



Judge denied bond, citing *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), discussed below, determining the Court does not have jurisdiction over the matter. As a result, Petitioner faces the prospect of prolonged and potentially indefinite detention while his immigration proceedings remain pending. Manpreet is likely to face many additional months in detention; hence, he seeks relief from this Court that would allow him to challenge his continuing, lengthy, and unconstitutional detention.

2. On September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge (hereinafter, IJ) has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond. *Id.*
3. Manpreet's continued detention is unlawful because it is governed by the incorrect statutory framework and the detention violates the plain language of INA. Section 1225(b)(2)(A) applies only to people who are both an "applicant for admission" and "seeking admission" to the United States. It does not apply to people like Manpreet, who have previously entered the country and are now living in the United States. Detention of such individuals is governed by a different statute, 8 U.S.C § 1226(a), which allows for release on conditional parole or bond. That statute expressly applies to people who are, like Manpreet, "already present in the United States" and are charged as inadmissible for having entered without inspection. *See Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018).
4. Respondents' novel interpretation of the INA is plainly contrary to the statutory framework of the INA and decades of agency practice applying section 1226(a) to people like Manpreet.

5. Accordingly, Petitioner respectfully seeks a writ of habeas corpus ordering his release from unlawful detention or, in the alternative, directing Respondents to provide a new bond hearing under the proper statutory framework of 8 U.S.C. § 1226(a).

## **II. JURISDICTION AND VENUE**

6. Jurisdiction is proper under 28 U.S.C. §§ 1331, 2241, and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2.
7. 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.
8. Venue is proper in the United States District Court for the Middle District of Georgia because at least one Respondent is in this District and Manpreet is detained in this District. *See* 28 U.S.C. § 1391(b).

## **III. PARTIES**

9. Petitioner Manpreet, a noncitizen, entered the United States without inspection on September 2, 2022, and has resided in the country continuously for nearly four years. He has been in the custody of Immigration and Customs Enforcement (ICE) since approximately February 9, 2026. He is presently detained at the Stewart Detention Center. After his arrest, Petitioner appeared for a custody redetermination hearing on March 19, 2026; however, the request was denied because, under the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), he is not eligible for review of his custody by an Immigration Judge.
10. Respondent Jason Streeval is the Warden for Stewart Detention Center. He is the immediate legal and physical custodian of Manpreet and is named in his official capacity. His address is 146 CCA Road, Lumpkin, GA 31815.
11. Respondent Ladeon Francis is the Acting Field Office Director of the Atlanta Field Office of

ICE, which has administrative jurisdiction over Manpreet's case. He is a legal custodian of Manpreet and is named in his official capacity. The address is 180 Ted Turner Dr. SW, Suite 522, Atlanta, GA 30303.

12. Respondent Todd Lyons is the Acting Director of ICE. He is a legal custodian of Manpreet and is named in his official capacity. His address is U.S. Immigration and Customs Enforcement, Office of the Principal Legal Advisor, 500 12th St. SW, Mailstop 5900, Washington, D.C. 20536.
13. Respondent Kristi Noem is the Secretary of DHS. She is a legal custodian of the Manpreet and is named in her official capacity. Her address is Office of the General Counsel, MS 0485 Department of Homeland Security, 2707 Martin Luther King, Jr. Ave. SE, Washington, D.C. 20528-0525.
14. Respondent Pamela Bondi is the Attorney General of the United States Department of Justice (DOJ). She is a legal custodian of Manpreet and is named in her official capacity. Her address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530-0001.

**IV. FURTHER ADMINISTRATIVE REMEDIES ARE FUTILE AND EXHAUSTION SHOULD BE EXCUSED**

15. Petitioner requested a bond hearing, but the IJ denied his request, concluding the court lacked authority to conduct an individualized bond determination pursuant to *Matter of Yajure Hurtado*. Further exhaustion is unnecessary. Importantly, any appeal to the Board would be futile, as the Board is bound by its own precedential decision and lacks authority to disregard or overrule it in the context of an individual appeal. Accordingly, requiring Petitioner to pursue such relief would serve no purpose other than delay, at the outcome is predetermined under controlling agency precedent.
16. This court has the authority to grant writ of habeas corpus. *See* 28 U.S.C. § 2241(a). A writ may be issued to a petitioner who demonstrates that he is being held in custody in violation of the

Constitution or federal law. *See* 28 U.S.C. §2241(c)(3). The Court's jurisdiction extends to challenges involving immigration-related detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001). "Section 2241 itself doesn't impose an exhaustion requirement", *Santiago-Lugo v. Warden*, 785 F.3d 467, 474 (11<sup>th</sup> Cir. 2015). In absence of a clearly defined exhaustion requirement, a sound judicial discretion would govern. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992); *Santiago-Lugo v. Warden*, 785 F.3d 467, 471.

17. However, courts should not require exhaustion, in this instant case, because of the risk of undue prejudice . . . where the petitioner "may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *See McCarthy v. Madigan*, 503 U.S. 140, 146–47 (1992). More importantly, the Court should excuse exhaustion, where it would be inadequate, or futile and would cause irreparable harm and "Exhaustion is not required where no genuine opportunity for adequate relief exists . . . or an administrative appeal would be futile[.]" *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982)(citing *Von Hoffburg v. Alexander*, 615 F.2d 633, 638).
18. Manpreet is irreparably harmed by his unlawful detention in and of itself and would continue to be irreparably harmed for whatever period would be necessary for further exhaustion. Although Petitioner appeared for a custody hearing, the Immigration Judge did not conduct an individualized assessment of flight risk or danger, instead holding that *Matter of Yajure-Hurtado* precluded bond jurisdiction. Because this dispositive legal issue has already been determined by binding agency precedent, further review by the Board would be futile. The absence of an individualized evaluation renders Petitioner's continued detention arbitrary and lacking any legitimate government purpose, in violation of the Fifth Amendment's Due Process Clause. Accordingly, Petitioner's detention and the denial of bond failed to provide meaningful due process.

19. Moreover, further action with the agency is unnecessary where pursuing administrative remedies would be futile or the agency has predetermined a dispositive issue. *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992). The BIA's decision in *Matter of Yajure Hurtado* demonstrates that the agency has predetermined the key issue in this petition. There, the agency stated that it believes people like Manpreet, who have entered without inspection, are detained under section 1225(b)(2)(A) and subject to mandatory detention. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Here, administrative appeal to the Board of Immigration Appeals would be futile because the agency has already adopted binding precedent governing individuals in Petitioner's position, and the BIA is bound by its own precedent and cannot grant effective relief. Accordingly, there are no genuine or meaningful administrative remedies available to Manpreet and hence, exhaustion is not required.
20. Other circuit courts have applied the futility exception doctrine in habeas cases brought under § 2241. *See Fraley v. United States Bureau of Prisons*, 1 F.3d 924, 925 (9th Cir. 1993). In *Fraley*, . . . the petitioner had already made one administrative appeal from the decision computing her sentence, and that appeal was denied based on a published Bureau of Prisons policy. Petitioner argued that it would be futile to mount further administrative appeals, because they would almost certainly be denied based on the same published policy. Therefore, the court held that petitioner was excused, due to futility, from pursuing further administrative remedies, and proceeded to hear her case on the merits. *Fraley*, 1 F.3d at 925.
21. Further, this habeas petition presents a purely legal question of statutory interpretation: whether Petitioner is properly detained under 8 U.S.C. § 1225(b)(2) or § 1226(a). Questions of statutory interpretation are traditionally within the province of the courts and weigh against enforcing administrative exhaustion requirements. *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018)

(citing *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385 (2024)). Under *Loper Bright*, a court need not defer to the BIA's interpretation of a statute solely because the statute is ambiguous. See *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024). Here, the Immigration Judge's interpretation in denying bond under *Matter of Yajure-Hurtado* does not bind this Court. This Court is authorized to make an individualized determination of the applicability of § 1226(a) to Petitioner based on its sound discretion. See *Santiago-Lugo v. Warden*, 785 F.3d 467, 471 (11th Cir. 2015). Unlike § 1225, § 1226 "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings[.]". *Jennings*, 583 U.S. 281, 289. Section 1226(a) sets out a discretionary detention framework for noncitizens arrested and detained "[o]n a warrant issued by the Attorney General," and authorizes the Attorney General to "continue to detain the arrested alien[.]" release him on a "bond of at least \$1,500[.]" or release him on "conditional parole[.]" 8 U.S.C. § 1226(a)(1)-(2). While the arresting immigration officer makes an initial custody determination, noncitizens detained under §1226(a) may appeal that determination in a bond hearing before an immigration judge. See 8 C.F.R. §§ 1236.1(c)(8), (d)(1). "Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention." *Jennings*, 583 U.S. at 306 (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)).

22. Finally, "[t]he Due Process Clause of the Fifth Amendment prohibits the United States, as the Due Process Clause of the Fourteenth Amendment prohibits the states, from depriving any person of life, liberty, or property without 'due process of law.'" See *Dusenbery v. United States*, 534 U.S. 161 (2002); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Fifth Amendment Due Process] Clause protects."). The

Supreme Court has consistently held that “some form of hearing is required before an individual is finally deprived” of such an interest. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). These protections extend to the “millions of aliens within the jurisdiction of the United States.” *Mathews v. Diaz*, 426 U.S. 67, 77 (1976) (finding that the “Fifth Amendment, as well as the Fourteenth Amendment, protects every one of these persons from deprivation of life, liberty, or property without due process of law.”). However, “[t]he fact that all persons, aliens and citizens alike, are protected by the Due Process Clause does not lead . . . to the conclusion that all aliens must be placed in a single homogeneous legal classification.” *Id.* at 78.

23. To determine whether the Petitioner’s detention violates his due process rights, federal courts apply the balancing test articulated in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). The *Mathews* test requires courts to weigh the following factors: (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” 424 U.S. at 335. “To assess the constitutionality of non-criminal detention, including in the immigration context, the Court assesses and weighs each of these factors to determine if an individual was afforded the appropriate level of procedural due process.” *See Hamdi v. Runsfeld*, 542 U.S. 507, 529-533, 124 S. Ct. 2633, 159 L. Ed. 2d 578 (2004). “[D]ue process is flexible and calls for such procedural protections as the particular situation demands.” *Mathews*, 424 U.S. at 334 (citing *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972)).

## V. STATEMENT OF FACTS

24. Manpreet, a thirty-one-year-old native and citizen of India, entered the United States without

inspection on September 2, 2022. Manpreet was immediately apprehended and later paroled into the United States on the same day. On November 2, 2022, he filed Form I-589, Application for Asylum and Withholding of Removal, seeking protection from past and anticipated persecution in India based on his religion, membership in a particular social group, and political opinion. He also requested withholding of removal and protection under the Convention Against Torture (CAT). This petition remains pending with USCIS.

25. Manpreet married his U.S. citizen spouse, Rickia Aanie Jackson, on September 4, 2024, but experienced abuse and cruelty in the marriage. On July 8, 2025, he filed Form I-360 as an abused spouse of a U.S. citizen; this petition remains pending with USCIS.

26. On February 3, 2026, Petitioner was arrested by local law enforcement for traffic violations in North Carolina. He was initially taken into custody in Spartanburg, South Carolina, and subsequently transferred to immigration custody on or about February 9, 2026. Since that time, he has remained detained at the Stewart Detention Center in Lumpkin, Georgia. On February 22, 2026, Petitioner was served with a Notice to Appear and placed in removal proceedings. He appeared for his initial hearing on March 18, 2026. The following day, March 19, 2026, during his bond hearing, the Immigration Judge denied his request for bond, concluding that the court lacked jurisdiction under *Matter of Yajure-Hurtado*.

## VI. LEGAL FRAMEWORK

### **A. Respondents' Interpretation of Sections 1225 and 1226 Flies in the Face of the Plain Meaning of the INA.**

27. Three provisions of the INA govern the detention of the majority of noncitizens in removal proceedings.

28. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings.

*See* 8 U.S.C. § 1229a. People subject to detention under section 1226 are generally entitled to a

bond hearing, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), unless they have been arrested for, charged with, or convicted of certain crimes. 8 U.S.C. § 1226(c). *See Jennings*, 583 U.S. at 288.

29. Second, 8 U.S.C. § 1225 governs detention of noncitizens subject to expedited removal under section 1225(b)(1)<sup>1</sup> and detention of other recent arrivals who are both “applicant[s] for admission” and “seeking admission” under section 1225(b)(2)(A). 8 U.S.C. § 1225(a)(3), (b)(2)(A). People detained under section 1225(b)(2)(A) are subject to mandatory detention.
30. Third, 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).
31. This case concerns the detention provisions at sections 1226(a) and 1225(b)(2).
32. Sections 1226 and 1225(b) were enacted in 1996 as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 3009-546 (1996). Congress amended section 1226 in early 2025 through the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
33. Before the IIRIRA, most people detained within the United States, even those who entered without inspection, were entitled to a custody hearing, while people apprehended at the border were only eligible for release on parole. *See* 8 U.S.C. § 1252(a) (1994). When it enacted IIRIRA, Congress explained that section 1226(a) “restates the current provisions in section [1252(a)] regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States.” H.R. Rep. No. 104-469, pt. 1, at 229 (1996).
34. When EOIR issued regulations implementing IIRIRA in 1997, it explained that “[D]espite being applicants for admission, aliens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination.” Inspection and Expedited Removal of

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<sup>1</sup> A summary removal process used at the discretion of DHS officials who encounter noncitizens at or near the border within two years of their entrance into the United States. Manpreet has never been subject to expedited removal.

Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

35. Thus, the long-standing agency interpretation of the INA was that section 1225 governed detention of noncitizens at or near the border, while section 1226 governs “detention of those who are already present in the United States.” *Jennings*, 583 U.S. at 303. For decades, noncitizens apprehended while already present in the United States were generally entitled to a bond hearing, unless their criminal history rendered them ineligible under section 1226(c).
36. Section 1226(a) sets out a discretionary detention framework for noncitizens arrested and detained “[o]n a warrant issued by the Attorney General,” and authorizes the Attorney General to “continue to detain the arrested alien[,]” release him on a “bond of at least \$1,500[,]” or release him on “conditional parole[,]” 8 U.S.C. § 1226(a)(1)-(2). While the arresting immigration officer makes an initial custody determination, noncitizens detained under § 1226(a) may appeal that determination in a bond hearing before an immigration judge. *See* 8 C.F.R. §§ 1236.1(c)(8), (d)(1). “Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.” *Jennings*, 583 U.S. at 306 (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)).
37. In recent months, Respondents have adopted a novel interpretation of section 1225(b)(2)(A). On July 8, 2025, ICE, “in coordination with” the DOJ, announced a new policy claiming that any noncitizen who ever entered without inspection is subject to mandatory detention under section 1225(b)(2)(A), regardless of when they entered, when they are apprehended, and how their ongoing detention may impact them and their families.<sup>2</sup>

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<sup>2</sup> ICE, *Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA Doc. No. 25071607 (July 8, 2025), <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>:

38. On September 5, 2025, the BIA parroted this novel interpretation in a published decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). There, the BIA held that all noncitizens who are present in the United States without admission are subject to mandatory detention under section 1225(b)(2)(A) and are ineligible for bond hearings. *Yajure Hurtado*, 29 I&N at 216.
39. Specifically, the BIA argued that “under the plain reading of the INA,” noncitizens “who are present in the United States without admission are applicants for admission as defined under” section 1225(b)(2)(A). *Id.* at 220.
40. Federal courts do not owe deference to agency interpretation of statutes. Rather, they exercise “independent legal judgment” to interpret statutes. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 401 (2024). although an agency’s interpretation of a statute “cannot bind a court,” it may be especially informative “to the extent it rests on factual premises within [the agency’s] expertise.” *Id.* (citing *Bureau of Alcohol, Tobacco and Firearms v. FLRA*, 464 U. S. 89, 98, n. 8, 104 S. Ct. 439, 78 L. Ed. 2d 195 (1983)). Thus, while the IJ was bound by the BIA’s interpretation in *Matter of Yajure Hurtado*, this Court is not.
41. Over the past few months, dozens of federal courts, including those within the Eleventh Circuit, have rejected Respondents’ interpretation of section 1225. *See, e.g. Lopez v. Mia. Fed. Det. Ctr. FDC ICE*, No. 26-20187-CV-DIMITROULEAS, 2026 US Dist LEXIS 14617 (SD Fla Jan. 27, 2026); *Sofia-Laffita v. Noem*, No. 26-60161-CV, 2026 US Dist LEXIS 21100 (SD Fla Jan. 30, 2026); *Acosta v. Field Office Dir., Mia. Field Office*, No. 25-62360-CV-DIMITROULEAS, 2025 US Dist LEXIS 265998 (SD Fla Dec. 26, 2025); *Taffur v. Noem*, No. 25-62308-CV, 2025 US Dist LEXIS 265259 (SD Fla Dec. 22, 2025); *Guzman v. Noem*, No. 0:26-cv- 20255-WPD, 2026 US Dist LEXIS 14763 (SD Fla Jan. 26, 2026); and *Mendoza v. Assistant Field Officer Dir. Broward Transitional Ctr.*, No. 26-60159-CV-DIMITROULEAS, 2026 US Dist LEXIS 25200

(SD Fla Feb. 6, 2026)

42. Other courts across the country have reached similar conclusions. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Rivera Zumba v. Bondi*, No. 25-CV-14626 (KSH), 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Lopez Santos*, 2025 WL 2642278; *Pizarro Reyes* 2025 WL 2609425; *Campos Leon v. Forestal*, No. 1:25-CV-01774-SEB-MJD, 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025); *Barrajas v. Noem*, No. 4:25-CV-00322-SHL-HCA, 2025 WL 2717650 (S.D. Iowa Sept. 23, 2025); *Belsai D.S. v. Bondi*, No. 25-CV-3682 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Salazar v. Dedos*, No. 1:25-CV-00835-DHU-JMR, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Lopez v. Hardin*, No. 2:25-CV-830-KCD-NPM, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025).
43. Courts have uniformly rejected DHS and EOIR's new interpretation because it is contrary to the INA. As the courts have explained, the plain text of the two provisions demonstrates that section 1226(a), not section 1225(b)(2)(A), applies to people like Manpreet.
44. Section 1225(b) "applies primarily to aliens seeking entry into the United States," while section 1226 "applies to aliens already present in the United States." *Jennings*, 583 U.S. at 297, 303; The Jennings analysis explains the necessity for both statutes by differentiating between the detention of arriving aliens who are seeking entry into the United States under § 1225 and the detention of those who are already present in the United States under § 1226. Respondents'

position that § 1225 applies "because Petitioner is present in the United States without being admitted" is contrary to the Supreme Court's analysis of the application of § 1225 to arriving aliens. *Id.* at 287 (citing 122 Stat. 867, 8 U.S.C. § 1225). Indeed, "'our immigration laws have long made a distinction between those [noncitizens] who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.'" *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958).

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." 8 U.S.C. § 1226(a). These removal hearings are held under section 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]." 8 U.S.C. § 1229a(a)(1).
46. The text of section 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) states that people who are "inadmissible under paragraph (6)(A) . . . section 1182(a)"—noncitizens who have previously entered without inspection—and are charged with, arrested for, or convicted of certain crimes must be detained. *Id.* Explicit reference to such people in a specific exception makes clear that, by default, such people are afforded a bond hearing under section 1226(a). "When Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010). Therefore, noncitizens like Manpreet, who are present in the United States and charged as inadmissible because they entered without inspection, are subject to detention under section 1226.
47. Meanwhile, section 1225(b) applies to people arriving at ports of entry or those who very recently entered the United States. The section's title refers to "Inspection by immigration

- officers; expedited removal of inadmissible *arriving* aliens; referral for hearing.” 8 U.S.C. § 1225 (emphasis added). As several courts have noted, context of the statute surrounding § 1225(b)(2)(A) is clear that it generally applies to arriving noncitizens, not those already present for years. *See King v. Burwell*, 576 U.S. 473, 486, 135 S. Ct. 2480, 192 L. Ed. 2d 483 (2015) (explaining that courts “must read the words in their context and with a view to their place in the overall statutory scheme” (citation and internal quotation marks omitted)); *See also Graham Cnty. Soil & Water Conservation Dist. v. U.S. ex rel. Wilson*, 559 U.S. 280, 290, 130 S. Ct. 1396, 176 L. Ed. 2d 225, (2010) (“Courts have a ‘duty to construe statutes, not isolated provisions.’ ” (quoting *Gustafson v. Alloyd Co.*, 513 U.S. 561, 568, 115 S. Ct. 1061, 131 L. Ed. 2d 1 (1995))).
48. The statutory text and structure of 8 U.S.C. § 1225 indicate that it applies to noncitizens who are presently “seeking admission,” not those who have long been physically present in the United States. Congress’s use of verb tense is significant in construing statutes. *See United States v. Wilson*, 503 U.S. 329, 333 (1992). Moreover, statutory meaning must be interpreted in context, including the broader statutory scheme. *See Yates v. United States*, 574 U.S. 528, 537 (2015). Section 1225 governs inspection and admission, referring to individuals “arriving” or “seeking admission,” while defining an applicant for admission as one who has not been admitted or who arrives in the United States. 8 U.S.C. § 1225(a)(1). In contrast, “admission” is defined as lawful entry after inspection. 8 U.S.C. § 1101(a)(13). Read in context, § 1225 governs inspection and admission of arriving or admission-seeking noncitizens, while § 1226 governs detention of noncitizens already present in the United States pending removal proceedings. Petitioner, who had lived in the interior for more than three years before his arrest, falls within § 1226(a), not § 1225(b)(2)(A).
49. The regulations enacting section 1225(b)(2) similarly refer to “arriving aliens”. 8 C.F.R. §

235.2(c). These regulations define “arriving alien” as “an applicant for admission coming or attempting to come into the United States at a port-of-entry.” 8 C.F.R. § 1.2. A person who has been living in the United States for decades is plainly not “coming or attempting to come into the United States.” *Id.*

50. Accordingly, the mandatory detention provision of section 1225(b)(2)(A) does not apply to people like Manpreet, who have already entered and were residing in the United States when they were apprehended. Instead, Manpreet is detained under section 1226(a), which requires a bond hearing.

## **VII. CLAIMS FOR RELIEF**

### **COUNT ONE**

#### **Violation of the INA**

51. Manpreet realleges and incorporates by reference the allegations of fact set forth in the preceding paragraphs.
52. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under section 1226(a), unless they are subject to sections 1225(b)(1), 1226(c), or 1231.
53. The continued application of section 1225(b)(2) to Manpreet, which subjects him to mandatory detention, is inconsistent with the Immigration and Nationality Act (INA).

### **COUNT TWO**

#### **Violation of Bond Regulations**

54. Manpreet realleges and incorporates by reference the allegations of fact set forth in the preceding paragraphs.

55. An administrative agency is required to adhere to its regulations. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). In 1997, after Congress amended the INA through IIRIRA, EOIR and the then Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of Aliens,” the agencies explained that “[d]espite being applicants for admission, *aliens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination.*” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under section 1226 and its implementing regulations.
56. Federal regulations require the government to grant bond hearings to people detained under section 1226(a) at the outset of their detention. 8 C.F.R. § 1236.1(d)(1); *See Jennings*, 583 U.S. at 306.
57. Nonetheless, pursuant to *Matter of Yajure Hurtado*, and in violation of long-standing regulations, EOIR now has a policy and practice of applying section 1225(b)(2) to individuals like Manpreet.
58. The continued application of section 1225(b)(2) to Manpreet, resulting in his mandatory detention, violates federal regulations.
59. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of Aliens,” the agencies explained that “[d]espite being applicants for admission, *aliens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination.*” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under section

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61. Nonetheless, pursuant to *Matter of Yajure Hurtado*, and in violation of long-standing regulations, EOIR now has a policy and practice of applying section 1225(b)(2) to individuals like Manpreet.
62. The continued application of section 1225(b)(2) to Manpreet, resulting in his mandatory detention, violates federal regulations.

### COUNT THREE

#### Fifth Amendment Substantive Due Process

63. Manpreet realleges and incorporates by reference the allegations of fact set forth in the preceding paragraphs.
64. Manpreet's ongoing detention violates his substantive due process rights because his liberty is being restricted without justification. *See Hensley v. Mun. Ct., San Jose Milpitas Jud. Dist.*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241(c)(3).
65. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
66. Further, the Supreme Court has recognized that freedom from physical restraint is a fundamental liberty interest, even in the immigration context. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). That liberty interest may arise from government action creating a reasonable expectation of continued freedom. *See Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972). Further, different courts have recognized that immigrants who the government granted a limited form of

immigration relief and allowed to live in the country for years “under the understanding that [they are] unlikely to be subject to enforcement proceedings” possess a cognizable liberty interest. *Santiago v. Noem*, No. EP-25-CV-361-KC, 2025 WL 2792588, at \*10-11 (W.D. Tex. Oct. 2, 2025) (finding a person who lived in the U.S. for twenty years, including thirteen years with deferred action, has a cognizable liberty interest) (quoting *Gamez Lira v. Noem*, No. 1:25-CV-00855-WJ-KK, 2025 WL 2581710, at \*3 (D.N.M. Sept. 5, 2025)). Consistent with these principles, courts have recognized that noncitizens who have been released and permitted to live in the community for extended periods develop a cognizable liberty interest in their continued freedom.

67. Manpreet has a fundamental interest in his liberty. The only permissible detention purposes under section 1226, preventing danger and flight risk, are not present here, unlawfully infringing upon Manpreet’s liberty interest. *See Zadvydas*, 533 U.S. at 690–91; *Demore v. Kim*, 538 U.S. 510, 528 (2003).
68. Accordingly, Manpreet’s continued detention is unconstitutional and he should be released.

## COUNT FOUR

### Fifth Amendment Procedural Due Process

69. Manpreet realleges and incorporates by reference the allegations of fact set forth in the preceding paragraphs.
70. The government’s infringement on Manpreet’s liberty interest triggers a right to contest that infringement, for example, through a hearing before the right is deprived. *See Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 569–70 (1972).
71. The sufficiency of any process afforded is determined by weighing three factors: (i) the private interest that will be affected by the official action, (ii) the risk of erroneous deprivation of that interest through the available procedures, and (iii) the government’s interest, including the

function involved and the fiscal and administrative burdens that additional or substitute procedures would entail. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). “The essence of procedural due process is that a person risking a serious loss be given notice and an opportunity to be heard in a meaningful manner and at a meaningful time.” *Mathews*, 424 U.S. at 348.

72. Manpreet has a private right to a bond hearing because he is properly detained under a statute, 8 U.S.C. § 1226, that allows for release on bond. Because he was denied bond one of the procedural protections that such a significant deprivation of his liberty interest would require, his continued detention violates his procedural due process rights. *See Mathews*, 424 U.S. at 332–33.
73. Respondents’ failure to grant an individualized hearing on whether Manpreet’s detention is justified to prevent flight or mitigate risk of danger to the community creates the highest risk of erroneous deprivation of liberty. *See Zadvydas*, 533 U.S. at 690.
74. Respondents incur no additional burden by providing Manpreet with such process because it merely comports with both the requirements of the INA and the constitutional protections guaranteed by the Fifth Amendment.
75. As to the first *Mathews* factor, a “noncitizen’s interest in his freedom pending the conclusion of his removal proceedings deserves great “weight and gravity.”” *Addington v. Texas*, 441 U.S. 418, 427 (1979); *Landon v. Plasencia*, 459 U.S. 21, 34 (1982). This interest is strengthened when the noncitizen has, like Manpreet, lived in the United States prior to the detention, and been allowed to stay free of detention during previous interactions with the immigration court. *See Vieira v. Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880 at \*4 (W.D. Tex. Oct. 16, 2025)
76. Denial of a bond under section 1225(b)(2) “creates a substantial risk of erroneous deprivation of Manpreet’s interest in being free from arbitrary confinement pending resolution of his removal proceedings,” particularly when Manpreet is not a flight risk or danger and has lived in the U.S.

for a prolonged period. *Id.* at \*7. The value of an additional safeguard through a bond hearing to determine “whether continued detention is necessary to ensure presence at removal hearings and safety for the community” is high. *Id.*

77. Respondents’ “generalized interest in ensuring noncitizens appear for their removal hearing and do not pose a risk to the communities in which they live” is extremely “diluted” in this case, because Manpreet’s detention has harmed his ability to appear for his immigration court proceedings, and does not pose and danger or flight risk. *Id.* at \*6. “Further, any fiscal or administrative burdens Respondents may assert by having to provide a bond hearing are also diminished given [...] the government has conducted such hearings for the past thirty years until a change in the agency’s interpretation of the law.” *Id.*

78. “Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty or property interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment [ . . . ] The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 332, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976); [ . . . ] “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690. [ . . . ] It so follows that non-citizen “detainees have a right to notice and an opportunity to be heard ‘appropriate to the nature of the case.’” *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313, 70 S. Ct. 652, 94 L. Ed. 865 (1950)). “[E]ven in circumstances where mandatory detention is constitutionally permissible, due process still requires ‘adequate procedural protections’ to ensure that the Government’s stated justification for detaining [a non-citizen] without a bond hearing ‘outweighs the individually constitutionally protected interest in avoiding physical restraint.’”

*Zadvydas*, 533 U.S. at 690).

79. For these reasons, Manpreet's ongoing detention is unconstitutional. He should be immediately released.

### VIII. PRAYER FOR RELIEF

Wherefore, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Declare that Petitioner's detention is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A)
3. Order that Manpreet shall not be transferred outside of the Middle District of Georgia while this habeas petition is pending;
4. Issue a Writ of Habeas Corpus requiring that Respondents release Manpreet or, in the alternative, provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
5. Declare that Manpreet's detention is unlawful;
6. Grant Manpreet any preliminary relief to which he shows himself to be entitled;
7. Award Manpreet attorney's fees and costs under the Equal Access to Justice Act, as amended, 28 U.S.C. § 2412, and on any other basis justified under law;
8. Grant any other and further relief that this Court deems just and proper.

Dated: March 26, 2026

Respectfully submitted,

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