.D.N.Y. 2025) (ordering a bond hearing held by the habeas court, as this would be more efficient than delegating the task to the agency and ensure proper constitutional oversight); *Flores-Powell v. Chadbourne*, 677 F.Supp.2d 474-78 (D. Mass 2010) (granting petition and discussing at length habeas court's equitable power, which includes power to hold its own bail hearing); *Santos v. Lowe*, No. 1:18-CV-1553, 2020 WL 4530728, at *4 (M.D. Pa. Aug. 6, 2020)

(finding that habeas court-ordered bond hearing was not individualized and did not comport with due process, and granting motion to enforce to hold the court's own bond determination).

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution

5. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

6. 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. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Denmore*, 538 U.S. 510 (2003).

7. Mr. S. A.'s detention violates both the substantive and procedural components of the Due Process Clause. Mr. S. A. was determined not to pose a danger or flight risk when he was allowed to enter the United States in August 2023 and released on his own recognizance. There is no reason to now conclude Mr. S. A. poses a danger or flight risk. He was not accorded sufficient process prior to his sudden detention by ICE on February 27, 2026. Mr. S. A. did not receive notice nor an opportunity to be heard as to whether a change in custody status was warranted. *See Crespo Tacuri*, 2026 WL 35569, at *7 (finding that post-deprivation review cannot remedy the due process violation of detaining petitioner with no process or individualized assessment).

8. Respondents will also now contend that Mr. S. A. is ineligible for bond under *Matter of Yajure Furtado*, 29 I&N Dec. 216 (BIA 2025). But that determination is contradicted by Respondents' prior determinations in Petitioner's case and the text and structure of the detention

statutes. Mandatory detention without access to a bond hearing violates Petitioner's right to due process.

9. Respondents' actions also violate Mr. S. A.'s right to substantive due process as there is no reason to conclude he poses either a danger or a flight risk and therefore no lawful basis to detain him. *See Zadvydas*, 533 U.S. at 690–91 (noting that immigration detention aims to ensure the detainee's appearance at immigration proceedings and protect the community from dangerous individuals).

10. Respondents' actions violate Mr. S. A.'s right to due process.

COUNT TWO

Violation of the Fourth Amendment

11. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

12. The government exercised its discretion under the Immigration and Nationality Act to release Mr. S. A. into the United States while he applied for asylum before an immigration court. At the time of Mr. S. A.'s arrest, he had been living at liberty pursuant to that determination by federal immigration authorities.

13. The government lacked reliable information of changed or exigent circumstances that would justify Mr. S. A.'s arrest on the same basis after federal immigration authorities previously decided he could pursue his claims for immigration relief at liberty.

14. Mr. S. A.'s arrest without any articulable justification is unreasonable and therefore violates the Fourth Amendment.

COUNT THREE

Violation of the Administrative Procedure Act

15. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

16. The Administrative Procedure Act prohibits agency action which is arbitrary and capricious. 5 U.S.C. § 706(2)(A).

17. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). An agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

18. Respondents’ decision to detain Petitioner as part of their coordinated campaign and policy of detaining individuals attending immigration court or routine ICE check-ins, irrespective of the individual circumstances in their case, and then to subject them to mandatory detention, is arbitrary and capricious.

COUNT FOUR

Release Pending Adjudication

19. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

20. Pursuant to *Mapp v. Reno*, this Court has the “inherent authority” to set bail pending the adjudication of a habeas petition when the petition has raised (1) substantial claims and (2)

extraordinary circumstances that (3) “make the grant of bail necessary to make the habeas remedy effective.” 241 F.3d 221, 226 (2d Cir. 2001).

1. Petitioner presents a clear case for habeas relief. Moreover, extraordinary circumstances are also present, given the unjustified nature of his current confinement and his serious medical condition.

2. Pursuant to *Mapp v. Reno*, Petitioner requests immediate release pending adjudication of the instant petition.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter; and
2. Enjoin Petitioner’s transfer out of the New York City area; and
3. Order Respondents to show cause why the writ should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243; and
4. Declare that Petitioner’s detention violates the Due Process Clause of the Fifth Amendment; the Fourth Amendment; and the Immigration and Nationality Act and implementing regulations; and
5. Order Petitioner’s immediate release pursuant to *Mapp v. Reno*, 241 F.3d 221 (2d Cir. 2001), so that he can continue to receive treatment from his doctors; or
6. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody without restraints on his liberty beyond those that existed prior to his redetention on February 27, 2026; and
7. Award reasonable attorney’s fees and costs pursuant to the Equal Access to Justice Act,

5 U.S.C. § 504 and 28 U.S.C. § 2412; and

8. Grant such further relief as this Court deems just and proper.

DATED this 26th of March
New York, NY

Respectfully Submitted,

/s/ Tosca Guistini

Tosca Guistini

Hannah Schaafsma

Jonah Eaton

UnLocal

45 W. 29th Street, Suite 203

New York, NY 10001

tosca@unlocal.org

646-783-8944

Pro bono Attorneys for Petitioner-Plaintiff

VERIFICATION

I am submitting this verification on behalf of the Petitioner. We discussed this matter with the Petitioner's family members, including the events described in this Petition. On the basis of those discussions, on information and belief, I hereby verify that the factual statements made in the attached Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED this 26th day of March, 2026.
New York, NY

Respectfully Submitted,

By: /s/ Hannah Schaafsma
Hannah Schaafsma
UnLocal
45 W. 29th Street, Suite 203
New York, NY 10001
hannah@unlocal.org
646-783-8944