

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

FABRICIO ISMAEL CAJAMARCA-JANZA,

Petitioner,

v.

LUIS SOTO, in his official capacity as Director/Warden of Delaney Hall Detention Facility; ARTHUR WILSON, in his official capacity as Interim Acting Field Office Director for the Newark Field Office for Immigration and Customs Enforcement; DAVID VENTURELLA, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; MARK WAYNE MULLIN, in his official capacity as Secretary of Homeland Security; and TODD BLANCHE, in his official capacity as Acting U.S. Attorney General,

Respondents.

Case No. _____

**EMERGENCY PETITION FOR
WRIT OF HABEAS CORPUS**

*(Action requesting immediate release
and emergent relief pursuant to
28 U.S.C. § 2241 and § 2243)*

INTRODUCTION

1. Petitioner Fabricio Ismael Cajamarca-Yanza (“Mr. Cajamarca” or “Petitioner”) is in the physical custody of Respondents at the Delaney Hall Detention Facility in Newark, New Jersey. He now faces unlawful detention because the Department of Homeland Security (“DHS”) and the Executive Office for Immigration Review (“EOIR”) have concluded he is subject to mandatory detention.
2. Mr. Cajamarca is charged with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I) as a noncitizen not in possession of a valid immigrant visa. Upon information and belief, he is also being treated as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for having allegedly entered the United States without admission or inspection.

3. Based on these allegations in Mr. Cajamarca's removal proceedings, DHS has denied him release from immigration custody, consistent with a DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement ("ICE") employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.
4. Similarly, 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. Mr. Cajamarca's detention on this basis violates the plain language of the Immigration and Nationality Act ("INA"). Section 1225(b)(2)(A) does not apply to individuals like Mr. Cajamarca 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 Mr. Cajamarca, are charged as inadmissible for having entered the United States without inspection.
6. Mr. Cajamarca'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, Petitioner brings this petition seeking immediate and unconditional release.
7. Petitioner also asks this Court to enjoin 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 (2d 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)). Such relief is particularly urgent here, where, upon information and belief, Respondents are pressuring detained individuals at Delaney

Hall to sign voluntary departure documents and effecting transfers outside New York and New Jersey.

8. 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.

PARTIES

9. Petitioner Fabricio Ismael Cajamarca-Yanza is a young man who, upon information and belief, has resided in the New York metropolitan area continuously since approximately April 2021. ICE arrested him on or about May 13, 2026 in College Point, Queens, New York. He is currently detained at the Delaney Hall Detention Facility located in Newark, New Jersey.
10. Respondent Luis Soto is named in his official capacity as the Director/Warden of the Delaney Hall Detention Facility, where Petitioner is presently detained. As Director/Warden, he has day-to-day custody of Petitioner and is an immediate custodian of Petitioner within the meaning of 28 U.S.C. § 2241.
11. Respondent Arthur Wilson is named in his official capacity as the Interim Acting Field Office Director for the Newark Field Office for U.S. Immigration and Customs Enforcement ("ICE") within the United States Department of Homeland Security ("DHS"). Mr. Wilson's duties include oversight of detention operations at the Delaney Hall Detention Facility in Newark, New Jersey. In his official capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations, and is an immediate custodian of Petitioner.
12. Respondent David Venturella is named in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. In his official capacity, Mr. Venturella oversees the operations of ICE, including the detention of noncitizens within the District of New Jersey, and is responsible for the policies under which Petitioner is being detained. He is a legal custodian of Petitioner.

13. Respondent Markwayne Mullin is named in his official capacity as the Secretary of Homeland Security. In his official capacity, Secretary Mullin is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a); routinely transacts business in the District of New Jersey; is legally responsible for pursuing any effort to remove Petitioner; and is a legal custodian of Petitioner. His address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.
14. Respondent Todd Blanche is named in his official capacity as the Acting Attorney General of the United States. In his official capacity, Acting Attorney General Blanche is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review (“EOIR”), pursuant to 8 U.S.C. § 1103(g). He routinely transacts business in the District of New Jersey and is legally responsible for administering Petitioner’s removal and custody proceedings and for the standards used in those proceedings. As such, he is a legal custodian of Petitioner. His office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

JURISDICTION

15. Federal district courts have jurisdiction to hear habeas corpus petitions by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Lomeu v. Soto*, No. 25-CV-16589, 2025 WL 2981296, at *3 (D.N.J. Oct. 23, 2025) (Padin, J.) (citing *Demore*, 538 U.S. at 517) (“The Court has jurisdiction under 28 U.S.C. § 2241(c)(3) to grant a writ of habeas corpus to a person in custody in violation of the Constitution, laws, or treaties of the United States”); *Contreras Maldonado v. Cabezas*, No. 25-CV-13004, 2025 WL 2985256, at *2 (D.N.J. Oct. 23, 2025) (Semper, J.) (similar); *Soto v. Soto*, No. 25-CV-16200, 2025 WL 2976572, at *2 (D.N.J. Oct. 22, 2025) (O’Hearn, J.) (similar); *Rivera Zumba v. Bondi*, No. 25-CV-14626, 2025 WL 2753496, at *3 (D.N.J. Sept. 26, 2025) (Hayden, J.) (similar).

16. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States Constitution. This Court has authority to grant declaratory and injunctive relief. 28 U.S.C. § 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651, and the Declaratory Judgment Act, 28 U.S.C. § 2201.
17. Supreme Court and Third Circuit precedent establishes that no exhaustion is required for these claims. Due process claims, like those brought here, are “generally exempt from the exhaustion requirement because the [Board of Immigration Appeals] does not have jurisdiction to adjudicate constitutional issues.” *Mudric v. Att’y Gen. of the United States*, 469 F.3d 94, 98 (3d Cir. 2006); *see Carr v. Saul*, 593 U.S. 83, 92, 93, 96 (2021) (noting that “agency adjudications are generally ill suited to address structural constitutional challenges,” that “[i]t makes little sense to require litigants to present claims to adjudicators who are powerless to grant the relief requested,” and holding that it was legal error to impose an administrative exhaustion requirement on constitutional claims). Further, because Petitioner challenges his detention under Section 1225(b)(2), any attempt to exhaust administrative remedies would be futile. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 218 (BIA 2025) (holding that “an Immigration Judge lacks authority to hear a bond request” filed by a noncitizen held in mandatory detention under Section 1225(b)(2)); *see also, e.g., Mosqueda v. Noem*, No. 25-CV-2304, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (administrative challenge futile in light of *Yajure Hurtado*). Accordingly, the Court can exercise jurisdiction regardless of whether Petitioner has exhausted administrative remedies.

VENUE

18. Venue is proper in this Court because Petitioner is physically confined within the District of New Jersey at the Delaney Hall Detention Facility in Newark, New Jersey. *See Spencer v. Kemna*, 523 U.S. 1, 7 (1998) (finding that venue is determined at the time a habeas petition is filed).

FACTS

19. Petitioner Fabricio Cajamarca is a young man who has resided in the New York metropolitan area, primarily in Queens, New York, since on or about April 2021. He lives with his [REDACTED] brother, [REDACTED] [REDACTED] and with his fifty-six-year-old father, who is incapacitated and was recently released from the hospital. Mr. Cajamarca is the primary economic and physical support for his household.
20. Upon information and belief, Petitioner's first entry into the United States occurred on or about September 18, 2020, near the southern border. He was apprehended by immigration authorities on or about September 23, 2020. EOIR records reflect that, following his apprehension, removal proceedings were commenced against him under 8 U.S.C. § 1229a, with a Notice to Appear dated September 22, 2020, charging him as inadmissible under INA § 212(a)(7)(A)(i)(I), 8 U.S.C. § 1182(a)(7)(A)(i)(I), as a noncitizen not in possession of a valid immigrant visa. EOIR records reflect that he was placed in the Migrant Protection Protocols ("MPP") docket assigned to the El Paso, Texas immigration court, and released from custody on February 24, 2021.
21. Petitioner's account, as related through family and community members, is that he was later removed or otherwise turned back to Mexico in or around December 2020, attempted re-entry in April 2021, was again removed or turned back to Mexico, and ultimately re-entered the United States in April 2021. The precise nature of any prior removals is unclear, and records appear inconsistent regarding whether any formal order of removal was ever entered against Petitioner. Petitioner's EOIR records currently reflect that his removal proceedings remain pending, with no decision having been entered and no appeal having been taken to the BIA.
22. Since his return to the United States in or about April 2021, Mr. Cajamarca has lived continuously in Queens, New York. He has worked to support his ailing father and his younger brother. At the time of his arrest in May 2026, he had recently started a new job in College Point, Queens after two months of unemployment. May 13, 2026 was his third day at the new job site.

23. On Wednesday, May 13, 2026, Mr. Cajamarca finished his work shift at his new job site in College Point, Queens, New York. He entered his vehicle and prepared to drive home. As he was leaving the worksite, approximately three ICE vehicles surrounded his car. Approximately six ICE agents approached. Without presenting any warrant to Mr. Cajamarca, without identifying any individualized basis for his seizure, and without questioning him, the agents broke the window of his vehicle and dragged him out. Upon information and belief, two other persons were apprehended in the same operation in College Point.
24. Upon information and belief, Mr. Cajamarca was targeted for arrest, at least in part, because his vehicle bore out-of-state license plates, a factor that has been associated with a pattern of recent enforcement activity in his residential neighborhood near Corona Avenue and 99th Street in Queens, New York, where multiple vehicle-based ICE operations have reportedly been conducted since approximately December 2025. Mr. Cajamarca was not engaged in any criminal activity at the time of his seizure. He has no known criminal arrests, citations, or convictions of any kind.
25. Following his seizure, Petitioner was transferred to Respondents' custody at the Delaney Hall Detention Facility in Newark, New Jersey, where he remains detained. Upon information and belief, ICE officers at Delaney Hall have pressured Petitioner to sign documents reflecting his agreement to voluntary departure. There is also reason to believe Petitioner is at imminent risk of transfer outside of New York and New Jersey, as detained individuals at Delaney Hall have reportedly been pressured to sign documents and have been transferred to facilities far from their families and counsel.
26. DHS has placed Petitioner in removal proceedings before EOIR pursuant to 8 U.S.C. § 1229a. The charging document of record lists Petitioner as inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I). Upon information and belief, DHS is also treating Petitioner as subject to 8 U.S.C. § 1182(a)(6)(A)(i), and on that basis claims authority to detain him on a mandatory basis under 8 U.S.C. § 1225(b)(2)(A).
27. Petitioner is not a flight risk and is not a danger to the community. He has lived openly in Queens, New York since 2021. He has known immigration proceedings on file, has a fixed

residence, supports his disabled father and minor brother, and has no criminal history of any kind. Family members and members of his community are prepared to assist him in complying with all conditions of release.

28. Petitioner has not previously had a bond hearing in immigration court. Upon information and belief, no bond hearing has been scheduled. Pursuant to *Matter of Yajure Hurtado*, the immigration judge would be unable to consider Petitioner's bond request because DHS has classified him as subject to mandatory detention under 8 U.S.C. § 1225(b)(2).
29. As a result, Petitioner remains in detention. Without relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community. His incapacitated father has no other adult in the household capable of providing for him; his minor brother is at risk of being left without a caretaker; and the family's economic stability depends on Mr. Cajamarca's presence.

LEGAL FRAMEWORK

I. The Government's Statutory Authority to Detain Noncitizens

30. The two primary provisions of the United States Code that govern the detention of noncitizens prior to an order of removal are 8 U.S.C. § 1226(a) and 8 U.S.C. § 1225(b).
31. Section 1226(a) governs the detention of most noncitizens who are already in the United States and subject to formal removal proceedings before an immigration court under 8 U.S.C. § 1229a. 8 U.S.C. § 1226(a); *see also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (“[U.S. immigration law] authorizes the Government to detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings under §§ 1226(a) and (c).”).
32. 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.

33. 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).
34. 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).
35. 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.
36. In contrast with Section 1226, which applies to “certain [noncitizens] *already in the country*,” *Jennings*, 583 U.S. at 289, Section 1225(b) governs detention of noncitizens seeking entry into the United States (i.e., “applicants for admission”). Section 1225(b) mandates detention for those noncitizens subject to it, and they are not eligible to be considered for release.
37. 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).
38. As courts in this District and countless others have almost uniformly held, Section 1225(b)(2)(A) does not apply to noncitizens, like Petitioner, who are detained while living in the United States. *Castillo v. Lyons*, No. 25-CV-16219 (MEF), 2025 WL 2940990, at *1 (D.N.J. Oct. 10, 2025); *Lomeu*, 2025 WL 2981296, at *8 (holding that the detention of a noncitizen who has resided in the United States for years under Section 1225(b) “is incompatible with the overall statutory scheme” and “completely ignore[s] the plain and

longstanding distinction in U.S. immigration law between those noncitizens who are entering the country and those who remain after entering.”) (citing *Jennings*, 583 U.S. at 286); *Contreras Maldonado*, 2025 WL 2985256, at *3–6 (similar and collecting cases); *Soto*, 2025 WL 2976572, at *6–7 (similar); *Zumba*, 2025 WL 2753496, at *6–10.

39. Many courts have ultimately decided that when Section 1225(b)(2) is applied unlawfully, release is the most appropriate remedy. *Lopez Benitez*, 2025 WL 2371588 at *15 (concluding that detention while waiting for a bond hearing is “inadequate to address the denial of due process that Mr. Lopez Benitez was entitled to in the first instance”); *Chipantiza-Sisalema v. Francis*, No. 25-CV-5528, 2025 WL 1927931, at *4 (S.D.N.Y. July 13, 2025) (finding that a custody redetermination hearing does not cure any constitutional violations and that such a remedy “rings hollow”); *Artiga v. Genalo*, No. 25-CV-5208 (OEM), 2025 WL 2829434, at *9 (E.D.N.Y. Oct. 5, 2025); *J.U. v. Maldonado*, No. 25-CV-04836, 2025 WL 2772765, at *3 (E.D.N.Y. Sept. 29, 2025).

II. Noncitizens’ Procedural Due Process Rights

40. 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).
41. 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*, No. 25-CV-267, 2025 WL 1284720, at *1 (W.D.N.Y. May 2, 2025) (citing *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954)).
42. 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*, No. 25-CV-493, 2025 WL 1953796, at *14 (W.D.N.Y. Jul. 16, 2025).

43. In the context of immigration detention due process claims, the Third Circuit has applied the three-factor balancing test set forth in *Mathews v. Eldridge* to determine what due process requires. *Gayle v. Warden Monmouth Cnty. Corr. Inst.*, 12 F.4th 321, 331–32 (3d Cir. 2021) (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)); *see also Guerrero-Sanchez v. Warden York Cnty. Prison*, 905 F.3d 208, 225 (3d Cir. 2018), *abrogated on statutory grounds by Johnson v. Arteaga-Martinez*, 596 U.S. 573 (2022) (applying a *Mathews* test “to identify the specific dictates of due process” for an immigration habeas petitioner).
44. 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.” *Id.*
45. 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, e.g., Contreras Maldonado*, 2025 WL 2985256, at *6 (“Petitioner’s due process rights were violated when she was detained without an individualized determination under § 1226(a) and its implementing regulations”); *K.A. v. Green*, No. 18-3436, 2018 WL 4676049, at *2–3 (D.N.J. Sep. 28, 2018); *Velesaca v. Decker*, 458 F. Supp. 3d 224, 235 (S.D.N.Y. 2020); *Lopez Benitez*, 2025 WL 2371588, at *10.
46. 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)).
47. 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.*

48. 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.
49. 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. *See Contreras Maldonado*, 2025 WL 2985256, *5–6; *Lopez Benitez*, 2025 WL 2371588, at *13 (“Respondents’ ongoing detention of [petitioner] with no process at all, much less prior notice, no showing of changed circumstances, or opportunity to respond, violates his due process rights.”) (citations omitted).
50. 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. *See, e.g., Contreras Maldonado*, 2025 WL 2985256, at *5–6 (“Respondents’ post-hoc reasoning . . . does not rectify the lack of individualized determination at the time of arrest”); *Lopez Benitez*, 2025 WL 2371588, at *14 (“Given the nature of the constitutional violation . . . any post-deprivation review by an immigration judge would be inadequate.”); *Chipantiza-Sisalema*, 2025 WL 1927931, at *3 (a bond hearing “is no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause.”) (citation modified).

51. As a result, courts have ordered a noncitizen's immediate release where their pre-detention due process rights have been violated. *See, e.g., M.M. v. Rokosky*, No. 25-18547 (MCA), 2025 WL 3687941, at *2 (D.N.J. Dec. 19, 2025) (ordering immediate release as remedy); *Guaman Lliguicota v. Cabezas*, No. CV 25-17216 (JKS), 2025 WL 3496300, at *2 (D.N.J. Dec. 5, 2025) (ordering immediate release as remedy); *Contreras Maldonado*, 2025 WL 2985256, at *7; *Rivera Zumba*, 2025 WL 2753496, at *11; *Lomeu*, 2025 WL 2981296, at *9; *Soto*, 2025 WL 2976572, at *9.
52. Here, immediate release is appropriate because Respondents have not—and cannot—show that they conducted an individualized determination regarding Petitioner before his summary arrest. Respondents' reliance on Section 1225(b)(2)'s mandatory detention provision establishes their decision to forego 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. Indeed, in what is becoming a routine litigation strategy, Respondents will likely advance a two-part argument to perpetuate their unlawful detention scheme: first, they will claim Petitioner's detention is lawful under Section 1225(b)(2), and then, as a fallback, acknowledge that Section 1226 applies but that Petitioner should seek an administrative bond hearing. All the while, Petitioner will likely remain in detention awaiting such a hearing and for any administrative appellate process to run its course. Immediate release is the only remedy that would end this game of bait-and-switch.
53. 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 German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 214 (3d Cir. 2020); *Guerrero-Sanchez v. Warden York County Prison*, 905 F.3d 208, 224 (3d Cir. 2018), abrogated on other grounds by *Johnson v. Arteaga-Martinez*, 596 U.S. 573 (2022). Although Petitioner submits this is insufficient to vindicate the immense due-process violation inherent in his detention, a bond hearing is a mechanism to mitigate his continued unlawful confinement.

III. Timeline Pursuant to 28 U.S.C. § 2243

54. Courts considering petitions for writs of habeas corpus are directed to either issue a writ “forthwith,” or to direct the respondent to show cause why the writ should not be granted within three days, or, with good cause, within twenty days. 28 U.S.C. § 2243.
55. Once the government has responded, the statute directs the Court to schedule a hearing on the petition “not more than five days after the return unless for good cause additional time is allowed.” *Id.*
56. Because Petitioner’s liberty remains heavily burdened during his continued detention, Petitioner asks the Court to adhere to the clear schedule set forth in § 2243 and order the Government to show cause within three days as to why the Petition should not be granted.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION (Failure to Conduct an Individualized Pre-Detention Assessment)

57. Petitioner realleges and incorporates by reference each and every allegation contained above.
58. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).
59. Accordingly, Petitioner was entitled to due process of law *in advance* of any detention. *Cf. Contreras Maldonado*, 2025 WL 2985256, at *5.
60. The Third Circuit applies the *Mathews v. Eldridge* factors to determine what due process requires in the context of immigration detention, balancing the private interest affected, the risk of erroneous deprivation, and the government’s interest. *Gayle*, 12 F.4th at 331 (citing *Mathews*, 424 U.S. at 335).

61. Petitioner's private interests here are strong: he has been deprived of his liberty. Detention is the "carefully limited exception" and implicates the "most significant liberty interest there is—the interest in being free from imprisonment." *Velasco Lopez*, 978 F.3d at 851.
62. Respondents detained Petitioner without notice, without an opportunity to respond, and without any meaningful evaluation as to his particular circumstances, including whether he poses a flight risk or a danger to the community. Indeed, Respondents broke the window of his vehicle and physically dragged him from it without ever presenting a warrant, identifying any individualized basis for the seizure, or questioning him in any meaningful way.
63. With respect to the government's interest, Respondents have not offered any individualized purpose for Petitioner's detention. *Zadvydas*, 533 U.S. at 690–91. Necessarily, therefore, based on ICE's view that Petitioner's detention was mandatory, an individualized assessment of the factors in his case—including his fixed residence in Queens since 2021, his role as the primary caretaker for his incapacitated father and his minor brother, his complete absence of any criminal record, and his ongoing removal proceedings—was not made prior to his detention. *See Lopez Benitez*, 2025 WL 2371588, at *11.
64. For the foregoing reasons, Respondents' detention of Petitioner violates the rights guaranteed to him by the Due Process Clause of the Fifth Amendment to the United States Constitution. As multiple courts have held, no amount of post-deprivation process can cure the foregoing violation, and Petitioner should be released.

COUNT TWO

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION (Substantive Due Process)

65. Petitioner realleges and incorporates by reference each and every allegation contained above.
66. The Due Process Clause prohibits the government from depriving any person of "life, liberty, or property, without due process of law[.]" U.S. Const. amend. V. At its core, a

person's protected liberty interest mandates freedom from arbitrary imprisonment and applies with equal force to individuals in immigration detention. *Zadvydas*, 533 U.S. at 690. Because "liberty is the norm, and detention prior to trial or without trial is the carefully limited exception," the government may imprison people as a preventive measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *U.S. v. Salerno*, 481 U.S. 739, 755 (1987)).

67. In the immigration context, detention is nonpunitive and therefore held to different standards than criminal detention. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 491 (1999). Specifically, courts have recognized only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *Velasco Lopez*, 978 F.3d at 853–54.

68. Throughout the years that he has been in the United States, Petitioner has proven that he is not a flight risk or a danger to the community at large. He has lived openly at a fixed address in Queens since 2021, has known removal proceedings on file, has no criminal record, and is the primary support of his incapacitated father and his minor brother. Because Respondents' detention of Petitioner bears no "reasonable relation" to the government's interests in preventing flight and danger, *Jackson v. Indiana*, 406 U.S. 715, 738 (1972), his detention is devoid of any reasoned justification.

69. For the foregoing reasons, Respondents' arbitrary and abrupt detention of Petitioner violated his substantive due process rights.

COUNT THREE

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a) and Implementing Regulations

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

71. Upon information and belief, Respondents are currently detaining Petitioner pursuant to 8 U.S.C. § 1225(b)(2) and its mandatory detention authority.

72. However, Petitioner was, at the time of his arrest and detention by Respondents, not seeking admission to the United States. He had already been residing in the United States, and specifically in Queens, New York, continuously since approximately April 2021—a period of approximately five years.
73. 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.
74. Because Petitioner’s 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.

COUNT FOUR

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

75. Petitioner realleges and incorporates by reference each and every allegation contained above.
76. The Administrative Procedure Act prohibits agency action that is arbitrary and capricious or contrary to law. 5 U.S.C. § 706(2)(A).
77. 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).
78. Respondents’ decision to detain Petitioner and suddenly subject him to mandatory detention under Section 1225(b)(2) as a result of their indiscriminate Queens vehicle-stop

operation, irrespective of Petitioner's individual circumstances, is arbitrary and capricious and contrary to law.

COUNT FIVE

VIOLATION OF THE FOURTH AMENDMENT TO THE U.S. CONSTITUTION

(Unreasonable Seizure Without Warrant or Individualized Probable Cause)

79. Petitioner realleges and incorporates by reference each and every allegation contained above.
80. The Fourth Amendment protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." U.S. Const. amend. IV. Fourth Amendment protections extend to noncitizens within the United States. *See INS v. Lopez-Mendoza*, 468 U.S. 1032, 1050–51 (1984).
81. Immigration officers may not arrest a noncitizen without a warrant absent a reasonable belief, based on articulable facts, that the noncitizen is in the country in violation of the immigration laws and is likely to escape before a warrant can be obtained. *See* 8 U.S.C. § 1357(a)(2); 8 C.F.R. § 287.8.
82. Upon information and belief, ICE officers did not have a warrant for Petitioner's arrest, did not present any warrant to Petitioner, and did not have any individualized basis to believe Petitioner was likely to escape. Instead, the officers approached Petitioner in his vehicle, surrounded him with three vehicles, broke the window of his car, and dragged him out without identifying any particularized basis for the seizure. Upon information and belief, Petitioner was targeted at least in part because his vehicle bore out-of-state license plates.
83. Petitioner's warrantless seizure was unreasonable within the meaning of the Fourth Amendment. His ongoing detention by Respondents is the direct consequence of that unlawful seizure.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
2. Declare that Respondents' actions violate the Fourth Amendment;
3. Declare that Respondents' actions violate the Administrative Procedure Act;
4. Declare that Petitioner's detention violates the Immigration and Nationality Act, 8 U.S.C. § 1226(a), and the regulations implementing it;
5. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner from custody without any additional restraints on his liberty, including electronic monitoring, and enjoining any re-detention under the immigration laws of the United States pending a final determination in his removal proceedings;
6. Order that Respondents may not transfer Petitioner outside the District of New Jersey, or outside the territorial reach of this Court's habeas jurisdiction, during the pendency of these proceedings;
7. Order a stay of removal to retain the Court's jurisdiction while these proceedings are pending;
8. In the alternative, order that a constitutionally adequate, individualized bond hearing be held before a neutral adjudicator within fourteen days, at which (a) ICE bears the burden of establishing by clear and convincing evidence that continued detention is justified; (b) the adjudicator meaningfully considers alternatives to imprisonment such as release on recognizance, parole, or electronic monitoring; and (c) the adjudicator meaningfully considers Petitioner's ability to pay before setting any monetary bond;
9. In the alternative, issue an order to show cause directing Respondents to respond to this Petition within three (3) days, and hold a hearing within eight (8) days, pursuant to 28 U.S.C. § 2243;

10. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

11. Grant such further relief as this Court deems just and proper.

Dated: NEW JERSEY May 18, 2026

Respectfully submitted,

Lina Stillman

(BY COUNSEL PURSUANT TO 28 U.S.C. § 2242)

I am submitting this verification on behalf of Petitioner Fabricio Ismael Cajamarca-Yanza because I am counsel for Petitioner. I have communicated with members of Petitioner's family and community regarding the events described in this Petition, and to the extent possible under the conditions of detention, with Petitioner himself. Based on those communications, I hereby verify that the statements made in the attached Emergency Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief. This verification is being made by counsel with permission of the Petitioner rather than by Petitioner himself due to counsel's inability to meet with the Petitioner in a timely fashion given his confinement at the Delaney Hall Detention Facility and the emergent nature of this filing.

Dated: MAY 18, 2026, 2026

Lina Stillman