

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

A.S.C.,

Petitioner,

v.

RAUL MALDONADO Jr., *in his official capacity as*
Warden of the Metropolitan Detention Center;
KENNETH GENALO, *in his official capacity as*
Field Office Director of New York, Immigration and
Customs Enforcement;
TODD LYONS, *in his official capacity as*
Acting Director U.S. Immigration and
Customs Enforcement; MARKWAYNE MULLIN, *in*
his official capacity as Secretary of Homeland
Security; PAM BONDI, *in her official*
capacity as Attorney General,

Respondents.

Case No.

**EMERGENCY PETITION FOR
WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner A.S.C.¹ has lived in the United States since 2007. On December 1, 2025, Immigration and Customs Enforcement (“ICE”) racially profiled and unlawfully arrested the Petitioner. Respondents have unlawfully detained the Petitioner at the Metropolitan Detention Center (“MDC”) in Brooklyn, New York for over three months in violation of his statutory and constitutional rights.

2. Before his ICE arrest, Petitioner lived with his wife and his three U.S. citizen children in Brooklyn, New York. Petitioner is the primary breadwinner for his wife and minor children and has strong ties to his community. Petitioner’s eldest U.S. citizen child recently joined the U.S. military.

¹ A motion for leave to proceed by pseudonym is filed concurrently with this Petition.

3. Petitioner's detention is unlawful because the Department of Homeland Security ("DHS") is erroneously subjecting him to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) pursuant to recent agency policy. Respondents' new legal interpretation is plainly contrary to the statutory framework of the Immigration and Nationality Act ("INA") and decades of agency practice applying 8 U.S.C. § 1226(a)—*not* § 1225(b)—to people like Petitioner. Respondents' misclassification of Petitioner as subject to "mandatory detention" pursuant to § 1225(b)(2)(A) is a position that hundreds of district courts across the country—including in this District—have found to be a violation of the INA.

4. Moreover, ICE detained Petitioner without any individualized review of the necessity of that detention, as required by 8 U.S.C. § 1226(a) and due process, and there is no valid basis for his ongoing immigration detention as he does not pose a flight risk or danger. Petitioner has no significant criminal history; he has only one conviction for disorderly conduct from 2014 and another arrest from 2023, which was dismissed. Prior to his sudden arrest by ICE, he was living in Brooklyn, New York, with his wife and children. Due to Respondents' unlawful actions, however, he has been separated from them and is suffering at MDC, a federal jail plagued with inhumane conditions, including lack of access to medical care and rampant violence, while his wife struggles to pay rent and his children miss their father.

5. Accordingly, Petitioner seeks a writ of habeas corpus ordering that Respondents immediately release him.

JURISDICTION AND VENUE

6. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

7. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States Constitution. This Court has authority to grant declaratory and injunctive relief. 28 U.S.C. §§ 2201, 2202. The Court has additional remedial authority under the All-Writs Act, 28 U.S.C. § 1651 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

8. Venue is proper in this District under 28 U.S.C. § 2241(d); 28 U.S.C. § 1391(b); and 28 U.S.C. § 1391(e)(1). Venue is proper in this District because A.S.C. is presently detained within this District at MDC, which is located at 80 29th St, Brooklyn, NY 11232.

REQUIREMENTS OF 28 U.S.C. § 2243

9. 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.*

10. 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). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

11. Petitioner A.S.C. is a 55-year-old national of Mexico who has lived in the United States since 2007. ICE arrested him on December 1, 2025 and is detaining him at MDC.

12. Respondent Raul Maldonado, Jr. is named in his official capacity as the Warden of MDC. He is an employee of the Federal Bureau of Prisons, which partners with ICE to accept

immigrant detainees at MDC. Respondent Maldonado's office is located at 80 29th St, Brooklyn, NY 11232.

13. Respondent Kenneth Genalo is named in his official capacity as the Field Office Director of the New York Field Office for ICE within DHS. 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 Genalo's address is New York ICE Field Office Director, 26 Federal Plaza, 9th Floor, Suite 9-10, New York, New York 10278.

14. Respondent Todd Lyons is sued in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.

15. Respondent Markwayne Mullin is sued in his official capacity as Secretary of Homeland Security. As the head of the Department of Homeland Security ("DHS"), the agency tasked with enforcing immigration laws, Secretary Mullin is Petitioner's ultimate legal custodian.

16. Respondent Pam Bondi is sued in her official capacity as Attorney General of the United States. As head of the U.S. Department of Justice, the agency that oversees the Executive Office for Immigration Review ("EOIR"), Attorney General Bondi is responsible for administration of the immigration laws as exercised by EOIR, pursuant to 8 U.S.C. § 1103(g). She is legally responsible for the pursuit of Petitioner's detention and removal.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

17. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his immigration detention. *See Louisaire v. Muller*, 758 F. Supp. 2d 229, 234 (S.D.N.Y. 2010); *Abdi v. Nielsen*, 287 F. Supp. 3d 327, 341 (W.D.N.Y. 2018). No exhaustion requirement applies to the claims raised in this petition because the Immigration Court and Board of Immigration Appeals ("BIA") lack jurisdiction to entertain constitutional

challenges. *See Arango-Aradondo v. INS*, 13 F.3d 610, 614 (2d Cir. 1994); *Matter of Valdovinos*, 18 I&N Dec. 343, 345-46 (BIA 1982) (disclaiming jurisdiction to rule on constitutionality of immigration statute).

18. Nor is further action with the agency necessary when pursuing administrative remedies would be futile or the agency has predetermined a dispositive issue. *See, e.g., Araujo-Cortes v. I.N.S.*, 35 F. Supp. 3d 533, 538–39 (D.N.J. 2014); *Monestime v. Reilly*, 704 F. Supp. 2d 453, 456-7 (S.D.N.Y. 2010); *Garcia v. Shanahan*, 615 F. Supp. 2d 175, 180 (S.D.N.Y. 2009). Here, the Board of Immigration Appeals has predetermined the issue in this appeal in a precedential decision, finding that Section 1225 applies to the detention of an individual who entered the United States without inspection. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

19. In addition, exhaustion is not required where a plaintiff raises a substantial constitutional question, as raised here. *See Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003).

STATEMENT OF FACTS

I. Petitioner's Life in the United States

20. A.S.C. last entered the U.S. in 2007, Exh. A, Pet.'s Decl. ¶ 1. Petitioner lived in Brooklyn, New York, with his wife and three U.S. citizen children before he was illegally detained by ICE. Exh. A, Pet.'s Decl. ¶¶ 1–7.

21. Petitioner is the breadwinner for his family and, before his detention, worked in construction and as a handyman to provide for his wife and children. Exhs. D to H, letters of support from Petitioner's wife and members of Petitioner's community. His family depends on him financially and emotionally. *Id.* ¶¶ 2, 15.

22. Petitioner has deep ties to his community and his family in the United States. His eldest son, who is 20 years old, recently joined the U.S. Army and is currently in training in North

Carolina. *Id.* ¶ 16. Petitioner's two other children, ages 11 and 13, live at home with his wife and are enrolled in school and participate in extracurricular activities. *Id.* ¶¶ 2, 15.

II. Petitioner's Racially Motivated Arrest and Detention by ICE

23. On the morning of December 1, 2025, ICE arrested Petitioner as he was on his way to the train to go to work. *Id.* ¶ 3. A man in civilian clothing was walking behind Petitioner, who Petitioner thought was a civilian that needed help with something. *Id.* ¶ 4. The man did not identify himself but presented Petitioner with a photo of a man and asked him if he knew the individual. *Id.* ¶ 5.

24. Petitioner informed the man he did not know the person, and immediately, seven more people surrounded him from around the corner, one woman and six men. *Id.* All eight individuals were dressed in civilian clothing with black vests, without ICE or police markings. *Id.* The eight individuals were armed with Tasers and had lights on their chests, making it difficult for Petitioner to see their faces. *Id.* Petitioner was very nervous. *Id.*

25. One of the men asked Petitioner in Spanish if he had a work permit or a social security number, and Petitioner replied that he did not. *Id.* ¶ 6. Petitioner did not share anything with the individuals about his immigration status or where he was born. *Id.* Petitioner was "in shock" and was "completely surrounded" by the individuals, and "didn't feel like [he] could leave." *Id.*

26. The individuals told Petitioner they were arresting him, but they did not tell him why he was being arrested, who they were, or where they were taking him. *Id.* ¶ 7. They handcuffed Petitioner at his hands and feet, took his wallet from him, and took out his Mexican consular identification card. They did not ask Petitioner about the card and took him to an unmarked black vehicle. *Id.*

27. The unidentified individuals took Petitioner to a parking lot where they transferred him to another vehicle. *Id.* ¶ 8. He was still handcuffed at his hands and feet, but they pushed him into the second vehicle, nearly causing him to fall over. *Id.*

28. They took him to a building in Manhattan and an officer who arrested him asked for his personal information. *Id.* ¶ 9. None of the officers who arrested or transported Petitioner told him ICE had arrested him, but in the Manhattan building his suspicions were confirmed upon seeing officers wearing clothing with “ICE” on it. *Id.* The officer tried to get Petitioner to sign a document in English, that Petitioner could not read, as Petitioner cannot read English. *Id.* ¶ 10. Petitioner refused to sign the document. *Id.*

29. Officers kept Petitioner detained in a cell with other Latino people for two nights, during which Petitioner did not have adequate food or water. *Id.* ¶ 12. Petitioner was allowed one bottle of water per day. *Id.* The cell was very cold, at 45 or 50 degrees and officers had taken Petitioner’s jacket from him upon detaining him, leaving him in only a sweater and forcing him to sleep on the floor with no covering or blanket. *Id.*

30. Petitioner was transferred to Orange County Jail, in Goshen, New York. *Id.* ¶ 13. A day or so later he was transferred to Metropolitan Detention Center (“MDC”), in Brooklyn, NY, where he remains. *Id.*

31. DHS placed Petitioner in removal proceedings before the Varick immigration court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, inter alia, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

III. Petitioner and his Family Suffer While He is in ICE Custody

32. Detention has been “really hard” on Petitioner, who worries a great deal about his family. *Id.* ¶ 15. He worries that the longer he is detained his wife will be unable to pay rent or provide food for their two younger children because he was the breadwinner for his family before

he was detained. *Id.* Petitioner's eldest son, who is 20 years old, recently left home to join the U.S. military. Exh. D, letter from C.S.S., Petitioner's wife; Exh. K, military document for A.S., Petitioner's oldest son. With him no longer at home working, Petitioner's wife is struggling financially and worries about her young children. Exh. D, letter from C.S.S., Petitioner's wife.

33. Petitioner also worries about the impact of his detention on his two minor children who are at home with his wife. Exh. A, Pet.'s Decl. ¶¶ 15, 16; Exh. D, letter from C.S.S., Petitioner's wife. He misses them very much. Exh. A, Pet.'s Decl. ¶ 15; *see also* Exh. L, photographs of Petitioner and Petitioner's children. His children cry when they talk to him, and he can see the bad effect his detention has had on their mental health. Exh. A, Pet.'s Decl. ¶ 15. The children report losing interest in after-school activities and Petitioner's youngest child has started having trouble in school and requiring extra classes. *Id.*; Exh. B, letter from J.S., Petitioner's daughter; Exh. C, letter from , Petitioner's youngest son; Exh. D, letter from C.S.S., Petitioner's wife. Since his detainment, Petitioner's children report feeling immense sadness and miss their father. Exh. B, letter from  Petitioner's daughter; Exh. C, letter from  Petitioner's youngest son. One of Petitioner's children has recently started therapy through the school once a week, and the other is being evaluated for therapy. Exh. D, letter from C.S.S., Petitioner's wife.

34. Petitioner is not a danger to the community. He has one conviction from 2014 for disorderly conduct and another arrest from 2023, which was dismissed. Together with his wife and his three U.S. citizen children, Petitioner has built a life in New York. Pet.'s Decl. ¶¶ 1,2; Exhs. D to I, letters of support from his wife and members of Petitioner's community.

35. Petitioner is also not a flight risk. He has never fled or attempted to flee from law enforcement. He is eligible for and seeking different forms of relief from removal, including

cancellation of removal for nonpermanent residents, and military parole in place.² Petitioner's two minor children live in Brooklyn, New York, with his wife. Exhs. B to D, letters of support from his wife and two youngest children. They are enrolled in school and participate in extracurricular activities; their lives are here in Brooklyn. *Id.* His other son recently joined the U.S. military and is in training in North Carolina. *Id.* Petitioner is the provider for his family and they emotionally and financially need him outside of detention and reunited with them. *Id.*

36. Several members of Petitioner's community—including those who have employed or worked closely with him for many years—wrote letters of support testifying to Petitioner's strong moral character, dependable and consistent work ethic, and devotion to his wife and children. Exhs. E to I, letters of support from members of Petitioner's community. His minister wrote that A.S.C. and his family have been valuable members of the parish community since 2021 and “are the first ones to volunteer whenever we are in need of help.” Exh. I, letter from Reverend Ortiz.

37. Petitioner's oldest son—who recently joined the U.S. Army—turns 21 in August and can then file a petition on behalf of his father. Exh. A, Pet.'s Decl. ¶ 16; Exh. J, Birth Certificate for Petitioner's oldest son; Exh. K, Army Enlistment documents for Petitioner's oldest son.

38. Pursuant to *Matter of Yajure Hurtado*, the IJ is unable to consider a bond request by Petitioner.

² Military Parole in Place “recognize[s] the important sacrifices made by U.S. service members, veterans, enlistees, and their families” and allows the government to “grant parole in place on a case-by-case basis... for individuals who are present without admission” and are a family member of an “[a]ctive-duty member of the U.S. armed forces[.]” See *Discretionary Options for Military Members, Enlistees and Their Families*, DEPARTMENT OF HOMELAND SECURITY (last visited Mar. 25, 2026), <https://www.uscis.gov/military/discretionary-options-for-military-members-enlistees-and-their-families>.

39. As a result, Petitioner will remain in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

IV. Current Climate of Detainments in ICE's Race-Driven Arrest Campaign

40. Petitioner's arrest is part of a larger, aggressive effort by DHS to arrest and detain people without reasonable suspicion that they are noncitizens who lack legal immigration status, and without individualized consideration of the necessity of immigration detention. December 2025 saw a record number of people detained by ICE as the agency was "holding 68,440 people in detention in mid-December; nearly 75% of them [having] no criminal convictions." Maanvi Singh, Coral Murphy Marcos, and Charlotte Simmonds, *2025 Was ICE's Deadliest Year in Two Decades. Here Are the 31 People Who Died in Custody*, THE GUARDIAN (Jan. 4, 2026), <https://www.theguardian.com/us-news/ng-interactive/2026/jan/04/ice-2025-deaths-timeline>.

41. This severe increase in detainments is a direct result of a racially charged campaign affecting primarily Hispanic communities, part of a greater scheme to satisfy an arrest quota implemented by ICE. In January 2025, ICE instituted a daily quota for 1,200 to 1,500 arrests of noncitizens to carry out the government's "mass deportation" plan. Nick Miroff & Maria Sacchetti, *Trump officials issue quotas to ICE officers to ramp up arrests*, WASHINGTON POST (Jan. 26, 2025) <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/>. ICE field offices that did not reach their target would be "held accountable." *Id.* Senior ICE officials, including White House "Border Czar" Tom Homan acknowledged that these quotas would lead to "more arrests nationwide" of individuals who do not pose public safety or national security threats. *Id.* By May 2025, that quota had doubled to a minimum of 3,000 arrests per day. Hamed Aleaziz, *Under Pressure from the White House, ICE Seeks New Ways to Ramp Up Arrests*, NY TIMES (June 11, 2025), <https://www.nytimes.com/2025/06/11/us/politics/ice-la-protest-arrests.html>. The

former ICE chief of staff during the Biden administration put it bluntly: “This isn’t about public safety or national security; this is about hitting a quota number. That’s it.” *Id.*

42. Officers have been arresting large swaths of noncitizens without regard for the individual circumstances.³ The ruse that the ICE agents used against A.S.C. is a common one: investigators have reported that ICE agents are luring individuals into stopping by claiming to be looking for another individual and showing the detainee a photo. Gwynne Hogan, *Sidewalk Arrests Seize New Yorkers in ICE’s Latest Surge*, THE CITY (Nov. 26, 2025). ICE agents “often are showing a photo and that’s how they’re getting people to stop and engage with them. . . . They’re just claiming to be looking for a person to get people to stop and engage with them and we absolutely think that it’s race-based.” *Id.*

LEGAL FRAMEWORK

I. Immigration Detention Framework

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

44. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. Under this statute, individuals who are arrested and already inside the United States are generally placed into removal proceedings, during which an IJ (and later, potentially, the BIA and a U.S. Court of Appeals) will decide whether the person should be deported. Section 1226(a) and the implementing regulations require an individualized

³ See Julia Ainsley, et al., Under Trump administration, ICE scraps paperwork officers once had to do before immigration arrests, NBC News (Sept. 9, 2025) <https://www.nbcnews.com/politics/national-security/trump-administration-ice-scraps-paperwork-officers-immigration-arrests-rcna229407> (“For more than 15 years, before they conducted any operation to arrest an immigrant in the United States, officers with [ICE’s] Enforcement and Removal Operations division have been required to fill out a form with details about their target – name, appearance, known address and employment, immigration history, any criminal history and more – and give it to a supervisor for approval. This year, in a sign of how the agency has moved from targeted enforcement to broad street sweeps under the Trump administration, that policy has been ended, six current and former officials and agents of ICE and [DHS] told NBC News.”).

determination as to the noncitizen's risk of flight and danger to the community. *See* 8 C.F.R. § 1236.1(c)(8); *id.* § 236.1(c)(8); *Velesaca v. Decker*, 458 F. Supp. 3d 224, 235 (S.D.N.Y. 2020). Noncitizens discretionarily detained pursuant to § 1226(a) are also generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. § 1003.19(a); *id.* § 1236.1(d). Noncitizens who have been arrested, charged with, or convicted of certain crimes or fall under certain terrorism-related grounds of removability are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).

45. 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). The statute applies only at the border. Under this statute, “applicants for admission” who are “seeking admission” into the United States are placed into expedited removal proceedings and subject to detention without a bond hearing. *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (describing § 1225 as relating to “borders and ports of entry”). These individuals may request release through humanitarian parole under 8 U.S.C. § 1182(d)(5)(A). *Id.* at 288.

46. Third, the INA provides for detention of noncitizens who have been ordered removed. *See* 8 U.S.C. § 1231(a)–(b).

II. Due Process Constraints on Immigration Detention

47. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore*, 538 U.S. at 523 (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690.

48. Although civil immigration detention is authorized by statute, to comply with Due Process detention can serve only two legitimate purposes: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *Velasco Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir. 2020).

49. 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)); *see also Black v. Decker*, 103 F.4th 133, 150-51 (2d Cir. 2024). The *Mathews* factors are: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335.

50. Due process requires, at a minimum, notice and an opportunity to respond prior to the deprivation of liberty at a hearing before a neutral adjudicator. *See, e.g., Torres-Jurado v. Biden*, No. 19-CV-3595 (AT), 2023 WL 7130898, at *4 (S.D.N.Y. Oct. 29, 2023) (explaining that, in parole revocation, "due process, at a minimum" requires the government to afford meaningful notice and an opportunity to be heard and that the opportunity must be meaningful) (*citing to Ying Fong v. Ashcroft*, 317 F. Supp. 2d 398, 403 (S.D.N.Y. 2004)); *Valdez*, 2025 WL 1707737, at *4 (ordering release of petitioner re-detained after an immigration court hearing and concluding "respondents ongoing detention of petitioner with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights.");

Lopez v. Sessions, No. 18-CV-4189 (RWS), 2018 WL 2932726, at *12 (S.D.N.Y. June 12, 2018) (“Petitioner’s re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment.”); *Singh v. Andrews*, No. 25-CV-00801, 2025 WL 1918679, at *20 (E.D. Cal. July 11, 2025) (ordering release of noncitizen re-detained after an immigration court hearing based on finding that “the *Mathews* factors show that petitioner is entitled to process, and that process should have been provided before petitioner was detained”).

51. Where, as here, ICE detains individuals without conducting any individualized assessment as to their immigration status, let alone their flight risk, those individuals merit immediate release from custody. *See Quintero Campos v. Deleon*, No. 25-CV-10099 (LJL), 2025 WL 3514120, at *2 (S.D.N.Y. Dec. 8, 2025) (ordering immediate release of individual ICE detained without “any individualized assessment or flight risk assessment” but could not identify any basis under § 1226(a) for his continued detention); *see also Rocano Buestan v. McShane*, No. 25-CV-8544 (JGLC), 2025 WL 3496361, at *1, *6 (S.D.N.Y. Dec. 5, 2025) (same, for noncitizen who had lived in the U.S. approximately 15 years and “was driving around Newburgh with his partner when masked [ICE] officers surrounded them in unmarked vehicles”); *Chipantiza-Sisalema v. Francis*, No. 25-CV-5528 (AT), 2025 WL 1927931, at *5 (S.D.N.Y. July 13, 2025) (ordering release of petitioner re-detained after immigration hearing, finding that her detention “violates her Fifth Amendment right to due process because ICE detained her without notice, an opportunity to respond, or an individualized determination that she poses a flight risk or a danger to the community”); *Morocho v. Jamison*, No. 5:25-CV-05930, 2025 WL 3296300, at *1–3 (E.D. Pa. Nov. 26, 2025) (same, for noncitizen who had lived in the U.S. for 24 years and was detained by ICE officers “did not provide a reason for the stop; instead, they told him they were looking for

another individual and directed him to exit the car”); *Cuy Comes v. DeLeon*, No. 25-CV-9283 (AT), 2025 WL 3206491, at *1, *6 (S.D.N.Y. Nov. 14, 2025) (same, for noncitizen who had lived in the U.S. at least five years and was detained by over a half a dozen agents in front of his home); *Lliguicota v. Cabezas*, No. 25-CV-17216, 2025 WL 3496300, at *1–2 (D.N.J. Dec. 5, 2025) (same, for noncitizen who had lived in the U.S. for nearly thirteen years and was stopped, questioned, and arrested by federal officers “while walking with his family near their residence”); *Lepe v. Andrews*, No. 1:25-CV-01163, 2025 WL 2716910, at *1 (E.D. Cal. Sept. 23, 2025) (same, for noncitizen who had lived in the U.S. for the last 32 years and was stopped and interrogated “while he was walking his dog near his home”).

52. For individuals in immigration detention who are eligible for bond, at any bond hearing, due process requires the government to justify detention by a heavy burden. The Supreme Court has consistently held that when the government seeks to hold individuals in civil detention, the government must justify their detention with clear and convincing evidence. *See, e.g., United States v. Comstock*, 560 U.S. 126, 129–31 (2010); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Addington v. Texas*, 441 U.S. 418, 432–33 (1979). The Supreme Court has applied that standard to hearings regarding initial detention. *See Addington*, 441 U.S. at 432–33 (applying clear and convincing standard to initial civil commitment hearing); *United States v. Salerno*, 481 U.S. 739, 751 (1987) (approving initial pretrial detention determination where justified by clear and convincing standard). Where the Supreme Court has dealt with custody redetermination, it has given no indication that the amount of time an individual had already been confined alters the burden placed on the government. *See Foucha*, 504 U.S. at 71; *Comstock*, 560 U.S. at 126. It is also the overwhelming consensus of judges within the Second Circuit that the Due Process Clause requires the government to bear the burden of proof by clear and convincing evidence regardless

of the length of detention. *See, e.g., Roman v. Decker*, 20-CV-6752 (AJN), 2020 WL 5743522, at *2 (S.D.N.Y. Sept. 25, 2020); *see also Darko v. Sessions*, 342 F. Supp. 3d 429, 435 (S.D.N.Y. 2018) (collecting cases).

III. Petitioner's Detention under § 1225(b)(2)(A) Violates the INA

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

54. 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 by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).

55. Following the enactment of the IIRIRA, the Executive Office for Immigration Review (EOIR) drafted new regulations explaining that, in general, people who entered the country without inspection and who were not admitted were not considered detained under § 1225 and 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) (“1997 Regulation”).

56. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible for bond 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 immigration judge 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)).

A. ICE's Unlawful Expansion of Mandatory Detention Under § 1225(b)(2)(A)

57. On July 8, 2025, ICE, “in coordination with” the Department of Justice (“DOJ”), announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice.

58. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”⁴ claims that all persons who are present in the United States without having been admitted shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when or where a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

59. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who are present in the United States without admission are subject to detention under § 1225(b)(2)(A) and are ineligible for bond hearings. 29 I&N Dec. at 229.

B. Petitioner’s Detention Under § 1225(b)(2)(A) Violates The INA

60. Since the Government adopted its new policy and the BIA issued *Matter of Yajure Hurtado*, hundreds of federal courts, including in this District, have rejected the Government’s new interpretation of the INA’s detention authorities and *Matter of Yajure Hurtado*. See, e.g., *Covelli-Chaparro v. Bondi*, No. 2:26-CV-118 (NJC), 2026 WL 118842 (E.D.N.Y. Jan. 15, 2026) (granting petition and ordering immediate release from ICE custody); *Crespo Tacuri v. Genalo*, No. 25-CV-06896 (NCM), 2026 WL 35569 (E.D.N.Y. Jan. 6, 2026) (same); *Ulloa Montoya v. Bondi*, No. 25-CV-06363 (JMA), 2025 WL 3718694 (E.D.N.Y. Dec. 23, 2025) (same); *Padilla Molina v. DeLeon*, No. 25-CV-06526 (JMA), 2025 WL 3718728 (E.D.N.Y. Dec. 23, 2025) (same);

⁴ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

Rodriguez-Acurio v. Almodovar, No. 2:25-cv-6065 (NJC), 2025 WL 3314420 (E.D.N.Y. Nov. 28, 2025) (same); *Hyppolite v. Noem*, No. 25-CV-4304 (NRM), 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025) (same); *Artiga v. Genalo*, No. 25-CV-5208 (OEM), 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025) (same); *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025) (same); *see also Sarmiento Guerrero v. Noem*, No. 25-CV-5881 (EK), 2025 WL 3214787, at *6 (E.D.N.Y. Nov. 18, 2025) (granting preliminary injunction, in part, as petitioner was likely to succeed on the merits of his argument he was improperly detained under Section 1225(b)). In addition, multiple judges in the neighboring district have also rejected the Government's interpretation of Section 1225(b).⁵ This Court should do the same.

61. The plain text of § 1225(b)(2)(A) confirms that it cannot apply to Petitioner. Section 1225(b)(2)(A) provides that “in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a” removal proceeding under § 1229a. 8 U.S.C. § 1225(b)(2)(A). “[T]he language of [§ 1225(b)(2)(A)] makes clear that it applies *only* if three criteria are met. The noncitizen must be (i) an ‘applicant for admission,’ (ii) ‘seeking admission,’ and (iii) ‘not clearly and beyond a doubt entitled to be admitted.’” *Barco*

⁵ See, e.g., *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475 (S.D.N.Y. 2025) (DEH); *Tumba v. Francis*, No. 25-CV-8110 (LJL), 2025 WL 3079014, at *3 (S.D.N.Y. Nov. 4, 2025); *Romero v. Francis*, No. 25-CV-8112 (JGK), 2025 WL 3110459, at *2-3 (S.D.N.Y. Nov. 6, 2025); *Cardenas v. Almodovar*, No. 25-CV-9169 (JMF), 2025 WL 3215573, at *2 (S.D.N.Y. Nov. 18, 2025); *Barco Mercado*, 2025 WL 3295903, at *6; *Campbell v. Almodovar*, No. 25-CV-9509 (JLR), 2025 WL 3538351, at *6 (S.D.N.Y. Dec. 10, 2025); *Yao v. Almodovar*, No. 25-CV-9982 (PAE), 2025 WL 3653433, at *3 (S.D.N.Y. Dec. 17, 2025); *Goorakani v. Lyons*, No. 25-cv-9456 (DEH), 2025 WL 3632896, at *8-12 (S.D.N.Y. Dec. 15, 2025); *Yao v. Almodovar*, No. 25-cv-9982 (PAE), 2025 WL 3653433, at *8-10 (S.D.N.Y. Dec. 17, 2025); *Yang v. Almodovar*, No. 25-cv-10265 (JPO), 2025 WL 3678644, at *1 (S.D.N.Y. Dec. 18, 2025); *Castro Coneo v. Almodovar*, No. 25-cv-9850 (NSR), 2025 WL 3754079, at *3 n.1 (S.D.N.Y. Dec. 29, 2025).

Mercado, 2025 WL 3295903, at *4; *Yao*, 2025 WL 3653433, at *5; *Lopez Benitez*, 795 F. Supp. 3d at 478-88.

62. While Petitioner is an “applicant for admission,”⁶ he is not “seeking admission” under § 1225(b)(2)(A). “[T]he phrase ‘seeking admission’ ‘necessarily implies some sort of present-tense action.’” *Barco Mercado*, 2025 WL 3295903, at *5 (quoting *Martinez v. Hyde*, 792 F. Supp. 3d 211, 218 (D. Mass. 2025)); *J.G.O.*, 2025 WL 3040142, at *3; *Campbell v. Almodovar*, No. 1:25-cv-09509 (JLR), 2025 WL 3538351, at *6 (S.D.N.Y. Dec. 10, 2025); *Lopez Benitez*, 795 F. Supp. 3d at 489; *cf. United States v. Wilson*, 503 U.S. 329, 333 (1992) (“Congress’ use of a verb tense is significant in construing statutes.”). The INA “defines ‘admission’ as ‘the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.’” *J.G.O.*, 2025 WL 3040142, at *3 (quoting 8 U.S.C. § 1101(a)(13)(A)). “The requirement that an ‘applicant for admission’ be ‘seeking admission’ therefore limits the scope of [§ 1225(b)] to those noncitizens actively seeking ‘lawful entry . . . into the United States after inspection and authorization by an immigration officer.’” *Barco Mercado*, 2025 WL 3295903, at *5 (quoting 8 U.S.C. § 1101(a)(13)(A)). Put differently, “‘seeking admission’ requires an alien to *continue* to want to *go into* the country.” *J.G.O.*, 2025 WL 3040142, at *3.

63. The plain text of the statute is buttressed by its “implementing regulations—which were ‘promulgated mere months after passage of the statute’ and have remained consistent over time.” *Lopez Benitez*, 795 F. Supp. 3d at 489 (quoting *Martinez*, 792 F. Supp. 3d at 219). “DHS’s own regulations understand an ‘applicant seeking admission’ to be synonymous with an ‘arriving

⁶ An “applicant for admission” is defined as “[a]n alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters).” 8 U.S.C. § 1225(a)(1).

alien.” *Tumba*, 2025 WL 3079014, at *4. “And an ‘arriving alien’ is ‘an applicant for admission coming or attempting to come into the United States at a port-of-entry.’” *Id.* (quoting 8 C.F.R. § 1001.1).

64. Accordingly, § 1225(b) does not apply to Petitioner because “when DHS agents detained [him] in 2025, he was no longer seeking to enter the country. He was already in — and had been for several years.” *Campbell*, 2025 WL 3538351, at *6; *see also J.G.O.*, 2025 WL 3040142, at *3 (Petitioner is not “seeking admission” because “he’s already here.”).

65. Nor does seeking asylum or other relief from removal mean that Petitioner is “seeking admission.” *See, e.g., Lopez Benitez*, 2025 WL 2371588, at *6 n.7; *Garcia-Mendez v. Lynch*, 788 F.3d 1058 (9th Cir. 2015); *Matter of V-X-*, 26 I&N Dec. 147 (BIA 2013) (finding grant of asylum is not an “admission”); *Matter of Y-N-P*, 26 I&N Dec. 10, 12 (BIA 2012) (finding a grant of cancellation is not an admission, and explaining that “being an “applicant for admission” under [INA] section 235(a)(1) [8 U.S.C. § 1225(a)(1)] is distinguishable from ‘applying . . . for admission to the United States’”).

66. By holding that § 1225(b)(2)(A) applies to all applicants for admission, *Matter of Yajure Hurtado* reads the “seeking admission” requirement out of the statute. *See Campbell*, 2025 WL 3538351, at *7. If, as the BIA has now concluded and the Government urges, “§ 1225(b)(2)(A) were intended to apply to all ‘applicant[s] for admission,’ there would be no need to include the phrase ‘seeking admission’ in the statute.” *Lopez Benitez*, 795 F. Supp. 3d at 488. Tellingly, the BIA in *Yajure Hurtado* did not provide any definition of “seeking admission” that would resolve this redundancy. *See* 29 I&N Dec. at 221. This interpretation of § 1225(b)(2)(A) “clearly ‘violates the rule against surplusage.’” *Lopez Benitez*, 795 F. Supp. 3d at 488 (quoting *Martinez*, 792 F. Supp. 3d at 218).

67. Looking beyond § 1225(b) to the larger statutory structure, *Matter of Yajure Hurtado*'s holding creates even more surplusage problems when compared with other detention provisions. First, if § 1225(b) "mandated detention for all noncitizens who enter the country illegally, 'then it is not clear under what circumstances [§ 1226(a)'s] authorization of detention on a discretionary basis would ever apply.'" *Barco Mercado*, 2025 WL 3295903, at *6 (quoting *Lopez Benitez*, 795 F. Supp. 3d at 490); *see also Tumba*, 2025 WL 3079014, at *4 ("Respondents' reading of Section 1225 would also all but read Section 1226 off the books").

68. Second, "Respondents' reading of § 1225 would likewise render superfluous the mandatory detention provisions found in" § 1226(c). *Campbell*, 2025 WL 3538351, at *7. "Section 1226(c)(1)(A) mandates detention for 'any [noncitizen] who is inadmissible by reason of having committed an offense covered in section 1182(a)(2) of this title,' such as offenses related to controlled substances. '[T]his mandatory detention under § 1226(c) would be unnecessary if all persons who have not been admitted into the United States were already subject to § 1225(b)'s mandatory detention provisions.'" *Id.* (citations omitted) (quoting 8 U.S.C. § 1226(c)(1)(A); and *J.U. v. Maldonado*, No. 25-cv-04836 (OEM), 2025 WL 2772765, at *8 (E.D.N.Y. Sept. 29, 2025)).

69. *Matter of Yajure Hurtado* also "render[s] Congress' recent amendment to § 1226(c) redundant." *Barco Mercado*, 2025 WL 3295903, at *7; *Lopez Benitez*, 795 F. Supp. 3d at 489-90; *Tumba*, 2025 WL 3079014, at *4. "When Congress adopts a new law against the backdrop of a 'longstanding administrative construction,' [courts] generally presume[] the new provision should be understood to work in harmony with what has come before." *Monsalvo v. Bondi*, 604 U.S. 712, 725 (2025) (quoting *Haig v. Agee*, 453 U.S. 280, 297-98 (1981)). Passed in January 2025, the Laken Riley Act "makes noncitizens subject to mandatory detention if (1) they are inadmissible under certain provisions of 8 U.S.C. § 1182 and (2) are charged with, arrested for, convicted of, or

admit to having committed certain crimes.” *Tumba*, 2025 WL 3079014, at *4 (quoting *Artiga v. Genalo*, No. 25-CV-5208 (OEM), 2025 WL 2829434, at *7 (E.D.N.Y. Oct. 5, 2025)); *see also* Laken Riley Act, 139 Stat. at 3, *codified at* 8 U.S.C. § 1226(c)(1)(E). “By [the Government’s] understanding, all noncitizens inadmissible under 8 U.S.C. § 1182(a)(6) (which states that those like Petitioner who are present without admission are inadmissible) are already subject to mandatory detention.” *Tumba*, 2025 WL 3079014, at *4. Simply put, if *Matter of Yajure Hurtado* were correct, “the Laken Riley Act would have been largely unnecessary.” *Barco Mercado*, 2025 WL 3295903, at *7; *Campbell*, 2025 WL 3538351, at *7; *Yao*, 2025 WL 3653433, at *7.

70. In addition to traditional statutory interpretation tools, agency “interpretations issued contemporaneously with the statute at issue, and which have remained consistent over time, may be especially useful in determining the statute’s meaning.” *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394 (2024). Helpfully, “[s]hortly after Congress enacted IIRIRA, [DOJ] issued an interim rule explaining IIRIRA and how it amended the INA.” *Barco Mercado*, 2025 WL 3295903, at *8. “There, the DOJ stated that ‘[d]espite being applicants for admission, noncitizens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination.’” *Id.* (quoting 1997 Regulation). And the Government maintained this position for almost thirty years—until the July 2025 ICE Memo and *Matter of Yajure Hurtado*. Thus, “decades of practice” cuts against the BIA’s novel position and supports Petitioner’s interpretation and numerous district courts’ rulings. *Lopez Benitez*, 795 F. Supp. 3d at 490.

71. Finally, *Matter of Yajure Hurtado* is inconsistent with precedent. In *Jennings v. Rodriguez*, the Supreme Court explained that § 1225 “applies to ‘aliens seeking admission into the country,’ whereas [§ 1226] applies to ‘aliens already in the country pending the outcome of removal proceedings.’” *Barco Mercado*, 2025 WL 3295903, at *9 (quoting *Jennings v. Rodriguez*,

583 U.S. 281, 289 (2018)). “It went on in that same case to repeat that [§ 1226] ‘applies to aliens already present in the United States,’ like [Petitioner], and ‘creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings.’” *Id.* (quoting *Jennings*, 583 U.S. at 303).

72. Therefore, as hundreds of districts courts have recently concluded, reading the plain text of § 1225(b)(2)(A), employing canons of statutory interpretation, consulting contemporaneous and longstanding agency interpretations of the statute, and applying precedent all lead to a single conclusion: noncitizens who are present in the United States without having been admitted and were subsequently arrested inside the United States cannot be subject to mandatory detention under § 1225(b)(2)(A). Petitioner’s detention is therefore governed by § 1226(a).

IV. The Proper Remedy is Release

73. The proper remedy for the instant habeas petition is release. *See Rodriguez-Acurio*, 2025 WL 3314420, at *32 (“ICE caused Rodriguez-Acurio to be placed in custody in violation of her rights to procedural due process. The proper remedy for that unlawful detention is release.”); *Covelli-Chaparro*, 2026 WL 118842, at *9 (“As addressed at length in *Rodriguez-Acurio*, upon finding a constitutional violation, a district court ‘may’ grant a writ of habeas corpus and ‘dispose of the matter as law and justice require.’ 28 U.S.C §§ 2241(a), 2243. Release from detention is the ‘typical remedy’ for ‘unlawful executive detention’”) (quoting *Munaf v. Green*, 553 U.S. 674, 693 (2008); *see also supra* ¶ 59 (citing cases in this District similar to Petitioner’s here where courts ordered immediate release).

74. The alternative, a bond hearing, cannot rectify the injury the Government has already done, and is doing now, to Petitioner’s Fifth Amendment rights. *Lopez Benitez*, 795 F. Supp. 3d. at 497 (“[A bond hearing is] no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the decision to strip a person of the

freedom that lies at the heart of the Due Process Clause.”); *O.F.B.*, 2025 WL 3277677, at *8 (“Here, the nature of the constitutional violation Petitioner sustained—*i.e.*, the government’s failure to conduct any kind of individualized assessment before detaining him, failure to make any showing of changed circumstances, and failure to provide him with an opportunity to respond—renders any post-deprivation review by an immigration judge inadequate.”); *Campbell*, 2025 WL 3538351, at *13 (“[B]oth DHS’s failure to follow its own regulations and its failure to afford Campbell the minimal process due under the Fifth Amendment violated Campbell’s due process rights. Because of those failures, Campbell is entitled to release.”).

75. Given that DHS has improperly concluded that Petitioner is subject to mandatory detention under Section 1225, rather than discretionary detention under Section 1226(a), DHS failed to conduct any individualized custody determination and offer any due process *before* detaining Petitioner. “The suggestion that” the Government may detain noncitizens “without consideration of dangerousness or flight risk so long as the person will, at some unknown point in time, be allowed to ask some other official for his or her release offends the ordered system of liberty that is the pillar of the Fifth Amendment.” *Chipantiza-Sisalema*, 2025 WL 1927931, at *3 (ordering habeas relief to noncitizen); *Rodriguez-Acurio v. Almodovar*, 2025 WL 3314420, at *2 (E.D.N.Y. Nov. 28, 2025) (ordering habeas relief where noncitizen petitioner’s “parole into the United States under Section 1182(d)(5)(A) was premised by law on the determination that she did *not* pose a safety risk. Nothing in the record before this Court shows any change in circumstances. No one at DHS or ICE ever made any individualized determination that Rodriguez-Acurio poses a flight or public safety risk before she was suddenly arrested and detained....”); *O.F.B.*, 2025 WL 3277677 (ordering habeas relief after prior parole and without subsequent

changed circumstances or review); *Hyppolite v. Noem*, 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025) (same).

76. Irreparable injury has occurred and will continue to occur if Petitioner is not released. “[A]s a general matter, there is a presumption of irreparable harm when there is an alleged deprivation of constitutional rights.” *Donohue v. Mangano*, 886 F. Supp. 2d 126, 150 (E.D.N.Y. 2012) (collecting cases).

77. In addition to the baseline harm of unlawful and arbitrary detention, A.S.C. will be unable to care for his wife and children, as their primary breadwinner and source of emotional support. His children’s mental health will continue to suffer, and his wife will continue to struggle to feed her children and pay rent.

78. If this Court does not act, Petitioner’s detention will continue for months or longer. Only release will remedy the constitutional harms that A.S.C. has, and will continue to, suffer.

CAUSES OF ACTION

COUNT I

Violation of the Immigration and Nationality Act Unlawful Detention Under § 1225(B)(2)

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

80. 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 § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

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

82. The appropriate remedy is Petitioner's immediate release.

COUNT II

Violation of the Due Process Clause

Fifth Amendment to the United States Constitution – Procedural Due Process

83. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

84. 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*, 533 U.S. at 690.

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

86. The government's detention of Petitioner without a bond determination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

87. More importantly, Respondents' misclassification of which statute Petitioner is detained under fundamentally violated his due process rights. At no time did DHS conduct an individualized assessment of the need for Petitioner's detention. Instead, he was subject to an unlawful arrest by ICE.

88. ICE's failure to conduct an individualized review prior to detention violates due process and necessitates his immediate release.

COUNT III

Violation of the Due Process Clause

Violation of the Fifth Amendment Right to Due Process — Substantive Due Process

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

90. The Due Process Clause of the Fifth Amendment protects all “person[s]” from deprivation of liberty “without due process of law.” U.S. CONST. AMEND. V. The only proper purposes for immigration detention are to protect against a risk of flight or danger to the community.

91. Petitioner is not a flight risk nor is he a danger to the community. He has only one conviction from 2014 for disorderly conduct and another arrest from 2023, which was dismissed. He has lived in the United States for nearly two decades and has family here, including a wife and three U.S. citizen children. His oldest son recently joined the U.S. military. He is eligible for and seeking multiple forms of relief from removal. Respondents’ detention of Petitioner is therefore unlawful and unjustified. Accordingly, Petitioner’s detention is punitive and he is being detained in violation of his constitutional right to Due Process under the Fifth Amendment.

92. Petitioner’s detention without any individualized review of the need for his detention, and without consideration of any risk of flight or danger that might counsel against detention, subjects him and his family to serious harm during his absence and violates substantive due process.

COUNT IV

Violation of the Fourth Amendment to the U.S. Constitution – Unlawful Arrest

93. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

94. ICE agents seized Petitioner in violation of his Fourth Amendment rights.

95. An immigration officer is authorized to “briefly detain [a] person for questioning” if they have “a reasonable suspicion, based on specific articulable facts, that *the person being questioned* is, or is attempting to be, engaged in an offense against the United States or is an alien illegally in the United States.” 8 C.F.R. § 287.8 (b)(2) (emphasis added); see *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975) (“For the same reasons that the Fourth Amendment forbids stopping vehicles at random to inquire if they are carrying aliens who are illegally in the country, it also forbids stopping or detaining persons for questioning about their citizenship on less than a reasonable suspicion that they may be aliens.”). However, a stop may not be “prolonged beyond ‘the time needed to handle the matter for which the stop was made.’” *Millan-Hernandez v. Barr*, 965 F.3d 140, 147 (2d Cir. 2020) (quoting *Rodriguez v. United States*, 575 U.S. 348, 350 (2015)).

96. Here, ICE ostensibly stopped Petitioner to identify and apprehend their alleged target, not Petitioner. Petitioner was not engaged in any unlawful activity, to the contrary he was on his way to work, and there was no reasonable suspicion to stop him on the sidewalk. Instead, it appears that ICE was simply relying on impermissible factors, such as apparent race or ethnicity, language ability, location, or work. However, even assuming, *arguendo*, that ICE had reasonable suspicion, ICE held Petitioner well after they realized that he was not their target and had no information about their target. At that point, ICE could not have had reasonable suspicion about “the person being questioned” and had no authority to continue to hold Petitioner for questioning. 8 C.F.R. § 287.8(b)(2). Furthermore, Petitioner also did not make statements or provide documentation that could have justified extending the stop. ICE therefore had no authority under the statute or the Constitution to continue to hold or question him, rendering their actions both *ultra vires* and unconstitutional.

COUNT V

Violation of the APA, 5 U.S.C. §§ 702, 706, and the *Accardi* Doctrine

97. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

98. Respondents' failure to comply with their nationwide policy constitutes an *Accardi* violation.

99. Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow procedures governing deportation proceedings); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.").

100. Respondents have violated the statutory law and the implementing regulations for discretionary detention. Accordingly, they have violated the *Accardi* doctrine. *See id.*

PRAYER FOR RELIEF

WHEREFORE, the petitioner respectfully requests that this Court:

- a. Assume jurisdiction over this matter;
- b. Immediately enjoin Respondents from transferring the Petitioner outside the jurisdiction of this Court or removing him from the United States pending the resolution of this case, pursuant to the All Writs Act;
- c. Declare that the Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment, the Immigration and Nationality Act, the Fourth Amendment, and the Administrative Procedure Act;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner immediately, returning him to the status of liberty he enjoyed prior to the recent detention, without electronic monitoring or reporting obligations,

and that he not be re-detained without notice and an opportunity to be heard at a pre-deprivation hearing, where the government will have the burden of showing that his detention is authorized under § 1226(a);

- e. In the alternative, this Court should conduct a constitutionally adequate, individualized bond hearing for the Petitioner within fourteen days. If, instead, Respondents are ordered to carry out such a hearing in front of an impartial adjudicator, the Court should direct that at that hearing:
 - (1) ICE must bear the burden of establishing by clear and convincing evidence that continued detention is justified;
 - (2) The adjudicator must meaningfully consider alternatives to imprisonment such as release on recognizance, parole or electronic monitoring; and
 - (3) The adjudicator must meaningfully consider Petitioner's ability to pay if setting a monetary bond.
- f. If, in the alternative, a bond hearing is afforded before an immigration judge, enjoin Respondents from invoking the automatic stay provision at 8 C.F.R. § 1003.19(i)(2);
- g. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- h. Grant Petitioner any other relief this Court deems just and proper.

Dated: March 26, 2026
Brooklyn, New York

Respectfully submitted,

/s/ Redwan Saleh
Redwan Saleh
William E. Craco*
O'MELVENY & MYERS LLP
1301 Avenue of the Americas
New York, NY 10019
Tel: 212-728-5897
Tel: 212-728-5821
rsaleh@omm.com
wcraco@omm.com

Alexandra Lampert
Brooklyn Defender Services
177 Livingston St, 7th Floor
Brooklyn, NY 11201

Tel: 718-254-0700
alampert@bds.org

Pro bono Attorneys for Petitioner
** Pro Hac Vice Forthcoming*

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

A.S.C.,

Petitioner,

v.

RAUL MALDONADO Jr., *in his official capacity as*
Warden of the Metropolitan Detention Center;
KENNETH GENALO, *in his official capacity as*
Field Office Director of New York, Immigration and
Customs Enforcement;
TODD LYONS, *in his official capacity as*
Acting Director U.S. Immigration and
Customs Enforcement; MARKWAYNE MULLIN
in his official capacity as Secretary of Homeland
Security; PAM BONDI, *in her official*
capacity as Attorney General,

Respondents.

Case No.

**DECLARATION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT**

1. My name is A.S.C. I have lived in the U.S. continuously since around 2007. After arriving to the U.S. in 2007, I lived in Brooklyn, NY with my partner and our eldest child, who was born in the U.S. While I never married my partner, we are life partners and I consider her my wife.
2. I continued to live with my wife and son in Brooklyn and my wife and I had two other children, who were born and raised in Brooklyn and are eleven years old and thirteen years old. Our eldest is now 20 years old. I have always been the financial provider for my family and worked in construction over the years, while my wife stayed at home to care for our children.
3. Early in the morning of December 1, 2025, at approximately 6:00 a.m., I was arrested by Immigration and Customs Enforcement ("ICE").
4. That morning I was walking from my house to the train to go to my construction job. I had a work backpack, my wallet, and my lunch. There was a person walking behind me on the sidewalk. He was dressed in civilian clothes, and a black vest. Because it was dark out and he had a light on his chest, when I turned to see who he was, I couldn't see much of him, including his face. But of what I could see, I didn't see anything on him indicating that he was with ICE or the police. I thought he was a civilian who needed help with something, so I stopped.

5. He had a page with a picture of a person who looked Hispanic, and he asked me if I knew the person. I told him I didn't know the person, and immediately seven more people surrounded me from behind at the corner, one woman and six men. They were also dressed in black vests over civilian clothes, without any identifying markings like ICE or police. They didn't have firearms, but they were carrying Tasers and had lights on their chests, which made it difficult to see them, and I was very nervous. They didn't tell me who they were.
6. One of them asked me in Spanish if I had a work permit or a Social Security number, and I replied that I didn't, but I didn't share anything about my immigration status or where I was born. I was in shock, I was completely surrounded by them, and I didn't feel like I could leave.
7. They told me they were arresting me, but they didn't tell me why I was being arrested, who they were, or where they were taking me. They put handcuffs on my hands and feet and took my wallet and searched inside it for my identification documents. I could see that they found my Mexican ID card, but they didn't ask me anything about the document. They took me to an unmarked black vehicle.
8. They took me to another location in a shopping mall parking lot, where they transferred me to another vehicle. I was in handcuffs the whole time, and they pushed me into the second vehicle, and I almost fell, thank God I didn't.
9. The person took me to another location, and I arrived at a building in New York, but I didn't know where I was. None of the officers told me what was happening. They put me in a cell with other people. There were several officers there who spoke Spanish, and the officer who arrested me on the street asked me about my personal information, about my parents, and my children. No one ever told me I was arrested by ICE, but when I saw the other Hispanic people in the cell, that confirmed my suspicion that I had been arrested by ICE, and also when I saw officers wearing clothing with "ICE" on it.
10. The officer handed me a document and ordered me to sign it. The document was in English, and I couldn't read it because I can't read English, only Spanish. The officer didn't tell me what the document was. I told the officer I wasn't going to sign it.
11. I asked him if I had the right to call someone, and he told me I had the right to one phone call. He allowed me to take some numbers from my phone. I called my wife, and she answered. I told her I was being detained by ICE, and she cried. She asked me if I had signed anything or if I wanted to fight to stay here. I told her I wanted to go before a judge and fight my legal case to try to stay here with our family.
12. The officers brought me food, but there wasn't enough food, and it was terrible, and they only gave me one bottle of water per day. The cell was very cold, I think it was 45 or 50 degrees. I was there for two days and nights and slept on the floor without any covering, no blanket, just my clothes. They had taken my jacket, and I only had a sweater. During that time, nobody told me why I had been arrested or where they were going to take me. I

was worried that they were going to deport me without giving me the chance to go before a judge.

13. After two nights, they transferred me in a white vehicle, and after two hours I arrived at a jail. I arrived at the dormitory with other Hispanics, and they told me I was in a jail called Orange County Jail and that I was in ICE custody. I was there for a day and a half, and then I was transferred here, to the Metropolitan Detention Center.
14. One or two weeks after I arrived here, ICE visited me and gave me a document in English. My lawyer later told me that this document is called a Notice to Appear and that it's a court document. But at that time, the ICE officer didn't tell me anything about what the document was or that I was going to court. When I went to court, it was a surprise. After two hearings, my lawyer began representing me.
15. It is really hard for me right now to be detained and separated from my children and wife. It was a big shock for me and them when I was detained and when I first spoke to my wife after being detained she was in shock and cried so much. Since then, my wife and I have been worried about my wife being able to pay rent and buy food for the children. I have heard from her that my children have been impacted greatly by my detention, especially my youngest son. We are worried about him because he has been having trouble at school and also keep getting sick, we think because of the stress of my detention. I miss my children very much, and when I talk to them, they cry, and I can see that my detention has had a bad effect on their mental health.
16. I want to leave detention for my children, to be there for them. I worry so much about my children and I need to be able to provide for them, and to be in their lives. If I am released I can continue my immigration case outside of detention and my eldest son, who is in the military, can file a petition for me once he turns 21 in August. I also want to leave detention for my health. I am having issues with my vision as I am still waiting for the detention center to give me my glasses. Because of the bad ventilation here and not having my glasses my eyes are always red and hurt and I think my vision is getting worse.

I, A.S.C., swear under the penalty of perjury that the above statements are true and correct to the best of my knowledge and understanding.

Yo, A.S.C. juro bajo pena de perjurio que las declaraciones anteriores son verdaderas y correctas a mi leal saber y entender.

Date: March 23, 2026
Fecha: Marzo 23, 2026



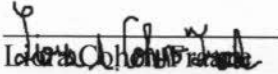
A.S.C

CERTIFICATE OF INTEPRETATION

I, Liora Cohen-Fraade, hereby certify that I am competent in both Spanish and English; that I am competent to translate and interpret between English and Spanish, and certify that I have read the attached Declaration of A.S.C in support of Petition for Writ of Habeas Corpus to the Petitioner in Spanish. The interpretation was true and correct to the best of my abilities. The Petition stated that he understood its contents and affirmed that is true and correct to the best of his knowledge.

March 23, 2026

Date


Liora Cohen-Fraade
Staff Attorney
Brooklyn Defender Services
177 Livingston St. 7th Floor
Brooklyn, NY 11201
929-884-4459

March 15, 2026

Letter of Support

My name is [REDACTED], and I am [REDACTED] daughter. I was born on [REDACTED] 2012, in the U.S., in New York, and am a U.S. citizen. I have lived here my whole life and am 13 years old. I live with my mom [REDACTED], and my younger brother [REDACTED]. My older brother, [REDACTED], recently joined the military and is in training in North Carolina. My father has been detained almost four months. We have been so sad without him, and it has been bad without him and I miss him lots.

My dad and I have a loving relationship, he has always treated me well, like his princess. He would take me out to go shopping for clothing and restaurants, he liked to spoil me. My dad always provided for us, growing up. He worked in construction and worked a lot but always found time for our family. We would go to our cousin's house in Pennsylvania on school vacations and we would go to trampoline parks together. We also went to church together a couple times a month and my dad always talked to us about being grateful for God. We always celebrate our birthdays and Christmas together and I have memories of us eating sweet bread with hot chocolate on Christmas.

My father is known for being kind, respectful, a good neighbor, and someone who helps people if they are in need. He is a loving father and a loving and respectful husband to my mother. He has always told me and my brothers to be respectful to elder people, to not have attitude, and to treat people well.

The beginning of December, after I came home from school, my mother told me that my father was detained by ICE. I cried so much and worried about him. I was worried about my father being in a prison, since he had never been in prison before. I was worried he would be treated bad, like he doesn't belong here, in the U.S.

My dad calls from detention to talk to us, when he can, sometimes every day. He sounds calm, but he also sounds worried about us and worried he won't be able to see us again. I feel upset that he is detained, because he doesn't deserve to be detained. He didn't do anything wrong.

School has been hard for me since he left. At home, I feel sad and upset and sometimes I cry because he isn't here with us. I used to participate in a dance program after school, and I really liked dancing with my friends and the art of dancing. I stopped dancing with my friends because there was a performance for parents, but my dad was detained and couldn't be there, so I didn't want to perform. Since then, it's been hard for me to participate, because my dad used to come watch me dance, and he can't anymore. It's harder for me to enjoy life like I used to, before my dad was detained. My mom is sad with

my dad detained, and it has been really hard for her also. My younger brother has also been upset with my dad detained, and I have seen him cry also.

My dad should be let go from detention because he doesn't deserve to be treated differently for his lack of immigration status, everyone should be treated equally. If my dad is allowed to leave, he will go to immigration court and follow all the rules of the court. He has always followed the rules and has always told me and my siblings to follow the rules also. Thank you for reading my letter.

[REDACTED]

[REDACTED]

Letter of Support from [REDACTED]

March 15, 2026

My name is [REDACTED] and I am [REDACTED] youngest son. I was born on [REDACTED] 2014, in in New York, and I have lived here my whole life. I am 11 years old. I live with my mom, and my sister [REDACTED]. My older brother, [REDACTED], recently joined the military and isn't with us anymore. My dad hasn't been home since December and I'm sad without him here and miss him.

My dad is a good dad. He used to take me shopping, and we would go to the park and play soccer together. We also went to trampoline parks with my dad and had fun there. We also ate together, and we liked eating donuts together. We all used to go to church together as a family. I also used to play basketball at school but don't play as much now. At school, I now have to take more classes, which is new. I have trouble with math and English, and the classes are helping me. My mom and dad speak Spanish and I understand Spanish but I only speak a little bit of Spanish. I talk to them in English mostly. I have only have done school in English and think it would be hard for me in Spanish.

I miss my dad a lot and I feel sad without him. I don't know why I haven't seen him in a while but want him to come back to us.

[REDACTED]

[REDACTED]

Carta de apoyo de [REDACTED]

Mi nombre es [REDACTED] y soy la pareja de [REDACTED]. He conocido a [REDACTED] por 21 años, desde 2003. Tenemos tres hijos que son ciudadanos juntos, [REDACTED] (20 años), [REDACTED] (13 años), y [REDACTED] (11 años). Nunca nos casamos, pero somos compañeros de vida.

[REDACTED] siempre ha tenido cariñoso con los tres hijos. Cuando él no estaba trabajando, él los llevo los niños de la escuela y ayudo a ellos con su tarea. Por los fines de semanas nosotros desayunamos o comeremos, fuimos a la iglesia varios tiempos por mes como una familia y también él fue al parque con los hijos, y jugando con pelota y corriendo con ellos, o también el gustaba ir al parque de trampolines con los hijos. [REDACTED] especial relación con cada hijo, y él fue a apoyarlos en sus actividades fuera de la escuela. Siempre iba a ver bailar a [REDACTED] a [REDACTED] jugar baloncesto, y a [REDACTED] correr. [REDACTED] siempre tuvo trabajo en construcción, cuando él podía tener trabajo. Él fue el proveedor para la familia, y yo estaba en la casa cuidando los niños cuando ellos estaban pequeños.

La detención de [REDACTED] ha afectado a los hijos mucho y yo y [REDACTED] siempre estamos preocupado para ellos. Los niños van a la escuela porque tienen que hacerlo y está cerca. Pero ellos no están saliendo de la casa mucho afuera de sus estudios por miedo también de que ICE va a arrestarlos también, incluso si ellos son ciudadanos, porque esa había pasado y leímos sobre esa en las noticias. Se vieron más callados y no gustaban actividades que habían gustado anteriormente. [REDACTED] no está bailando ahora porque ella extraño en su papa y está afectando a todo, y su energía, ella esta nerviosa, ansiosa, cansada y triste a menudo.

[REDACTED] está afectado en sus estudios y ahora necesita apoyo en sus clases de matemáticas en inglés. Recién el comenzó a tener adicionales clases los miércoles y jueves en matemáticas e inglés. Él tuvo una evaluación con un terapeuta con la escuela, que estamos esperando su reporte, y posiblemente otra citas o evaluaciones con la escuela. [REDACTED] también recientemente comenzaron tener terapia con la escuela un vez por semana.

Es muy difícil para mí sin [REDACTED] porque necesito trabajar más para proveer para los hijos, sin ayuda de [REDACTED]. Él fue nuestro proveedor. Nuestro hijo mayor, [REDACTED], estaba diciembre el comienzo con estar en el ejército y ahora e. Es difícil pagar la renta y ponerse comida en la mos a [REDACTED] cuando él está en el entrenamiento, otros hijos no tener [REDACTED] también en la casa, hay

Por favor señor juez, permite a [REDACTED] salir de detención, para que él pudiera continuar de proveer para nuestra familia. También nuestro hijo mayor, [REDACTED] va a cumplir 21 años en agosto, y entonces puede hacer petición para [REDACTED] para que él pudiera quedar en los estados unidos. Si él pudiera salir de detención, podría tener esa oportunidad, para nuestra familia esta juntos. Si [REDACTED] esta liberado, él va a aparecer a todos so audiencias enfrente la corte, él es una persona responsable que va a seguir los requisitos de la corte.

También estoy preocupada para [REDACTED] estar en detención tanto tiempo, casi cuatro meses. Estoy preocupado para su salud mental de [REDACTED] había visto que el siente más nervioso y tiene ansiedad en detención, y él está preocupando mucho por nuestra familia, especialmente los hijos. También estoy preocupado por su vista, porque él tuvo anteojos para su vista, y él no los tiene en detención, pienso que ICE lo obtuvo cuando él fue detenido. Había visto que el estado de mal estar por no tener sus anteojos u preocupa que vaya a continuar de pasar.

[REDACTED]

[REDACTED]

3.15.26

Fecha

Letter of Support from [REDACTED]

My name is [REDACTED], and I am [REDACTED] partner. I have known [REDACTED] for 21 years, since 2003. We have three children who are U.S. citizens together, [REDACTED] (20 years old), [REDACTED] (13 years old), and [REDACTED] (11 years old). We never married, but we are life partners.

[REDACTED] has always been affectionate with the three children. When he wasn't working, he would pick the kids up from school and help them with their homework. On weekends we would have breakfast or lunch together, we went to church as a family several times a month and he would also take the children to the park, playing ball and running around with them, or he also liked to take them to the trampoline park. [REDACTED] shares a special bond with each of our children, and he always made a point of supporting them in their extracurricular activities. He never missed a chance to watch [REDACTED] dance, [REDACTED] play basketball, or [REDACTED] run. [REDACTED] has always worked in construction, whenever work was available. He was the family's provider, and I stayed home to care for the children when they were young.

[REDACTED] detention has deeply affected the children, and both [REDACTED] and I are always worried about them. The children attend school because they have to and because it is close by. However, they do not leave the house much outside of their studies for fear that ICE might arrest them as well, even though they are U.S. citizens, because, that has happened and we have read about it in the news. They have become more withdrawn and no longer enjoy activities they used to love. [REDACTED] isn't dancing now because she misses her father, and it is affecting everything, and her energy, she is often nervous, anxious, tired, and sad.

[REDACTED] is affected in his studies and he now needs support in his math and English classes. He recently began attending extra tutoring sessions for math and English on Wednesdays and Thursdays. He had an evaluation with a school therapist, the report for which we are currently awaiting, and possibly other appointments or assessments through the school. [REDACTED] also recently started having therapy through the school once a week.

It is very difficult for me without [REDACTED], because I have to work more to provide for the children, without Andrés's help. He was our provider. Our eldest [REDACTED] was working to help us, but in December he began his service in the Army, and now we no longer have his financial support. It is hard to pay the rent and put food on the table for the children. We miss [REDACTED] while he is away at training, and it is even harder for me and the

other children not to have [REDACTED] at home as well, his absence creates such a huge void in our household.

Please, Your Honor, allow [REDACTED] to be released from detention, so that he may continue to provide for our family. Also, our eldest son, [REDACTED], will turn 21 in August; and then, he can file a petition on Andrés's behalf, so he can stay in the United States. If he were released from detention, he would have that opportunity, for our family to stay together. If [REDACTED] is released, he will appear at all his court hearings, he is a responsible individual who will fully comply with the court's requirements.

I am also deeply concerned that [REDACTED] has been held in detention for so long—named nearly four months. I am worried about [REDACTED] mental health, I have seen that he feels increasingly nervous and has anxiety while in detention, and he worries a lot about our family—especially the children. I am also concerned about his eyesight, because he requires glasses, and he does not have them in detention, I believe ICE took them when he was detained. I have seen that he is suffering due to the lack of his glasses, and I worry that this suffering will only continue.

[Signature]

3.15.26

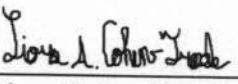
[REDACTED]

Date

CERTIFICATE OF TRANSLATION

I, Liora Cohen-Fraade, certify that I am competent in both English and Spanish languages and this is an accurate translation of the document attached in Spanish, a letter from Petitioner's Wife.

Date: March 23, 2026

Signature: 
Liora Cohen-Fraade
Staff Attorney
Brooklyn Defender Services
177 Livingston St, 7th Floor
Brooklyn, NY 11201
lcohenfraade@bds.org
929-884-4459

Honorable Immigration Judge:

My name is Segundo Morales. I was born on [REDACTED], and I am a citizen of the United States. I live at [REDACTED], with my wife Bertha Morales.

I respectfully submit this letter in strong support of [REDACTED] in his immigration case. I have come to know [REDACTED] as a hardworking, respectful, and honest man. He consistently demonstrates good moral character and treats the people around him with kindness and respect.

[REDACTED] is a devoted family man. He works hard and takes his responsibilities seriously. He deeply cares about the well-being of his family and makes every effort to provide for them and support them emotionally and financially.

From what I have seen, [REDACTED] contributes positively to his community. He respects others, values family, and wants to continue living a productive and law-abiding life in the United States.

His detention and the possibility of deportation would have a very serious impact on his family. They depend on him, and his absence would cause significant emotional and financial hardship.

I truly believe [REDACTED] deserves the opportunity to remain in the United States with his family. He is a good man who wants to continue working, supporting his loved ones, and being a positive member of the community.

For these reasons, I respectfully ask the Court to consider his character, his commitment to his family, and the positive role he plays in the lives of those around him, and grant him the opportunity to remain in the United States.

Respectfully,

Segundo Morales
U.S. Citizen

[REDACTED]

Signature: Segundo Morales

Segundo Morales

Date: 03/10/2026

Signature: Bertha Morales

Bertha Morales

Date: 03/10/2026

Letter of Support

Date: March 2nd 2026

To Whom It May Concern,

My name is Jason Nunes. I was born on [REDACTED], and I reside at [REDACTED]. I am a United States citizen. I am writing this letter in strong support of Mr. [REDACTED] in connection with his immigration case.

I have known [REDACTED] for over 15 years, both personally and professionally. We first met through mutual friends, and over time developed a close and lasting friendship. Throughout these years, I have had many opportunities to observe his character, his dedication to his family, and his commitment to living a responsible and productive life in the United States.

[REDACTED] is a person of good moral character. He is honest, respectful, and dependable. He treats others with kindness and is always willing to help those in need. He is someone who takes responsibility for his actions and strives to do the right thing. In the many years I have known him, I have never known him to be anything other than a hardworking, family-oriented individual who is committed to supporting his loved ones.

[REDACTED] is deeply devoted to his wife and children, who rely on him both financially and emotionally. He is the primary provider for his household, and his role within his family is essential. His absence has placed a significant burden on his wife, who must now manage all financial responsibilities and household duties on her own. More importantly, his children are suffering from the loss of their father's daily presence, guidance, and emotional support.

One of his children is currently in the process of enlisting in the United States military, which is a major and life-changing commitment. This is an especially important time for his child, and the guidance and presence of a father are critical. [REDACTED] has always been actively involved in his children's lives, and his absence during such an important milestone has caused emotional hardship for the entire family.

In addition to being a devoted father and husband, [REDACTED] is also a hardworking individual with a strong work ethic. He takes pride in earning an honest living and providing for his family. He is reliable, punctual, and committed to his responsibilities. He has always demonstrated a willingness to work hard and contribute positively to society. He understands the importance of supporting his family and has consistently done so through lawful and honest work.

[REDACTED] also has strong ties to his community. He is known among friends, family, and colleagues as someone who is trustworthy and supportive. He maintains long-standing relationships and is someone people can rely on in times of need. His presence in the community is positive, and he contributes by being a responsible, caring, and dependable individual.

Since [REDACTED] has been detained, his family has experienced significant emotional and financial hardship. The stress, uncertainty, and absence of their husband and father have deeply affected

them. His continued detention only prolongs this hardship and negatively impacts the well-being of his family.

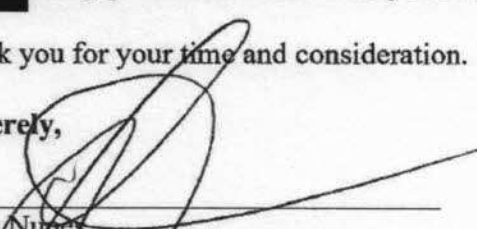
Based on my long-standing relationship with [REDACTED] I firmly believe that he is not a danger to the community. He is a responsible individual who is committed to his family and to living a lawful life. I respectfully ask that he be given the opportunity to remain in the United States so he can continue to support and care for his family.

Removing [REDACTED] from the United States would cause severe hardship to his U.S. citizen family members, both emotionally and financially. His family depends on him, and his presence is essential to their stability and well-being.

I respectfully request that you take into consideration [REDACTED] good moral character, his strong family ties, his contributions, and the hardship his removal would cause. I strongly support [REDACTED] being granted relief so he may remain in the United States with his family.

Thank you for your time and consideration.

Sincerely,


Jason Nunes

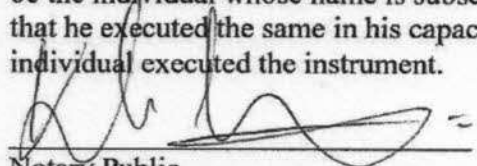

E. jnunes@rc3electric.com

Notary Acknowledgment

State of New York

County of Bronx

On the 2nd day of March, 2024, before me, the undersigned Notary Public, personally appeared **Jason Nunes**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual executed the instrument.


Notary Public

My Commission Expires: 3/14/2028

KASTERLIN M JIMENEZ
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01J16338448
Qualified in Bronx County
Commission Expires March 14, 2028

Letter of Support for [REDACTED]

3/2/26

Your Honor,

My name is **Jose Vieira**, and I am a United States citizen. I am writing to respectfully ask the Court to consider allowing [REDACTED] the opportunity to remain in the United States and not be deported.

I have known [REDACTED] personally and professionally for over ten years. During that time, he has worked for me consistently and faithfully. He has always been dependable, trustworthy, and hardworking. He has never missed a day of work without good reason and has always arrived on time — often early. His work ethic, honesty, and character are qualities that are increasingly rare, and I have trusted him not only with my home and property but with the well-being of my family.

Even after my retirement, he continues to help my family whenever anything is needed. He serves as our handyman and is always willing to help without hesitation. He treats my family with respect and kindness, and we consider him part of our extended family.

Beyond his work, [REDACTED] is a devoted father of three United States citizen children, one of whom proudly serves in the United States military. His children rely on him emotionally and financially. Deporting him would create severe hardship for his family and would take away a father, provider, and role model from his children. His presence is essential to their stability and well-being.

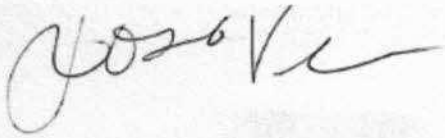
He is also a peaceful, law-abiding member of the community. He attends church regularly, keeps to himself, and has never caused trouble. He follows the law and contributes positively to society. The day he was detained, he was simply on his way to work — doing what he has always done: supporting his family through honest labor.

In the many years I have known him, I have never known him to be dishonest, irresponsible, or disruptive in any way. He is exactly the kind of person we want raising children and contributing to our communities.

I respectfully ask the Court to consider his long history of good moral character, steady employment, dedication to his family, and positive contributions to the community. He deserves a second chance and the opportunity to continue providing for his children and living the honest life he has built here. Removing him would not only punish him but would also deeply harm innocent family members who depend on him.

Thank you for your time, consideration, and fairness in this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Jose Vieira".

Jose Vieira D.O.B. 



PH: 

Letter of Support for [REDACTED]

3/1/26

Your Honor,

My name is Robert Pontillo, and I am a United States citizen. I am writing this letter in strong support of [REDACTED] and to respectfully ask the Court to consider allowing him to remain in the United States.

I have known [REDACTED] for many years and have relied on him consistently for work around my home and for various handyman and maintenance needs. He has proven himself to be one of the most dependable and trustworthy individuals I have ever hired. He helps not only during regular times but also throughout holidays and busy seasons when extra help is needed. Whenever something needs to be fixed or taken care of, he is the first person I call because I know the job will be done right.

He has never missed a day of work. In all the time I have known him, he has always arrived on time and in good spirits, ready to work. In fact, he often takes multiple trains just to get to work, which shows his dedication and commitment. His reliability is exceptional and something I deeply respect.

I am completely comfortable having him around my home, my family, and my children. That level of trust is not something I give lightly. He has always conducted himself with respect, kindness, and professionalism.

The day he was detained, he was actually on his way to work for me. When he did not arrive, I immediately knew something was wrong because it is completely out of character for him to miss work. Learning that he had been detained came as a shock, as he has always been a responsible, law-abiding, and hardworking person.

From everything I have witnessed, he is someone who contributes positively to the community, works hard, and lives with integrity. Individuals like him strengthen our neighborhoods through honest work and good character. I truly believe he deserves the opportunity to continue building his life here and contributing to the community he has long been a part of.

Thank you for your time and thoughtful consideration.

Respectfully,

Robert Pontillo

D.O.B. [REDACTED]

[REDACTED]
Robertpontillo21@gmail.com

**MOST PRECIOUS BLOOD -
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185 VAN SICKLEN ST
BROOKLYN, NY 11223-2750
(718) 375-9600

Rev. Edwin A. Ortiz
Most Precious Blood—Sts. Simon & Jude Church
185 Van Sicklen Street
Brooklyn, NY 11223

December 11, 2025

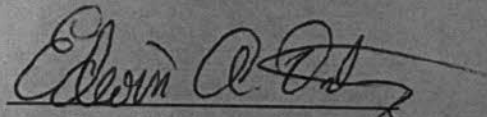
To Whom It May Concern:

I am writing this letter on behalf of [REDACTED] I have known [REDACTED] since 2024, where I served as his pastor at Most Precious Blood-Sts. Simon & Jude Church in Brooklyn, New York.

[REDACTED] and his wife [REDACTED] have been part of our parish community since 2021. Throughout these years [REDACTED] and his family have been very active in our parish community. [REDACTED] and his wife have assisted us in multiple parish functions, including fundraisers, parish feasts and our Religious Education program. They are always offering their services and are the first ones to volunteer whenever we are in need of help.

It has been a pleasure to know [REDACTED] and his family during my time at Most Precious Blood-Sts. Simon & Jude Church. They have been valuable members of our community who are always ready to offer their services to our parish community. I ask that you please take all of this into consideration in [REDACTED] case, as he and his wife [REDACTED] have been model citizens and members of our parish community. If you have any questions, please feel free to contact me at (718) 375-9600.

Sincerely,


Rev. Edwin A. Ortiz

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

A.S.C.

Petitioner,

v.

RAUL MALDONADO Jr., *in his official capacity as* Warden of the Metropolitan Detention Center; KENNETH GENALO, *in his official capacity as* New York Field Office Director for U.S. Immigration and Customs Enforcement; PAM BONDI, Attorney General of the United States; MARKWAYNE MULLIN, *in his official capacity as* Secretary of Homeland Security; and TODD M. LYONS, *in his official capacity as* Acting Director of U.S. Immigration and Customs Enforcement,

Respondents.

Civil Action No. _____

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

DECLARATION OF WILLIAM E. CRACO
IN SUPPORT OF A.S.C.'s HABEAS PETITION

I, William E. Craco, Esq., hereby declare and state as follows:

1. I am an attorney admitted to practice law in the State of New York, a Special Counsel at the law firm O'Melveny & Myers LLP, located at 1301 Avenue of the Americas, Suite 1700, New York, New York 10019, and counsel of record for Petitioner A.S.C. in the above-captioned case.¹ I have personal knowledge of the facts set forth in this declaration and, if called to testify thereto, could and would do so competently and truthfully.

¹ Unless otherwise defined, all defined terms herein have the same meaning ascribed to them in the concurrently filed Petition.

2. I am familiar with the facts and circumstances of this petition by virtue of my personal involvement in it and reviewing the case files and administrative record. The attached documents are true and accurate copies of relevant case files and administrative records, as obtained by co-counsel, the Brooklyn Defenders Service, and produced to O'Melveny & Myers LLP.

3. Attached as **Exhibit A** is a true and correct copy of the Declaration of Petitioner, A.S.C., dated March 23, 2026.

4. Attached as **Exhibit B** is a true and correct copy of a redacted letter of support from Petitioner's daughter, J.S., including a birth certificate, dated March 15, 2026.

5. Attached as **Exhibit C** is a true and correct copy of a redacted letter of support from Petitioner's youngest son, A.S., including a birth certificate, dated March 15, 2026.

6. Attached as **Exhibit D** is a true and correct copy of a redacted letter of support from Petitioner's wife, C.S.S., dated March 15, 2026, and translated by co-counsel Brooklyn Defender Services on March 23, 2026.

7. Attached as **Exhibit E** is a true and correct copy of a redacted letter of support from members of Petitioner's community, Bertha and Segundo Morales, dated March 10, 2026.

8. Attached as **Exhibit F** is a true and correct copy of a redacted letter of support from a member of Petitioner's community, Jason Nunes, dated March 2, 2026.

9. Attached as **Exhibit G** is a true and correct copy of a redacted letter of support from a member of Petitioner's community, Jose Vieira, dated March 2, 2026.

10. Attached as **Exhibit H** is a true and correct copy of a redacted letter of support from a member of Petitioner's community, Robert Pontillo, dated March 1, 2026.

11. Attached as **Exhibit I** is a true and correct copy of a redacted letter of support from a member of Petitioner's community, Reverend Edwin A. Ortiz, dated December 11, 2025.

12. Attached as **Exhibit J** is a true and correct copy of a redacted birth certificate of Petitioner's oldest son, A.S.

13. Attached as **Exhibit K** is a true and correct copy of the redacted Record of Military Processing for Petitioner's oldest son, A.S., noting an enlistment date of July 24, 2025 and a projected active duty date of December 29, 2025.

14. Attached as **Exhibit L** is a true and correct copy of photographs of Petitioner and Petitioner's children.

Dated: March 26, 2026
New York, New York

Respectfully Submitted,

/s/ William E. Craco

William E. Craco*

O'MELVENY & MYERS LLP

1301 Avenue of the Americas, Suite 1700

New York, NY 10019

Telephone: (212)-728-5821

Email: wcraco@omm.com

Pro Bono Counsel for Petitioner C.R.

**Pro Hac Vice Application Forthcoming*