

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ELISEO ANTONIO ARANGO CARMONA,	)	
<i>Petitioner,</i>	)	Civ. No.
	)	
-against-	)	
	)	VERIFIED PETITION
RAUL MALDONADO, JR. , Warden,	)	FOR WRIT OF HABEAS
Metropolitan Detention Center; KENNETH	)	CORPUS AND
GENALO, New York City Field Office	)	COMPLAINT FOR
Director, U.S. Immigration and Customs	)	DECLARATIVE AND
Enforcement; TODD LYONS, Acting	)	INJUNCTIVE RELIEF
Director, U.S. Immigration and Customs	)	
Enforcement; MARKWAYNE MULLIN,	)	
Acting U.S. Secretary of Homeland	)	
Security; TODD BLANCHE, Acting U.S.	)	
Attorney General,	)	
<i>Respondents.</i>	)	

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

Petitioner respectfully petitions this Honorable Court for a Writ of Habeas Corpus to remedy Petitioner's unlawful detention by Respondents, as follows:

INTRODUCTION

1. Petitioner ELISIO ANTONIO ARANGO CARMONA ("Mr. Arango"), a citizen of Colombia, challenges his unlawful detention by the Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE") at the Metropolitan Detention Center ("MDC") in Brooklyn, New York. Mr. Arango entered the United States without inspection on or about September 28, 2024 with his wife and two children and surrendered himself to DHS Border Patrol officers in San Ysidro, California. He advised the officers that he and his family were seeking asylum in the United States and intended to live in Greenwich, Connecticut. DHS

released him on an Order of Recognizance and initiated removal proceedings against him in the Hartford, Connecticut Immigration Court. On February 14, 2026 ICE agents arrested Mr. Arango in Port Chester, New York and transported him to MDC in Brooklyn, New York, where he has been detained since that date. His matter is now pending before the New York City Immigration Court. Mr. Arango requested a custody hearing before the Immigration Court but withdrew his request upon learning that he is one of thousands of noncitizens erroneously classified by ICE as mandatory detainees pursuant to 8 U.S.C. § 1125(b), to whom the Immigration Court will not grant custody hearings, maintaining that it has no jurisdiction to do so based on the Board of Immigration Appeals' ("BIA") decision in *Matter of Yajure Hurtado*, 29 I &N Dec. 216 (BIA 2025). He seeks immediate release from DHS custody or, in the alternative, a custody hearing at which DHS bears the burden of establishing through clear and convincing evidence that his continued detention is justified and the Immigration Judge ("IJ") considers alternatives to detention and Mr. Arango's ability to pay.

PARTIES

2. ELISEO ANTONIO ARANGO CARMONA is a citizen of Colombia who has lived in the United States since 2024. Prior to his detention he resided with his wife and child in New York City.

3. RAUL MALDONADO, JR. is named in his official capacity as Warden of MDC. In this capacity, Maldonado is Mr. Arango's direct custodian at MDC.

4. KENNETH GENALO is named in his official capacity as Field Office Director for the New York City field office of ICE. In this capacity, Genalo is responsible for the

administration and management of ICE Enforcement and Removal Operations (“ERO”) in New York City and exercises control over Mr. Arango’s custody. He is therefore a legal custodian of Mr. Arango.

5. TODD LYONS is named in his official capacity as Acting Director of ICE. In this capacity he is responsible for the administration and management of ICE ERO in New York. Lyons supervises respondent Genalo and exercises control over Mr. Arango’s custody. He routinely conducts business in the Eastern District of New York.

6. MARKWAYNE MULLIN is named in his official capacity as Acting U.S. Secretary of Homeland Security. In this capacity, Mullin is responsible for the administration of federal immigration law pursuant to 8 U.S.C. § 1103(a). He routinely transacts business in the Eastern District of New York, and he is legally responsible for pursuing Mr. Arango’s detention.

7. TODD BLANCHE is named in his official capacity as Acting U.S. Attorney General. In this capacity, Blanche is the most senior official in the U.S. Department of Justice and as such has the authority to interpret the immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review (“EOIR”), which administers the immigration courts and the Board of Immigration Appeals (“BIA”). Blanche routinely transacts business in the Eastern District of New York, and he is legally responsible for pursuing Mr. Arango’s detention and removal.

JURISDICTION AND VENUE

8. This action arises under the Fifth and Fourteenth Amendments to the United States Constitution.

9. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, Art. I 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 1361. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. 1651.

10. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against its agencies' officers, who are sued in their official capacities. *See* 5 U.S.C. § 702.

11. Venue is proper in this District under 28 U.S.C. § 1391 because Petitioner is detained in this district.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

12. There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention. Since Congress is silent on the issue, courts have applied a judicially created requirement that, generally, a petitioner must exhaust his administrative remedies before seeking federal court intervention. *See Monestime v. Reilly*, 704 F.Supp.2d 453, 456. (S.D.N.Y.2010) (“A habeas petitioner generally must exhaust administrative remedies before seeking federal court intervention.”)

13. However, courts may waive a judicially created exhaustion requirement where pursuing administrative remedies would be futile or where the agency has predetermined the issue before it. *Monestime*, 704 F.Supp.2d at 456 (“[E]xhaustion is not required where it would be futile or where the agency has predetermined the issue before it.”); *see also Cave v. E.*

Meadow Union Free Sch. Sch. Dist., 514 F.3d 240, 249 (2d Cir. 2008) (“The exhaustion requirement is excused when exhaustion would be futile because the administrative procedures do not provide an adequate remedy.”). In this case, exhaustion of administrative remedies is presumptively futile, for the reasons set forth below.

STATEMENT OF FACTS

14. Mr. Arango is a 54-year-old citizen of Colombia who fled Colombia in 2024 with his wife and children after [REDACTED] was murdered by political opponents in the [REDACTED] party. Mr. Arango feared that he and his family would suffer a similar fate [REDACTED]

15. Mr. Arango and his family entered the United States through the U.S.-Mexico border at San Ysidro, California, entering without inspection. They surrendered themselves to Border Patrol agents and requested leave to apply for asylum. DHS released the Mr. Arango and his family on an Order of Recognizance and initiated removal proceedings against him by filing a Notice to Appear in the Hartford Immigration Court, based on his intended residence in Greenwich, Connecticut.

16. Mr. Arango timely submitted his application for asylum in the Hartford Immigration Court and obtained employment authorization from DHS. He started working for the construction firm Greater Home Solutions in May 2025.

17. On or about February 14, 2026, Mr. Arango was stopped by a police officer in Port Chester, New York for driving a motor-scooter that was not yet registered. The officer

notified ICE, who arrested him and transported him to MDC. He has been detained since that date.

18. Through his immigration attorney Mr. Arango requested a custody redetermination hearing in the New York City Immigration Court. Mr. Arango withdrew his request when he learned that he was classified as an alien seeking admission and the IJ would deny his application for lack of jurisdiction.

LEGAL FRAMEWORK

19. “The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). “Freedom from imprisonment — from government custody, detention, or other forms of physical restraint — lies at the heart of the liberty that Clause protects.” *Id.* at 690 (2001).

20. Due process requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* (internal quotation marks omitted). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore v. Kim*, 538 U.S. 510, 528 (2003). Thus, to withstand constitutional scrutiny, the nature and duration of immigration detention must be reasonably related to those purposes. To determine whether immigration detention violates due process, courts apply the familiar *Mathews v. Eldridge* balancing test and weigh the private liberty interest at stake, the risk of

erroneous deprivation, and the probable value of additional safeguards, as well as the government's interest. 424 U.S. 319, 335 (1976).

21. The Immigration and Nationality Act ("INA," codified at Title 8 of the United States Code), prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

22. 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

23. 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).

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

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

26. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained

under § 1225 and that they were instead detained under § 1226(a). *See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

27. 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 pursuant to 8 U.S.C. § 1226(c). This practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

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

29. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”¹ claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

30. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*, 29 I &N Dec. 216 (BIA 2025). There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

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

32. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

33. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Mr. Arango.

34. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

35. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions,

the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); see also *Gomes*, 2025 WL 1869299, at *7.

36. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

37. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2) (A).

38. Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

40. An overwhelming majority of courts in the Second Circuit have agreed that under the Due Process Clause of the Fifth Amendment, it is the government’s burden to justify the detention of a non-citizen at a bond hearing under § 1226(a). See e.g. *J.I.T. v. Francis*, No. 25-CV-06749 (MMG), 2025 U.S. Dist. LEXIS 232874 (S.D.N.Y. Nov. 26, 2025) (ordering the IJ to conduct a new bond hearing in which the government would bear the burden of establishing that

Petitioner's continued detention is justified and the adjudicator considers alternatives to detention and Petitioner's ability to pay); *Banegas v. Decker*, No. 21-CV-2359 (VEC), 2021 U.S. Dist. LEXIS 88805 (S.D.N.Y. May 7, 2021) (ordering the IJ to conduct a new bond hearing at which the government would bear the burden of proof); *Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020) (affirming the Southern District's decision granting habeas and ordering the IJ to conduct a new hearing at which the government would bear the burden of proof); *Velasco Lopez v. Decker*, No. 19-cv-2912 (ALC), 2019 WL 2655806, at *3 (S.D.N.Y. May 15, 2019) (ordering the IJ to conduct a new bond hearing at which the government would bear the burden of proof); see also *Garcia v. Decker*, No. 20-cv-1345 (LJL), 2020 WL 1435007 at *8 (S.D.N.Y. Mar. 24, 2020) (same); *Cabanillas Lazo v. Decker*, No. 19-cv-08513 (AJN) at *1 (S.D.N.Y. Jan. 31, 2020) (same); *Medley v. Decker*, No. 18-cv-7361 (AJN), 2019 WL 7374408, at *3-4 (S.D.N.Y. Dec. 11, 2019) (same); *Gomez Dubon v. Decker*, No. 19-cv-8863 (AKH) (S.D.N.Y. Oct. 29, 2019) (same); *Liranzo de la Cruz v. Barr*, No. 19-cv-7573 (AKH) at 3-5 (Sept. 13, 2019) (same); *Fernandez Aguirre v. Barr*, No. 19-cv-7048 (VEC), 2019 WL 4511933, at *3 (Aug. 19, 2019) (same); *Padilla Raudales v. Decker*, No. 19-cv-1934 (PGG) (Aug. 8, 2019) (Slip Op.) (same); *Torres v. Decker*, No. 18-cv-10026 (VEC) at 2 (Apr. 30, 2019) (Dkt. No. 24), vacated as moot, No. 18-cv-10026 (VEC) (Apr. 30, 2019); *Darko v. Sessions*, No. 18-cv-5675 (ER), 2018 WL 5095671, at *6 (S.D.N.Y. Oct. 19, 2018); *Linares Martinez v. Decker*, No. 18-cv-6527 (JMF), 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17, 2018).

41. In hundreds of cases nationwide, Respondents have outright refused, been unable, or otherwise failed to hold a timely bond hearing after being ordered to do so. See *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2026 WL 468284, at *4 (C.D. Cal. Feb. 18, 2026)

(granting motion to enforce class-wide declaratory judgment that thousands of noncitizens are eligible for bond, noting that “Respondents’ noncompliance with the Final Judgment has taken a toll on wrongfully detained noncitizens, courts, and government and Petitioners’ attorneys,” and noting over 400 individual habeas petitions that were granted for individuals who should have benefited from class membership); *Rodriguez Vazquez v. Hermosillo*, No. 3:25-CV-05240-TMC, 2026 WL 102461, at *1 (W.D. Wash. Jan. 14, 2026) (granting in part motion for further relief in similar class action concerning a single ICE facility and noting that “more than 100 unlawfully detained noncitizens—left with no other recourse due to Defendants’ noncompliance”— had to file habeas petitions to access the bond hearings the court had already ordered for the class); *Juan T.R. v. Noem*, No. 26-CV-0107 (PJS/DLM), 2026 WL 555601, at *1 (D. Minn. Feb. 26, 2026) (habeas court attaching appendices cataloging 210 court orders the Department of Justice had violated in 143 habeas cases, which included over 15 instances of failing to provide a court-ordered bond hearing); *Kumar v. Soto*, No. 26-cv-777, Dkt. No. 21. (D.N.J. Feb. 13, 2026) (filing from the New Jersey U.S. Attorney’s Office admitting to violating 56 orders in habeas cases, including holding bond hearings in the required time period, and failing to file 16 required status updates); *Fernandez Alvarez v. Noem*, No. 2:26-CV-00313-SPC-DNF, 2026 WL 598614, at *1 (M.D. Fla. Mar. 4, 2026) (ordering immediate release after immigration judge found petitioner was detained under 8 U.S.C. 1225(b)(2) and ineligible for bond even after habeas court had explicitly ordered otherwise); *Cartagena Hueso v. Soto*, No. 26-cv-1455 (ZNQ), 2026 WL 539271, at *3 (D.N.J. Feb. 26, 2026) (granting immediate release after Respondents failed to comply with two court orders to hold a bond hearing within 10 days and to prevent petitioner’s transfer out of state).

42. Government attorneys have also tried to disavow responsibility for ensuring their clients will comply with future court orders. *See, e.g., Gomez Rodriguez v. Noem*, No. 2:25-cv-01115, 2025 WL 3771268, at *2 (M.D. Fla. Dec. 31, 2025) (noting that “[i]n other cases before this Court, the respondents have claimed they cannot direct the EOIR when to conduct a bond hearing,” and ordering release if the government does not comply); *Khogiani v. Raycraft*, No. 25-cv-13744, 2025 WL 3753532, at *4 (E.D. Mich. Dec. 29, 2025) (noting the government’s argument that given the “overwhelming caseload” in the immigration courts, it likely could not comply with an order to hold a bond hearing within five days, but re-setting a short deadline anyway given the petitioner’s five months of unlawful detention); *Vargas v. Bondi*, No. 25-cv-1023, 2025 WL 3300446, at *5 (W.D. Tex. Nov. 12, 2025), report and recommendation adopted, No. 25-cv-1023, 2025 WL 3300141 (W.D. Tex. Nov. 26, 2025) (recommending immediate release, in part because respondents argued that “if this Court ordered a hearing, it would require the immigration judge to do that which, in light of BIA precedent, the judge would not believe he had any authority to do”); *O.F.C. v. Almodovar*, No. 25-cv-9816, 2026 WL 74262, at *16 (S.D.N.Y. Jan. 9, 2026) (expressing concern that at oral argument, government counsel refused to guarantee that in a court-ordered bond hearing, ICE would not invoke the automatic stay or argue that the IJ lacked jurisdiction to set bond; either action “would render the Court’s intended relief illusory”).

43. As one example, government counsel in the Southern District of New York have often asserted that an immigration court bond hearing is an appropriate remedy, citing *Romero Perez v. Francis*, No. 25-cv-8112, 2025 WL 3110459 (S.D.N.Y. Nov. 6, 2025). However, that case alone demonstrates why such bond hearings are often futile. In *Romero Perez*,

notwithstanding the court's order that a burden-shifted bond hearing be held within seven days, the immigration judge refused to hold a hearing on the merits, denying bond on a lack of jurisdiction. See No. 25-cv-8112, ECF No. 31 (Nov. 10, 2025) (first motion to enforce). After petitioner filed an emergency motion to enforce, the immigration judge held a second hearing and granted bond. ICE then immediately invoked the automatic stay provision to bar the Petitioner's release. *Id.*, ECF No. 33 (Nov. 13, 2025) (second motion to enforce). Only after the second emergency motion was filed did ICE withdraw the automatic stay and permit release. *Id.*, ECF No. 34 (status update).

44. In many cases, IJs have failed to conduct a neutral, individualized bond hearing or to place the burden of proof as ordered by the habeas court. See *Ulloa Bueno v. Soto*, No. 26-CV-896, 2026 WL 509102, at *2 (D.N.J. Feb. 24, 2026) (granting immediate release after immigration judges *twice* failed to conduct a neutral bond hearing with the burden on DHS: "Continued detention in the face of repeated noncompliance with explicit judicial directives constitutes an ongoing deprivation of liberty without constitutionally sufficient process."); *Pedroso de Oliveira v. Freden*, No. 6:25-CV-6663 2025 WL 3554686, at *1 (W.D.N.Y. Dec. 11, 2025) (granting motion to enforce where "the IJ wholly failed to follow the Court's directions to require Respondents to bear the clear and convincing evidence burden of proof at the bond hearing, nor did the IJ even attempt to consider alternatives to detention."); *Mathon v. Searls*, 623 F. Supp. 3d 203, 208 (W.D.N.Y. 2022) (granting motion to enforce and ordering immediate release after the IJ did not hold DHS to his habeas court-ordered burden of proof or properly consider alternatives to detention, and thus "failed to provide him with the bond hearing to which he was constitutionally entitled"); *Akhemedov v. Pittman*, No. CV 25-13734 (MCA), 2026 WL

323404, at *4 (D.N.J. Feb. 6, 2026) (ordering second bond hearing because at the first court-ordered hearing, the IJ did not clearly put the burden of proof on DHS as the habeas court had required); *A.D. v. Oddo*, 3:25-cv-460-SLH-MPK, Dkt. No. 40 (W.D.P.A. Feb. 12, 2026) (granting motion to enforce and ordering immediate release where IJ did not provide correct interpreter, then incorrectly called the petitioner “evasive” in denying bond); *Said v. Noem*, 3:25-cv-938-MOC (W.D.N.C. Feb. 4, 2026) (granting TRO where immigration judge’s refusal to consider testimony and declarations, or let petitioner defend himself against unauthenticated assertion he had not complied with a prior condition of release, likely violated due process).

45. These failures include IJs denying bond in numerous cases without explanation or based on generic factors common to millions of people, such as merely being undocumented or having had any criminal contact, regardless of severity or proof of guilt.⁴ *See, e.g., Aguilon Fuentes v. Bondi*, No 1:26-cv-167-AJT-WEF (E.D.V.A. Feb. 24, 2026) (granting motion to enforce after immigration judge denied bond based on “flight risk” factors that were “so lacking in probative value” that they violated due process and would result in denying bond to most undocumented persons); *Lozhkina v. Noem*, 6:26-cv-3001-MDH (W.D.Mo. Feb. 10, 2026) (granting motion to enforce where immigration judge’s denial of bond based on flight risk lacked any record support and had “indications of predetermined outcome based on disagreement over [habeas court’s] previous order”); *Picado v. Hyde*, 26-cv-65-JJM-PAS (D.R.I. Feb. 9, 2026) (granting immediate release where Picado had “two bond hearings that two separate judges have found to be deficient,” including an immigration judge finding that an uncorroborated police report that Picado was speeding constituted clear and convincing evidence he was a danger to the community); *Santos v. Lowe*, No. 1:18-cv-1553, No. 2020 WL 4530728, at *3 (M.D. Pa. Aug. 6,

2020) (after court-ordered bond hearing for § 1226(c) prolonged detention claim, finding that “[m]echanistic reliance on factors that are common to all 1226(c) detainees will not suffice”); *Luciano-Jimenez v. Doll*, 543 F. Supp. 3d 69, 72 (M.D. Pa. 2021) (finding court-ordered bond hearing was not individualized and granting federal court hearing).

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the INA

46. Mr. Arango incorporates by reference the allegations of fact set forth in the preceding paragraphs as if fully set forth below.

47. 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.

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

SECOND CLAIM FOR RELIEF

Violation of the Bond Regulations

49. Mr. Arango incorporates by reference the allegations of fact set forth in preceding paragraphs.

50. In 1997, after Congress amended the INA through IIRIRA, EOIR and the former Immigration and Naturalization Service issued an interim rule to interpret and apply. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

51. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Mr. Arango.

52. The application of § 1225(b)(2) to Mr. Arango unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

THIRD CLAIM FOR RELIEF
Violation of Due Process

53. Mr. Arango repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth below.

54. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

55. Mr. Arango has a fundamental interest in liberty and being free from official restraint.

56. The government's detention of Mr. Arango without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates [his/her/their] right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Mr. Arango's removal or transfer outside the jurisdiction of this Court and the United States pending adjudication of this Petition;
- (3) Order Mr. Arango's immediate release;
- (4) In the alternative, Order the New York City Immigration Court to conduct a custody hearing at which DHS bears the burden of establishing through clear and convincing evidence that his continued detention is justified and the IJ considers alternatives to detention and Mr. Arango's ability to pay;
- (5) Order such other relief as this Court may deem just and proper.

Respectfully submitted,

Dated: New York, New York
April 3, 2026

/s/ Edgar Loy Fankbonner
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Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I submit this verification on behalf of petitioner Eliseo Antonio Arango Carmona because I am his attorney. I have discussed the circumstances and the history of Mr. Arango's immigration removal and detention matters with his immigration attorney, Ghenadie Petru Rusu, Esq., and with his Mr. Arango's spouse, Carolina Murillo, and I have reviewed the Record of Proceedings in Mr. Arango's removal and custody proceedings before New York City Immigration Court. On this basis, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and upon information and belief.

Dated: New York, New York
April 3, 2025

/s/ Edgar Loy Fankbonner
Edgar Loy Fankbonner
Attorney for Petitioner