

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

B.A.M.A.,

Petitioner,

vs.

CODY YOUGHIN, *in his official capacity as*
Sheriff of Irwin Detention center; and
LADEON FRANCIS, *Field Office Director for ICE*
Atlanta Field Office,
TODD LYONS, *in his official capacity as Acting*
Director of Immigration and Customs Enforcement; and
MARKWAYNE MULLINS, *Secretary of Homeland*
Security; and
TODD BLANCHE, *Acting U.S. Attorney General.*

Respondents.

CASE NO.:

7:26 cv 00095 WLS ALS

PETITIONER'S REPLY TO GOVERNMENT'S RESPONSE
TO PETITION FOR WRIT OF HABEAS CORPUS AND
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Respondents' opposition rests on two erroneous premises. First, Respondents attempt to recharacterize Counts One through Three as collateral attacks on past agency conduct, but Petitioner challenges the present legal authority for his physical custody—the core function of habeas. Second, Respondents insist Petitioner remains an “arriving alien” subject to mandatory detention under 8 U.S.C. § 1225(b), even though DHS/CBP paroled him into the United States under 8 U.S.C. § 1182(d)(5), ICE later processed him under section 236 of the INA, and ICE then arrested him years later in the interior. Respondents' own 2022 I-213 states that Petitioner was released after CBP encounter, later reported to ICE in Charlotte, was issued an NTA, and was released. Respondents' own 2022 custody notice was issued pursuant to section 236 of the INA and part 236 of Title 8, and it advised Petitioner that he could request immigration-judge review of that custody determination. The dispositive question is not whether parole constituted “admission.” It did not. The question is whether Respondents have lawful authority to detain Petitioner now, without bond, under § 1225(b), after DHS paroled him into the U.S. placed him in § 240 proceedings, processed him under § 236, and later arrested him in the interior. They do not.

I. THIS COURT HAS HABEAS JURISDICTION TO REVIEW THE LEGAL BASIS FOR PETITIONER'S CURRENT CUSTODY

Respondents fail to address these claims or provide a defense for their unlawful behavior. Instead, they ask the Court to ignore their statutory and constitutional violations by claiming “(1) they are not cognizable in habeas; (2) this Court is stripped of jurisdiction by statute; and (3) there is no recognized cause of action for such challenges in this Circuit.” ECF No. 4. But Respondents' framing is wrong. Petitioner does not seek damages, suppression, or collateral administrative relief untethered to custody. He asks whether Respondents have lawful authority to detain him today. That question falls squarely within 28 U.S.C. § 2241.

Contrary to Respondents' claim, 8 U.S.C. § 1252(g) does not bar this Court from reviewing

Petitioner’s unlawful arrest, parole-revocation, APA, *Accardi*, and due process claims insofar as they establish that his current custody is unlawful. Section 1252(g) bars only claims arising from the Attorney General’s decision or action to commence proceedings, adjudicate cases, or execute removal orders. 8 U.S.C. § 1252(g). “The provision [§ 1252(g)] applies only to three discrete actions that the Attorney General may take: her ‘decision or action’ to ‘commence proceedings, adjudicate cases, or execute removal orders.’” *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). “When asking if a claim is barred by §1252(g), courts must focus on the action being challenged.” *Canal A Media Holding, LLC v. United States Citizenship and Immigr. Servs.*, 964 F.3d 1250, 1258 (11th Cir. 2020); *Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895, at *1 (M.D. Fla. Oct. 31, 2025). The action challenged here is not the commencement of removal proceedings. Petitioner does not ask this Court to halt, review, or interfere with his removal case. He challenges Respondents’ present **detention** under the wrong statute, without the procedures required by the INA, DHS regulations, and the Constitution. In *Madu v. U.S. Attorney General*, 470 F.3d 1362, 1368 (11th Cir. 2006), the Eleventh Circuit held that § 1252(g) does not bar substantive review of the underlying legal basis for detention. In *Villa v. Normand*, No. 5:25-cv-00089 (S.D. Ga. Nov. 4, 2025), the court held that § 1252(g) did not bar a habeas challenge attacking the underlying legal basis for immigration detention rather than the decision to commence proceedings, adjudicate a case, or execute a removal order.

Respondents’ reliance on *Gupta v. McGahey*, 709 F.3d 1062, 1064 (11th Cir. 2013), is unavailing. See ECF No. 4 at 5–6. *Gupta* did not involve a § 2241 petition asking whether DHS had lawful present authority to detain the petitioner under the correct detention statute. Here, Petitioner challenges the underlying legal basis of custody, not the discretionary decision to commence proceedings. Section 1252(g) “does not proscribe substantive review of the underlying

legal bases” for detention. *Madu*, 470 F.3d at 1368. Next, Respondents mistakenly characterize Petitioner’s APA and *Accardi* claims as “not cognizable in habeas” by citing *Villafuerte v. Warden, Stewart Det. Ctr.*, 2018 WL 6626640, at *1–2 (M.D. Ga. Nov. 27, 2018). But that case involved collateral administrative relief **outside** the immediate legality of custody (DACA benefits). That is not this case. Petitioner’s APA and *Accardi* claims identify why the agency action that produced and sustains his current detention is unlawful. They therefore support habeas relief because they go directly to whether Respondents have lawful authority to continue holding him.

II. PETITIONER IS NOT AN ARRIVING ALIEN SEEKING ADMISSION SUBJECT TO MANDATORY DETENTION UNDER 8 U.S.C. § 1225

Petitioner’s arrest and mandatory detention under 8 U.S.C. § 1225(b) have been unlawful ab initio. He was paroled into the United States by CBP/Border Patrol pursuant to 8 U.S.C. § 1182(d)(5), later processed by ICE under section 236 proceedings, apprehended in the interior, having lived in the United States for several years, and was not “seeking admission” when arrested. Respondents’ 2026 I-213 states that ICE arrested Petitioner during an interior enforcement stop at or near 175 SC-274, Clover, South Carolina. Therefore, his initial and continued detention under 8 U.S.C. § 1225(b) is unjustified. See *J.A.M. v. Streeval*, No. 4:25-CV-342 (CDL), 2025 WL 3050094, at *2, *4 (M.D. Ga. Nov. 1, 2025). Under *J.A.M.* and the overwhelming weight of recent court authority, § 1226(a) governs his detention and he is entitled to a bond hearing or release and restoration of his prior liberty status unlawfully revoked.

In *J.A.M.*, this Court held that § 1225(b)(2)(A) does not apply to “any alien present in the United States who has not been admitted,” but only to an “alien **seeking admission**,” *i.e.*, someone **actively attempting to obtain lawful admission**. 2025 WL 3050094, at *2, *4. The Court rejected the government’s attempt to treat “**applicant** for admission” and “alien **seeking admission**” as synonymous and explained that the “seeking admission” phrase narrows the class of covered

noncitizens rather than restating it. *Id.* Courts across the country, including two Circuit Courts of Appeal, consistently have found that applying the “seeking admission” framework of § 1225 to interior apprehensions defies the statute’s plain language. *See Cunha v. Freden*, No. 25-3141-PR, 2026 WL 1146044, at *4-5 (2d Cir. Apr. 28, 2026) (“Section 1226 applies to ‘an alien ... pending a decision on whether the alien is to be removed’—a word that sweeps in both inadmissible and deportable aliens” and noting its ‘holding is consistent with the decisions of over 370 district judges across the Nation who (as of mid-February 2026) have also rejected the government’s position.’”); *Castanon Nava v. U.S. Dep’t of Homeland Sec.*, 161 F.4th 1048, 1061 (7th Cir. 2025) (individuals whom ICE arrested in Chicago without a warrant, are not subject to mandatory detention under § 1225(b)(2)(A).”). In *Cunha*, the Second Circuit highlighted how “the government’s proposed statutory construction suffers from a fatal defect: it disregards the second requirement for [Section 1225(b)(2)(A)] to apply.” 2026 WL 1146044, at *5. Section 1225(b)(2)(A) “applies only to a noncitizen who is **both** an “applicant for admission” **and** who is “seeking admission.” *Id.* Here, even if Petitioner is an “applicant for admission,” he was not “seeking admission” when DHS arbitrarily arrested him in the interior of the U.S.

The statutory text confirms this result. Section 1225(b)(2)(A) applies where an examining immigration officer determines that an “alien seeking admission” is not clearly and beyond a doubt entitled to be admitted. 8 U.S.C. § 1225(b)(2)(A). By contrast, § 1226(a) governs arrest and detention pending a decision on whether the alien is to be removed, and it expressly permits release on bond or conditional parole. 8 U.S.C. § 1226(a). Respondents’ reading collapses these two statutes and would make § 1226(a)’s interior-arrest and bond framework largely meaningless.

Here, even if Petitioner is an “applicant for admission,” he was not “seeking admission” when DHS arrested him in the interior of the United States. Respondents’ own records show that

Petitioner's 2026 arrest occurred years after his 2022 CBP encounter and after ICE had already issued an NTA and released him. Respondents' own 2022 custody notice also confirms that ICE previously processed Petitioner under section 236 of the INA and advised him of the right to seek immigration-judge review of that custody determination. That record is incompatible with Respondents' attempt to reclassify him as if he were still standing at the border seeking entry.

The reasoning in *J.A.M.* is equally applicable to individuals who entered without inspection or were paroled into the United States. Both groups already entered the United States and established lives here. DIIS cannot arrest them far from the border and years after entry, without a warrant or cause, and then claim they were actively seeking admission at the time of apprehension to justify mandatory detention under § 1225(b)(2)(A). *Cunha*, 2026 WL 1146044, at *7 (Respondents "cannot 'abracadabra-style' deem Petitioner to be 'seeking admission.'"); *see also Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("once an alien enters the country, the legal circumstance changes, ... whether their presence here is lawful, unlawful, temporary, or permanent."). As a district court in the Middle District of Florida recently held in a similar circumstance, "the Judiciary has made it clear that § 1225 does not apply to aliens already present in the United States." *Guaiquire v. Quinones*, No. 6:26-CV-169-RBD-RMN, 2026 WL 279369, at *2–3 (M.D. Fla. Feb. 3, 2026) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018) ("§ 1226 applies to aliens already present in the United States.")). In *Guaiquire*, the court rejected the government's application of § 1225's mandatory detention to an individual who has been paroled into the U.S., and "did everything the 'right way'"¹ explaining that § 1225 applies to noncitizens

¹ The Court noted that Ms. Guaiquire "arrived at the border from a country known for violence—a country with deplorable conditions and a recently arrested president. She applied for humanitarian asylum and was given parole. She was deemed to be of so little risk that she was allowed into the country by immigration officials and given documentation to work. She got a job driving legally. She complied with the terms of her parole and is awaiting the immigration court's determination on whether her asylum will be granted. She has done everything asked of her. She has committed no crime. Yet she was arrested at her job, taken to the county jail, then taken to Alligator Alcatraz, to

“seeking admission” at the border and § “1226, and the protection of a bond hearing, applies to noncitizens already present within our borders.” *Id.* at *8; *see also id.* at *4 (“[T]he phrase “seeking admission” requires an affirmative action taken to gain physical entry at the border, so it cannot apply to people who have already been living in this country”). The court also explained that treating people already present in the country—whether paroled or entered without inspection—disparately “fails the smell test” and to “contort the statute to remove [the protections acquired by living in the U.S.] when every rule of statutory interpretation compels otherwise” ...]] “would be absurd.” *Id.* at *8. Similarly here, this Court should neither ignore the plain meaning of the statute, nor construe the statute in a way that would produce an absurd result.

Petitioner’s DHS/CBP/Border Patrol parole reinforces rather than weakens this conclusion. Respondents’ own records state that, after the August 19, 2022 CBP encounter, Petitioner was released and later reported to ICE in Charlotte, where ICE issued an NTA and released him. Respondents’ 2026 I-213 further states that Petitioner was released with an I-94 as an alternative condition of parole due to detention capacity. Thus, even accepting Respondents’ position that parole is not admission, DHS did not keep Petitioner at the threshold of entry; it affirmatively released him into the interior, routed him into § 240 proceedings, and later treated him under § 236. Respondents’ entry-fiction argument does not answer the statutory question. Petitioner does not contend that parole made him “admitted.” He contends that, after DHS paroled him into the United States, processed him under § 236, and later arrested him years later in the interior, he was not then “seeking admission” within the meaning of § 1225(b)(2)(A).

Nor does the “return to custody” language in 8 U.S.C. § 1182(d)(5)(A) automatically

be detained indefinitely with no chance of a bond hearing—no opportunity for a judge to decide whether she’s dangerous.” *Id.* at *8.

resolve the detention-statute question in Respondents' favor. Respondents may rely on cases treating termination of § 1182(d)(5)(A) parole as a return to § 1225(b) custody. But those cases are distinguishable because Petitioner challenges not merely the legal effect of parole termination, but also the later interior arrest, the lack of a § 1776(a) warrant, DHS's own prior § 236 custody determination, and the absence of an individualized parole-revocation and custody determination. In *(HC) Huaman Villanueva v. Murray*, No. 1:25-cv-01218 (E.D. Cal. Oct. 24, 2025), the court treated parole termination as returning the petitioner to § 1225(b)(2) custody, but expressly noted that the motion did not raise a due process argument.

III. RESPONDENTS ALREADY DETERMINED PETITIONER SHOULD NOT BE DETAINED AND FAILED TO PROPERLY REVOKE HIS PAROLE

In addition to the arguments above, Petitioner's detention is also unlawful where Respondents specifically granted Petitioner humanitarian parole into the United States in August 2022, under § 1182(d)(5)(A), and allowed him to live and work in the interior with his U.S.-citizen wife and child.² Respondents' own records confirm that CBP released Petitioner after his August 2022 encounter and that ICE later issued an NTA and released him after he reported to the Charlotte ICE office. Thus, Respondents already determined that Petitioner is not a danger or flight risk and that he should not be detained. Despite this, Respondents suddenly and arbitrarily detained Petitioner based on their repeatedly rejected policy shift to mandatorily detain as many individuals as possible under the guise of 8 U.S.C. § 1225(b)(2)(A).³

² Further, Petitioner has a pending Form I-589 asylum application and is also the beneficiary of a Form I-130 filed by his U.S. citizen spouse, with adjustment of status available upon approval. Also, Petitioner has no criminal history, no prior arrests, and no history of immigration violations, and has complied with all requirements imposed by immigration authorities since his entry.

³ On January 28, 2026, Petitioner was unlawfully arrested by ICE agents while parked in his vehicle in a Walmart parking area in Charlotte, North Carolina, where he was working as a delivery driver. He has a valid employment authorization document and a valid driver's license. Further, Petitioner was not the subject of any enforcement action, there was no warrant for his arrest or exigent circumstances or proof that he was "likely to escape" but he was nevertheless taken into custody. ECF No. 1 at 15.

Respondents also have not shown that they lawfully terminated Petitioner's parole before re-detaining him, or that any authorized official made the individualized determination required by the parole statute and regulations. Specifically, Respondents failed to comply with the applicable regulatory and statutory requirements as set forth in 8 C.F.R. § 212.5(e)(2)(i). That regulation provides that, in non-automatic cases, parole may be terminated upon accomplishment of the purpose for which parole was authorized or when an authorized official determines that neither humanitarian reasons nor public benefit warrants continued presence; parole then terminates upon written notice, and the noncitizen is restored to the status held at the time of parole. 8 C.F.R. § 212.5(e)(2)(i). The regulation also provides that a charging document constitutes written notice of termination unless otherwise specified. 8 C.F.R. § 212.5(e)(2)(i).

Even assuming the September 28, 2022 NTA constituted written notice of parole termination, Respondents still have not shown that an authorized official made the required individualized determination that the purpose of parole had been accomplished or that neither humanitarian reasons nor public benefit warranted Petitioner's continued presence. Respondents did not provide a reasoned explanation or any changed circumstances that would justify revoking Petitioner's parole. Respondents offer no evidence that any authorized official found Petitioner to be a flight risk or a danger to the public or that humanitarian reasons suddenly did not warrant Petitioner's presence in the United States. Further, Respondents have not demonstrated that the purpose of Petitioner's parole has been accomplished.⁴

Therefore, Petitioner's detention is also unlawful where DHS failed to follow the

⁴ Just as a "grant of parole requires an individualized review, revocation of parole requires a case-by-case assessment to comply with the statute[.]" *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 146 (W.D.N.Y. 2025) (citations omitted) (addressing this issue, and granting the petitioner's motion for preliminary injunction and ordering that the petitioner be released). "Under the governing regulation, [§ 1182(d)(5)(A)] parole may be terminated only if the purpose of parole is accomplished, or humanitarian reasons and the public benefit no longer warrant parole." *Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025).

applicable statutory and regulatory provisions to terminate Petitioner's parole and the purpose of his parole has not been satisfied. *See Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 145 (W.D.N.Y. 2025) (arrest was unlawful when executed before parole was revoked; revocation of parole requires attention to the reasons parole was granted and to the regulatory basis for terminating it), *Norfolk S. Ry. Co. v. U.S. Dep't of Lab.*, No. 21-3369, 2022 WL 17369438, at *6 (6th Cir. Dec. 2, 2022) (discussing that "an agency's action that fails to observe the procedures required by its own regulations should be set aside" (citation omitted)).

This failure alone demonstrates Petitioner's detention is unlawful and warrants his release. *See e.g., Camacho-Gutierrez v. Thompson*, No. 5:25-CV-01876-MA, 2026 WL 195758, at *3 (W.D. Tex. Jan. 16, 2026) ("Petitioner argues that because DHS re detained her without [written] notice [terminating humanitarian parole] or an individualized determination in violation of its own regulations, her detention is unlawful. The Court agrees."); *Naveda v. Noem*, No. 5:26-cv-18, 2026 WL 196394, at *1 (W.D. Tex. Jan. 15, 2026) ("[T]o the extent Respondents improperly revoked Petitioner's release on humanitarian parole, such improper revocation makes her ineligible for detention under either 8 U.S.C. § 1225 or § 1226."); *Aldana v. Collins*, --- F. Supp. 3d ----, 2026 WL 673827, at *4 (W.D. Tex. Mar. 9, 2026) ([D]etention of a noncitizen who has a valid grant of humanitarian parole violates the INA and its implementing regulations. Here, because the Court has found that Petitioner's grant of humanitarian parole was still valid when he was detained [because there was no written notice and it had not reached its original expiration date], the Court finds that Petitioner's detention is unlawful."); *Torres Soria v. Bondi*, No. 1:26-cv-318, 2026 WL 751968, at *2 (W.D. Tex. Mar. 12, 2026) (holding detention unlawful on the basis of parole being invalidly revoked where government could not provide any evidence that it followed proper procedures for revoking parole).

Additional recent decisions confirm the same result. *See also Rasul v. Field Officer Director*, No. 25-cv-232, 2026 WL 834737, at *5 (E.D. Ky. Mar. 26, 2026) (finding that I-200 warrant was not a charging document for purposes of revocation of parole and holding that detention without written notice violated due process); *Flores Molina v. Thompson*, No. 5:26-cv-631, 2026 WL 908556, at *1 (W.D. Tex. Mar. 27, 2026) (finding detention under § 1225 without notice or individualized assessment violated due process even though parole had expired); *Arias v. Larose*, No. 3:25-cv-2595, 2025 WL 3295385, at *4 (S.D. Cal. Nov. 25, 2025) (holding humanitarian parole was improperly revoked where respondents failed to make required findings or an individualized determination, even though petitioner received notice of expedited removal, and that petitioner’s “parole remains active despite the expiration of her I 94”); *Alcide v. de Anda Ybarra*, No. 1:26-cv-249, 2026 WL 622663, at *3-4 (D.N.M. Mar. 5, 2026) (finding parole not validly revoked where petitioner claimed to have not received mass email terminating parole and respondents provided no evidence to contrary) (CBP One/CHNV parole).

Respondents’ own evidence also undermines their claim that Petitioner is merely an arriving alien returned to border custody. On September 28, 2022, ICE issued a Notice of Custody Determination under section 236 and part 236 and advised Petitioner that he could request review by an immigration judge. DHS cannot invoke § 236 when release is convenient, then erase that custody framework years later to avoid bond review.

Similarly, as Petitioner should not have been subject to detention under 8 U.S.C. § 1225, the only possibly applicable discretionary detention authority would have been 8 U.S.C. § 1226. But to detain a noncitizen under § 1226, the statute provides that an arrest be made “[o]n a warrant.” Respondents had no such warrant. The statute’s narrow exception for a warrantless arrest, 8 U.S.C. § 1357(a)(2), is inapplicable, as it permits such an arrest only where an officer has

reason to believe the individual is “likely to escape before a warrant can be obtained.” Nothing in the record shows that Petitioner posed such a risk. Therefore, Petitioner’s detention has been unlawful from the start because the arrest itself was executed without compliance with the Immigration and Nationality Act’s clear commands. *See Choglo Chafra v. Scott*, 804 F. Supp. 3d 247, 264 (D. Me. 2025) (“Petitioners’ detentions are improper because there is no evidence in the record that they were arrested pursuant to a warrant. Since the Government did not comply with the plain language of section 1226(a), their immediate release is justified”), *J.A.C.P. v. Wofford*, No. 1:25 cv 01354 KES SKO (HC), 2025 WL 3013328 (E.D. Cal. Oct. 27, 2025) (“government did not comply with the express terms of section 1226 when it detained petitioner, so the Court cannot conclude that he is now detained on that basis.”).

IV. PETITIONER’S DETENTION VIOLATES DUE PROCESS

As explained in Petitioner’s habeas petition, Respondents’ actions—wrongly arresting him despite his grant of parole without following the proper revocation procedures and unlawfully subjecting him to mandatory detention under an inapplicable statute—also constitute severe due process violations under *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See* ECF No. 1. “Limitations like the Due Process Clause...restrict the Government’s power to detain noncitizens,” and “[c]ourts must review immigration procedures and ensure that they comport with the Constitution.” *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1334 (M.D. Ga. 2020) (citing *Demore v. Kim*, 538 U.S. 510 (2003)). Petitioner a noncitizen released on parole years ago possesses a protected liberty interest in remaining free from immigration detention and is entitled to procedural due process before DHS may revoke that parole and re-detain him. *See Aviles-Mena v. Kaiser*, 2025 WL 2578215 (N.D. Cal. Sept. 5, 2025) (enjoined DHS from re-detaining the petitioner “without notice and a pre-deprivation hearing before a neutral decisionmaker.”). Petitioner’s

detention without an opportunity for a meaningful individualized custody determination cannot be ignored. “[O]nce an alien enters the country, the legal circumstances change, for the Due Process Clause applies to all ‘persons’ within the United States.” *Zadvydas*, 533 U.S. at 693.

Respondents invoke *Thuraissigiam*, *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953), *Jean v. Nelson*, 727 F.2d 957 (11th Cir. 1984) (en banc), and this Court’s decision in *D.A.V.V.* to argue that “whatever procedure Congress authorizes is due process” for arriving aliens and that § 1225(b) detainees categorically have no due-process right to bond. But Petitioner is not asking this Court to second-guess expedited-removal procedures, credible-fear standards, or an initial decision to exclude him at the border, nor is he asserting a facial claim that all § 1225(b) detainees are entitled to bond. His due-process claim is narrower and as-applied: at the border, DHS exercised its discretion under 8 U.S.C. § 1182(d)(5)(A) to parole him into the U.S., allowed him to live and work in the community for years while pursuing relief from removal and lawful status, and then summarily revoked that conditional liberty and re-detained him in the interior with no advance notice, no individualized finding of flight risk or danger, and no pre-deprivation hearing before a neutral decisionmaker. Further, as outlined above, Petitioner was not “seeking admission” at the time of his arrest and is not subject to mandatory detention under § 1225(b).

Respondents’ due-process argument depends on the fiction that Petitioner remained perpetually at the border. But Respondents’ own exhibits show that DHS did not treat him that way. ICE issued him a section 236 custody determination and advised him of immigration-judge review in 2022. ICE then arrested him years later during an interior enforcement stop, not at a port of entry or during border inspection. Those facts trigger a distinct due-process inquiry that Respondents’ arriving-alien cases do not answer.

Under *Mathews v. Eldridge*, and the conditional-liberty line of cases on which Petitioner relies, that sequence of government action triggers a distinct liberty interest and procedural-due-process inquiry that the government's cited cases did not address. Petitioner's private interest in remaining out of custody is weighty. *See Aviles-Mena*, 2025 WL 2578215 (where DHS has already found a parolee suitable for release and allowed him to live and work in the United States for years, the liberty interest in continued freedom from detention is substantial). Second, the risk of an erroneous deprivation of that liberty is high. By definition, DHS's prior parole grant allowing Petitioner to live freely in the community reflected a determination, under § 1182(d)(5)(A) and 8 C.F.R. § 212.5, that he was not a danger or flight risk. Respondents have identified no materially changed circumstances—no criminal conduct, no violation of parole conditions, no failure to appear—that would justify re-detention. Third, the government's interest in re-detaining Petitioner without any pre-deprivation hearing and while his removal proceedings are still in progress and he has viable avenues for relief is minimal, especially where they already determined Petitioner warranted release.

Respondents' alternative request—that any bond hearing use ordinary § 1226(a) procedures with the burden on Petitioner—should also be rejected if the Court orders a hearing rather than immediate release. This Court has already recognized that due process may require the government to justify continued civil detention by clear and convincing evidence. *See J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1341 (M.D. Ga. 2020). At minimum, any hearing must be meaningful, prompt, and before a neutral decisionmaker, with the government required to present actual evidence—not conclusory assertions—of danger or flight risk.

V. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant the Petition and order his immediate release⁵. Offering a bond hearing now cannot cure the fundamental defects in Petitioner's unlawful arrest⁶ and detention.⁷ Respondents have not carried their burden to show that § 1225(b) applies, that parole was lawfully revoked, that § 1226(a)'s warrant requirement was satisfied, or that Petitioner received the process required before DHS deprived him of the conditional liberty it previously granted.

Respectfully Submitted,

This 1st day of May, 2026.

⁵ See *Villafranca Lara v. Ladwig*, No. 26-CV-02079-SHL-tmp, 2026 WL 401204, at *10 (W.D. Tenn. Feb. 12, 2026) (“Because ICE purported to detain under § 1225(b)(2)(A), which includes no provision for a bond hearing, the Court will not now order a bond hearing under § 1226(a).”); *Rivero v. Mina*, 2026 WL 199319, at *4 (finding that ordering a bond hearing under § 1226 does not fix the problem; the petitioner was entitled to immediate release); *Montero Arteaga v. Ripa et al.*, No. 3:26-CV-111-MMH-SJH, 2026 WL 759129, at *4 (M.D. Fla. Mar. 18, 2026) (a bond hearing would not be the appropriate relief to rectify Respondents’ insistence on detaining the petitioner under § 1225); *Zumba v. Bondi*, No. 25-CV-14626 (KSH), 2025 WL 2753496, at *11 (D.N.J. Sept. 26, 2025) (“due to [the] flexible nature [of habeas], the Court may fashion a remedy that returns petitioner to her position prior to her unlawful detention” and ordering the petitioner’s release); *Moctezuma v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (noting the government’s repeated use of unlawful detention policies across the country, causing petitioners to “sit in jail waiting for a judicial decision,” the court would order immediate release instead of causing additional delay through a bond hearing); see also *Mamadou Saliou Diallo v. Lowe, et al.*, No. 3:26-CV-395, 2026 WL 596731, at *6 (M.D. Pa. Mar. 3, 2026); *Jose Eduardo Dominguez Perez v. Trinity Minter, et al.*, No. 2:26-CV-02166-SHL-CGC, 2026 WL 594609, at *7 (W.D. Tenn. Mar. 3, 2026) (explaining that the petitioner’s “detention without bond violated his liberty interest, which cannot be casually tossed aside.”); *Cardona v. Ladwig*, No. 3:25-CV-01451, 2025 WL 3722009, at *7 (M.D. Tenn. Dec. 3, 2025); see also *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (“[T]he habeas court must have the power to order the conditional release of an individual unlawfully detained.”).

⁶ A bond hearing under 8 U.S.C. § 1226(a) is a procedural safeguard that follows a *lawful* arrest; not a remedy for an unlawful arrest that violated the statute’s own warrant requirement from the outset. To hold otherwise would be to retroactively sanitize an illegal seizure, rendering the warrant requirement in § 1226(a) meaningless. The government cannot violate the law to seize a person and then offer the procedures that would have followed a lawful seizure as a cure. Because the arrest itself was illegal, the entire detention is the fruit of a poisonous tree, mandating release.

⁷ Alternatively, at a minimum, the Court should order a constitutionally compliant bond hearing pursuant to 8 U.S.C. § 1226(a) with constitutionally adequate safeguards including that the government must bear the burden of proof to show danger or flight risk by clear and convincing evidence and the immigration judge must consider alternatives to detention and Petitioner’s ability to pay when setting bond. See *J.G.*, 501 F. Supp. 3d at 1334.

/s/ Karen Weinstock

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CERTIFICATE OF SERVICE

I certify that on May 1, 2026, I electronically filed the foregoing Document with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to Respondents' attorney(s) of record.

/s/ Karen Weinstock

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