Kathy Manley
Pro Bono Counsel for Petitioner

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

PATRICIO MEDINA SARAGUNA,

Petitioner,

v.

TODD LYONS, in his official capacity as Acting Director of the Immigration and Customs Enforcement;

MARKWAYNE MULLIN, in his official capacity as Secretary of the Department of Homeland Security;

TODD BLANCHE, in his official capacity as Acting Attorney General of the United States;

PHILIP RHONEY, in his capacity as Acting Field Office Director, Buffalo Field Office, Immigration and Customs Enforcement;

Director, Malta ICE Office;

Respondents.

Case No. 9:26-cv-770 AJB

VERIFIED PETITION FOR AN EMERGENCY WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Patricio Medina Saraguno ("Mr. Medina" or "Petitioner") is a 34 year old national of Ecuador who entered the United States in 2022 and was never encountered by ICE until his arrest on April 24, 2026.

2. Mr. Medina was detained by ICE in Cohoes, New York on April 24, 2026 at about 9:00am. Upon information and belief, he is currently in the physical custody of Respondents at the ICE Office in Malta at 11 Stonebreak Road, Malta, New York, which falls under the purview of the Buffalo Field Office for ICE. He now faces unlawful detention because the Department of Homeland Security ("DHS") and the Executive Office of Immigration Review ("EOIR") have concluded he is subject to mandatory detention.

3. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

4. On September 5, 2025, the Board of Immigration Appeals ("BIA" or "Board") issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond, and requires an individualized determination upon arrest. That statute expressly applies to people

who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

6. Petitioner's confinement is unlawful—as confirmed by a cascade of decisions, including within this District, that have rejected Respondents' interpretation of Section 1225(b)(2). Accordingly, he brings this petition seeking immediate and unconditional release. He also asks this Court to enjoin his transfer outside this District. *Local 1814, Intern. Longshoremen's Ass'n, AFL-CIO v. New York Shipping Ass'n, Inc.*, 965 F.2d 1224, 1237 (2nd Cir. 1992) ("Once the district court acquires jurisdiction over the subject matter of, and the parties to, the litigation, the All Writs Act [28 U.S.C. § 1651] authorizes a federal court to protect that jurisdiction" (cleaned up)); *Khalil v. Joyce*, No. 2:25-cv-1963 (MEF) (D.N.J.) Mar. 19, 2025), ECF No. 81 (enjoining transfer and removal of an immigration habeas petitioner under the All Writs Act). Alternatively, Petitioner respectfully asks the Court to issue an order to show cause and hold a hearing pursuant to 28 U.S.C. § 2243 on the expedited basis set forth in the statute, during which the Court should (1) find that Petitioner's detention violates federal law and (2) order his release or order a bond hearing.

JURISDICTION

7. This action arises under the Constitution of the United States and the INA, 8 U.S.C § 1101 *et seq.*

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); and 28 U.S.C § 1331 (federal question jurisdiction).

9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C § 2241 *et seq.*, the Declaratory Judgement Act, 28 U.S.C § 2201 *et seq.*, and the All Writs Act, 28 U.S.C § 1651.

VENUE

10. Venue is proper in the Northern District of New York because Mr. Medina is currently physically detained at the Malta, New York ICE office, which is located in this district. *See Rumsfeld v. Padilla*, 542 U.S. 426, 428 (2004) ("[T]he traditional rule has always been that habeas relief is issuable only in the district of confinement...").

PARTIES

11. Petitioner Patricio Medina Saraguno is an Ecuadoran national who was detained on April 24, 2026 in Cohoes, NY and is currently in Respondents' custody in Malta, NY.

12. Respondent Todd Lyons is the Acting Director of the DHS ICE. As such, Todd Lyons is responsible for Mr. Medina's detention and removal. He is sued in his official capacity.

13. Respondent Markwayne Mullin is the Secretary of the DHS. He is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Mr. Medina's present DHS detention. Mr. Mullin has ultimate custodial authority over Mr. Medina and is sued in his official capacity. Respondent DHS is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

14. Respondent Todd Blanche is the Acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review ("EOIR") and the immigration court system it operates is a component agency. He is sued in his official capacity. Respondent EOIR is the federal agency responsible for implementing and

enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

15. Respondent Philip Rhoney is the Acting Field Office Director of the Buffalo Ice Field Office. He is sued in his official capacity.

16. Respondent "Director (Name Unknown) of Malta ICE Office" is Mr. Medina's immediate custodian.

EXHAUSTION

17. Petitioner is not required to exhaust administrative remedies because doing so would be futile.

18. Exhaustion of administrative remedies in immigration detention cases is considered a prudential concern, rather than a statutory requirement. *Quintanilla v. Decker*, No. 21 Civ. 417 (GBD), 2021 WL 707062, at *2 (S.D.N.Y. Feb. 22, 2021) (citing *Joseph v. Decker*, No. 18 Civ. 2640 (RA), 2018 WL 6075067, at *5 (S.D.N.Y. Nov. 21, 2018)).

19. Such exhaustion may be excused when any of the following apply: "(1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) in certain instances a plaintiff has raised a substantial constitutional question." *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003).

20. Petitioner's case meets every requirement. Not only will he face irreparable injury if his detention continues, and not only does his petition raise substantial constitutional questions, but it is clear than an administrative appeal would be futile and unable to provide a genuine opportunity for adequate relief.

21. On September 5, 2025, the Board decided *Matter of Yajure Hurtado*, a

precedential decision finding that all noncitizens who, like Petitioner, have not been admitted to the United States are *per se* ineligible for bond, even if they are neither a danger nor a flight risk. 29 I. & N. Dec. 216 (BIA 2025). Thus, the BIA will be bound to find that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and deny him release. This is true although the overwhelming majority of district courts in the country that have heard a challenge to this reading of the statute has rejected it out of hand.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

22. Eriberto Medina Santiago is a 34 year-old Ecuadoran national who entered the United States in 2022 and was never encountered by ICE until his arrest today.

23. On April 24, 2026, Mr. Medina was detained by ICE in a traffic stop in Cohoes, New York. Upon information and belief there was no probable cause to stop the vehicle he was in.

LEGAL FRAMEWORK

Immigration Detention Framework

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

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

26. 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).

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

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

29. Detention under Section 1226(a) is discretionary, not mandatory; the government "may release the [noncitizen] on—(A) a bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole[.]" 8 U.S.C.§ 1226(a)(2)(A)–(B).20.

30. Under the Section 1226 framework, release is appropriate where a noncitizen "demonstrate[s] to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceeding." 8 C.F.R. § 1236.1(c)(8). *See Velesaca v. Decker*, 458 F. Supp. 3d 224, 241 (S.D.N.Y. 2020) ("8 U.S.C. § 1226(a) and its implementing regulations require ICE officials to make an individualized custody determination"); *see also Lopez Benitez v. Francis*, No. 25-CV-5937,2025 WL 2371588, at *20 (S.D.N.Y. Aug. 13, 2025). If, after an individualized consideration, ICE chooses to detain the noncitizen pursuant to Section 1226(a) pending removal proceedings, the individual may ask for a bond redetermination hearing before the immigration judge. 8 C.F.R. §1003.19.

31. In contrast with Section 1226, which applies to "certain [noncitizens] already in the country," *Jennings v. Rodriguez*, 583 U.S. 281, 289 (emphasis added), Section 1225(b) governs detention of noncitizens seeking entry into the United States (i.e., "applicants for

admission"). In other words, Section 1225(b) mandates detention for those noncitizens subject to it, and they are not eligible to be considered for release.

32. Section 1225(b)(2)(A) applies to a narrower subset of applicants for admission. It provides that, "if the examining officer determines that a[] [noncitizen] *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the [noncitizen] *shall be detained* for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A) (emphasis added).

33. For decades after the enactment of detention provisions at § 1226(a) and § 1225(b)(2), people who entered the country without inspection but who were already in the United States at the time of an ICE arrest were detained under § 1226(a) rather than § 1225(b)(2). *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). As the Supreme Court has made clear, "Section 1226(a) sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of an [noncitizen] 'pending a decision on whether the [noncitizen] is to be removed from the United States.'" *Jennings*, 583 U.S. at 287-89.

34. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy[1] that rejected well-established understanding of the statutory framework and reversed decades of practice. The policy claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A), regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

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[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

35. 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 entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

36. Since Respondents adopted their new policy, the vast majority of district courts that have confronted this issue have found that Section 1226(a) applies in these circumstances, and that the government's current position belies the text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice. For examples in this District, see, i.e., *Mendez v. Field Office Director, ICE,* 2026 U.S. Dist. LEXIS 53260 (NDNY 2026); *Olivares v. ICE Custodian*, 2026 U.S. Dist. LEXIS 49858 (NDNY 2026); *Aldaz v. ICE Field Off. Dir.*, 2026 U.S. Dist. LEXIS 75580 (NDNY 2026); *Hassan v. Bondi*, 2026 U.S. Dist. LEXIS 70976 (NDNY 2026); *Perez v. Bondi*, 2026 U.S. Dist. LEXIS 75662 (NDNY 2026); *Gaspar v. Akshar*, 2026 U.S. Dist. LEXIS 51783 (NDNY 2026.) See also *DA Cunha v. Freden*, 2025 U.S. Dist. LEXIS 231809 (WDNY 2025); *Mercado v. Francis*, 2025 U.S. Dist. LEXIS 232876 (SDNY 2025) (Appendix A, citing 350 cases across the country)

37. Courts have rejected DHS's and EOIR's new interpretation because it defies the INA. The government's recently adopted position also ignores the text of § 1225(b)(2). For § 1225(b)(2) to apply, an examining immigration officer must make three separate determinations: that a person is 1) an applicant for admission; 2) seeking admission; and 3) not clearly and beyond a doubt entitled to be admitted. Section 1225(a)(1) defines an "applicant for admission" as [a noncitizen] present in the United States who has not been admitted or who arrives in the United States." The term "seeking admission . . . necessarily implies some sort of present-tense action." *Medina v. Hyde*, 2025 WL 2084238, at *6 (DMA 2025). The government's

interpretation that all inadmissible individuals are "seeking admission" within the meaning of § 1225(b) renders the meaning of the term identical to the statutorily defined term "applicant for admission." Such an interpretation violates rule of surplusage and negates the plain meaning of text.

38. The legislative history further shows that § 1226(a) was intended to "restate[] the [then-]current provisions in section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States." *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (WDWA 2025) (quoting H.R. Rep. No. 104-469, at 229 (1996)). Indeed, shortly after IIRIRA's enactment, the former Immigration and Naturalization Service and the Executive Office for Immigration Review ("EOIR," which houses the Immigration Courts and BIA) issued an interim rule to implement the statute that expressly stated: "Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

39. Thus, for almost 30 years, all participants in the immigration system have understood that people arrested inside the United States generally fall within § 1226 for detention purposes and therefore, unless subject to bars not applicable here, are required to receive a bond hearing upon request—even if they initially entered the country without permission. Such a longstanding and consistent interpretation "is powerful evidence that interpreting the Act in [this] way is natural and reasonable." *Abramski v. United States*, 573 U.S. 169, 203 (2014) (Scalia, J., dissenting); *see also Bankamerica Corp. v. United States*, 462 U.S. 122, 130 (1983) (relying in part on "over 60 years" of government interpretation and practice to reject government's new proposed interpretation of the law at issue).

40. The LRA amendments to § 1226 that occurred recently, § 119, 139 Stat. 3, also confirmed widespread understanding that individuals not admitted or paroled were still detained pursuant to § 1226(a) if they were detained while already in the United States. Congress expressly included inadmissible individuals who have been convicted of certain crimes as subject to mandatory detention under § 1226(c)(1)(E). Again, if every noncitizen who was present without being admitted was already subject to mandatory detention under § 1225(b)(2), Congress would have had no reason to pass an entirely new provision in order to make those individual subject to mandatory detention under § 1226(c)(1)(E) if they committed one of the listed crimes.

41. Petitioner was arrested after more than two years of continuous presence in the United States, not while "seeking admission." Further, his pending asylum application is not legally considered a process of "seeking admission." *See Lopez Benitez v. Francis*, 2025 WL 2371588, at *6 n.7 (SDNY 2025); *Garcia-Mendez v. Lynch*, 788 F.3d. 1058 (9th Cir. 2015).

42. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended. His detention is governed by § 1226(a), and his continued detention under § 1225(b)(2) is in excess of statutory authority and *ultra vires.*

Noncitizens' Procedural Due Process Rights

43. The Due Process Clause of the Fifth Amendment entitles noncitizens to due process of law. *Reno v. Flores*, 507 U.S. 292, 306 (1993). As clearly enunciated by the Supreme Court, the protection of the Due Process Clause applies to noncitizens in the United States "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001) (citations omitted).

44. Stated simply, "while [DHS] might want to enforce this country's immigration

laws efficiently, it cannot do that at the expense of fairness and due process." *Ceesay v. Kurzdorfer*, 2025 WL 1284720, at *1 (WDNY 2025) (citing *United States ex. rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954)).

45. Further, noncitizens are entitled to procedural due process protections, even in the face of policy shifts between administrations. While a "new administration can change the rules . . . it cannot change them and make up new rules as it goes along when the new rules abridge constitutional rights." *Velasquez v. Kurzdorfer*, 2025 WL 1953796, at *14 (WDNY 2025).

46. In the context of immigration detention due process claims, the Second Circuit has applied the three-factor balancing test set forth in *Mathews v. Eldridge* to determine what due process requires. These factors are: (i) "the private interest that will be affected by the official action"; (ii) "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 (iii) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020).

47. In light of a noncitizen's due process rights and the procedural rights conferred by Section 1226(a) and the implementing regulations, a decision to detain a noncitizen requires an individualized determination as to the noncitizen's risk of flight and danger to the community. *See Velesaca v. Decker*, 458 F. Supp. 3d 224, 235 (SDNY 2020); *Lopez Benitez*, 2025 WL 2371588, at *10; *Kelly v. Almodovar*, 2025 WL 2381591, at *3 (SDNY 2025).

48. Under the *Mathews* rubric, freedom from imprisonment, physical restraint, or other forms of government custody is "the most elemental of liberty interests." *Hamdi v.*

Rumsfeld, 542 U.S. 507, 529 (2004); *Lopez Benitez*, 2025 WL 2371588, at *9 ("[Petitioner] invokes the most significant liberty interest there is—the interest in being free from imprisonment") (quoting *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)) (citing *Hamdi*, 542 U.S. at 529); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (NDCA 2019) (noncitizens in immigration custody had an arguably even greater liberty interest in remaining out of detention than criminal parolees who required due process protection).

49. With respect to the second *Mathews* factor, given the strong liberty interest at stake, the Fifth Amendment's guarantee of due process requires at least some notice and an opportunity to be heard before a person can be placed in immigration detention. *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025). Further, due process requires that "notice must be afforded within a reasonable time and in such manner as will allow [noncitizens] to actually seek . . . relief[.]" *Id.*

50. For the third *Mathews* factor, "the Attorney General's discretion to detain individuals under 8 U.S.C. § 1226(a) is valid where it advances a legitimate government purpose." *Velasco Lopez*, 978 F.3d at 854. The recognized government interests in immigration detention are "ensuring the appearance of [noncitizens] at future immigration proceedings" and "preventing danger to the community." *Zadvydas*, 533 U.S. at 690. Absent evidence in the record that a noncitizen is dangerous, and in situations when the noncitizen has appeared for immigration proceedings, district courts have held that the government cannot demonstrate a significant interest in their detention. *See Lopez Benitez*, 2025 WL 2371588, at *13; *Valdez*, 2025 WL 1707737, at *4 (SDNY 2025).

51. Recent decisions by federal courts in various jurisdictions confirm that due process requires the government to make individualized determinations to detain noncitizens and

give them notice and a meaningful opportunity to be heard when challenging their detention. Further, if a noncitizen does not receive individualized consideration pre-deprivation, his due process rights are irrevocably violated, and no amount of procedure provided post-detention can remedy that violation. This is particularly clear where, as in the instant case, the government, by releasing Petitioner in 2023 already made a determination that he was not a flight risk or a danger - no change of circumstance justifies re-detention. *See, e.g.*, *Lopez Benitez*, 2025 WL 2371588, at *14 ("Given the nature of the constitutional violation Mr. Lopez Benitez sustained here—i.e., Respondents' failure to conduct any kind of individualized assessment before detaining him—any post-deprivation review by an immigration judge would be inadequate.")

52. As a result, many courts have ordered a noncitizen's immediate release where their pre-detention due process rights have been violated. Here, immediate release is appropriate because Respondents have not—and cannot—show that they conducted an individualized determination regarding Petitioner before ?re-detaining him on April 18, 2026. *Cuy Comes v. DeLeon*, 2025 WL 3206491, at *6 (SDNY 2025) *Perez Velasquez v. Noem*, 2025 WL 3707526, at *4 (SDNY 2025); *Campos v. Deleon*, 2025 WL 3514120, at *2 (SDNY 2025) (collecting cases).

53. Respondents' reliance on Section 1225(b)(2)'s mandatory detention provision establishes their decision to forgo any evaluation of whether Petitioner's circumstances would otherwise warrant detention under Section 1226, which provides the sole lawful authority for detaining individuals residing in the U.S.

54. In the alternative, Petitioner seeks at a minimum a bond hearing at which Respondents bear the burden of justifying his continued detention by clear and convincing evidence. *See Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020).

Fourth Amendment

55. The Fourth Amendment bars arrest without probable cause or a proper warrant. *See, e.g., Gamez Lira v. Noem*, 2025 WL 2581710, at *3–4 (DNM 2025) (finding habeas petitioner's Fourth Amendment claim likely to succeed in showing arrest and continued detention unconstitutional when Respondents failed to make a probable cause determination before re-arresting and detaining noncitizen in removal proceedings). In this case, upon information and belief, Petitioner was arrested only because he was in a vehicle stopped by ICE, and ICE then decided to detain him and others unlawfully.

56. The appropriate remedy for this violation is release from detention. *See, e.g., Rosado v. Figueroa,* 2025 US Dist. LEXIS 156344, at *51-53 (DAZ 2025), *report and recommendation adopted*, 2025 U.S. Dist. LEXIS 156336 (ordering habeas petitioner's "release from detention . . . granted because her Fourth Amendment rights were violated.").

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION:

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a) AND IMPLEMENTING REGULATIONS

57. Petitioner realleges and incorporates by reference each and every allegation contained above.

58. Petitioner was, at the time of arrest and detention by Respondents, *not* "seeking admission" to the United States. He was already residing in the United States. Section 1226 governs the detention of individuals residing within the United States, like Petitioner, and implements a discretionary detention regime with the opportunity for release.

59. Because Petitioner was not "seeking admission," he is not lawfully detained under 8 U.S.C. § 1225(b)(2) and his detention pursuant to that statute is *ultra vires* and not lawful.

60. Rather, the proper statutory interpretation of the INA, consistent with decades of practice, is that an individual in Petitioner's circumstances who is placed into removal proceedings is detained under 8 U.S.C. § 1226(a.) Because Petitioner detention should be governed by Section 1226, the application of the mandatory detention statute, 8 U.S.C. §1225(b), to Petitioner is unlawful under the Immigration and Nationality Act.

SECOND CAUSE OF ACTION:

ICE'S FAILURE TO EXERCISE ITS DISCRETION VIOLATES DUE PROCESS AND THE IMMIGRATION AND NATIONALITY ACT

U.S. CONST. AMEND. V; 8 U.S.C. § 1226(a)

61. Petitioner realleges and incorporates by reference each and every allegation contained above.

62. Because Petitioner was detained by ICE under a discretionary statute, 8 U.S.C. § 1226(a), the agency was required to exercise its discretion in deciding whether or not to detain him. However, because ICE arrested and detained Petitioner under 8 U.S.C. § 1225(b)(2), the agency necessarily failed to exercise its discretion.

63. By refusing to exercise any discretion at all in his case, ICE denied Petitioner the process that he was due under the discretionary detention statute, violating both the statute itself and the Due Process Clause of the Constitution.

THIRD CAUSE OF ACTION:

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A)

64. Petitioner realleges and incorporates by reference each and every allegation contained above.

65. The Administrative Procedure Act prohibits agency action which is arbitrary and capricious or contrary to law. 5 U.S.C. § 706(2)(A).

66. ICE officers' authority to conduct warrantless arrests is prescribed in 8 U.S.C. 1357(a)(2). That statute requires that officers have "reason to believe" a person is in the U.S. in violation of laws *and* "is likely to escape before a warrant can be obtained for his arrest." That assessment must be individualized.

67. On information and belief, no individualized assessment of flight risk was conducted for petitioner and Respondents did not have probable cause to believe he was likely to escape before a warrant could be obtained.

68. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). An agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 588 U.S. 752, 773 (2019) (citation omitted).

69. Respondents' decision to detain Petitioner and suddenly subject him to mandatory detention under Section 1225(b)(2) irrespective Petitioner's individual circumstances, is arbitrary and capricious and contrary to law.

FOURTH CAUSE OF ACTION

VIOLATION OF THE FOURTH AMENDMENT TO THE CONSTITUTION (FREEDOM FROM UNLAWFUL STOP AND SEIZURE)

70. Petitioner realleges and incorporates by reference each and every allegation contained above.

71. The Fourth Amendment protects "the right of the people to be secure in their persons . . . against unreasonable searches and seizures" and establishes that "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing . . . the persons or things to be seized." U.S. Const. amend. IV.

72. Upon information and belief, Petitioner's detention lacked a proper basis. Petitioner's detention violates the Fourth Amendment because he was arrested without probable cause or a proper warrant. *See, e.g., Gamez Lira v. Noem*, No. 1:25-CV-00855, 2025 WL 2581710, at *3–4 (D.N.M. Sept. 5, 2025) (finding habeas petitioner's Fourth Amendment claim likely to succeed in showing arrest and continued detention unconstitutional when Respondents failed to make a probable cause determination before re-arresting and detaining noncitizen in removal proceedings).

73. The appropriate remedy for this violation is release from detention. *See, e.g., Rosado*, 2025 WL 2337099, at *18, *report and recommendation adopted*, 2025 WL 2349133 (ordering habeas petitioner's "release from detention . . . granted because her Fourth Amendment rights were violated.").

PRAYER FOR RELIEF

WHEREFORE, Mr. Medina requests that this Court:

a. Exercise jurisdiction over this matter;

b. Enjoin Mr. Medina's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;

c. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner from custody without any additional restraints on his liberty (as occurred in *Mendez v.*

Field Off. Dir., United States Immigr. & Customs Enf't, 2026 U.S. Dist. LEXIS 53260 (NDNY 2026.), and enjoining any re-detention without a change of circumstances;

d. In the alternative, the 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.

e. Award Petitioner costs and reasonable attorneys' fees; and

f. Order such other relief as this Court may deem just and proper.

Dated: April 24, 2026

s/Kathy Manley
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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I have discussed with the Petitioner and/or his partner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: April 24, 2026

Respectfully submitted,

s/Kathy Manley
Counsel for Petitioner
Bar Roll Number 3935467
26 Dinmore Road
Selkirk, NY 12158
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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system. I will furthermore mail a copy by USPS Certified Priority Mail to each of the following individuals:

Todd Lyons
Acting Director, ICE
500 12th St. SW
Washington, DC 20536

Markwayne Mullin
Secretary of the U.S. DHS
c/o Office of the General Counsel
2707 Martin Luther King Jr. Ave., SE
Washington, DC 20528-0485

Todd Blanche
Acting Attorney General of the United States

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Philip Rhoney, Acting Field Office Director, Buffalo Field Office,
Immigration and Customs Enforcement
250 Delaware Avenue – 7th floor
Buffalo, NY 14202

Director, Malta ICE Office
11 Stonebreak Road
Malta, NY 12020

Dated: April 24 2026

s/Kathy Manley
Pro Bono Counsel for Petitioner
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