UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLOMBUS DIVISION

JUAN ANTONIO GONZALEZ FLORES A# [redacted] **Petitioner** **v.** **TODD M. LYONS, Director of U.S. ICE; GEORGE STERLING, Field Office Director of Enforcement and Removal Operations, Atlanta Field Office, Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; U.S. Department of Homeland and Security; TODD BLANCHE, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW;** **Warden of Stewart Detention Center Detention Center.** **Respondents**	**Case No.** **PETITTION FOR WRIT OF HABEAS CORPUS** **Under 28 U.S.C. § 2241**

I. INTRODUCTION

1. Petitioner, Juan Antonio Gonzalez Flores, by and through undersigned counsel, respectfully petitions this Honorable Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge his ongoing and unlawful civil immigration detention by the United States Department of Homeland Security ("DHS") and its agents. Petitioner is an asylum seeker from Mexico, currently detained in the Stewart Detention Center, located in 146 CCA Road, Lumpkin, GA 31815, withing the Middle District of Georgia.

2. Petitioner entered the United States on or about September 19, 2024, and sought protection from persecution upon arrival. After establishing a credible fear of persecution, the

expedited removal process under INA § 235(b)(1) was vacated pursuant to 8 C.F.R. § 208.30. Thereafter, Petitioner was granted parole into the United States and served with a Notice to Appear ("NTA"), placing him into full removal proceedings under INA § 240, 8 U.S.C. § 1229a. Petitioner's removal proceedings remain pending before the Immigration Court, and he has filed applications for asylum, withholding of removal under INA § 241(b)(3), and protection under the Convention Against Torture ("CAT") ***(See TAB A; "Notice to Appear and parole")***.

3. On April 21, 2026, nearly two years after being granted parole into the United States, Petitioner was unexpectedly detained during a routine ICE check in appointment. Petitioner appeared at the appointment in full compliance with ICE instructions and in good faith reliance upon the reporting requirements imposed upon him. Prior to his detention, Petitioner had complied with all directives, maintained his presence in the community, and demonstrated a consistent willingness to cooperate with immigration authorities, with no indication of flight risk or danger to the community.

4. Petitioner, has been detained by Respondents since April 21, 2026. His arrest and continued confinement were executed without a warrant and without the procedural protections required by law. His detention violates the Immigration and Nationality Act, including 8 U.S.C. § 1226(a), and the Due Process Clause of the Fifth Amendment.

5. Petitioner now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded that Petitioner is subject to mandatory detention, pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)[1] and *Matter of Q Li* ,29 I&N Dec. 66 (BIA 2025). As a result of this jurisdictional

[1] The Government's reliance on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), is misplaced. The decision was issued in a bond appeal that (as argued in Respondent's motion to reconsider) was moot before publication because the respondent was already subject to a final removal order—making the Board's choice to issue a published merits ruling procedurally defective and, at minimum, of diminished persuasive value. See also *Matter of Valles*, 21 I&N

ruling, the Immigration Judge could not consider any individualized custody factors, including danger to the community, risk of flight, community ties, or alternatives to detention.

6. DHS has taken the position that, based on *Matter of Yajure Hurtado* and subsequent agency guidance, Petitioner is categorically ineligible for any custody redetermination before an immigration judge and may be detained for the duration of his removal proceedings absent discretionary parole.

7. As a result of this categorical denial of custody review, Petitioner now faces prolonged and potentially indefinite civil detention without any meaningful opportunity for an individualized determination of whether his continued confinement is necessary or lawful. DHS refuses to make an individualized assessment of Petitioner's danger to the community, risk of flight, or suitability for less restrictive alternatives to detention.

8. Petitioner has no criminal convictions, no history of violence, no pending criminal charges, and has consistently complied with all immigration requirements. His continued detention is not based on any individualized finding that confinement is necessary to serve a legitimate governmental purpose.

Dec. 769, 773 (BIA 1997) (bond appeal rendered moot by subsequent custody redetermination); *Matter of Luis*, 22 I&N Dec. 747, 753 (BIA 1999) (Board may dismiss as moot, "as a matter of prudence," when a controversy is deprived of practical significance). In any event, *Yajure Hurtado* is ultra vires of the Board's delegated authority because it effectively rewrites binding Attorney General custody regulations—without rulemaking—by converting a narrow, regulation-based "arriving alien" bond bar into a sweeping prohibition for virtually all noncitizens charged as present without admission. Compare 8 C.F.R. §§ 1236.1(d)(1), 1003.19(h)(2)(i)(B) (IJ bond jurisdiction before a final order; categorical bar limited to "arriving aliens" and other enumerated classes) with 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (final interim rule explaining that "inadmissible aliens, except for arriving aliens, have available to them bond redetermination hearings before an immigration judge"). The Board has repeatedly stated that it lacks the authority to invalidate or disregard Attorney General regulations. See, e.g., *Matter of Akram*, 25 I&N Dec. 874, 875 (BIA 2012). Basic administrative law likewise forbids an agency from accomplishing a de facto amendment of a binding legislative rule through adjudication rather than notice-and-comment rulemaking. See, e.g., *Marseilles Land & Water Co.* v. FERC, 345 F.3d 916, 920 (D.C. Cir. 2003). Nor does *Yajure Hurtado* warrant deference in federal habeas proceedings. Under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394, 413 (2024), courts must exercise independent judgment and may not defer to an agency interpretation simply because a statute is ambiguous. Federal courts evaluating the same detention theory have thus declined to treat Yajure Hurtado as controlling or persuasive and have ordered bond hearings under INA § 236(a), 8 U.S.C. § 1226(a).

9 Petitioner's continued detention without any individualized custody determination violates the Due Process Clause of the Fifth Amendment, the Administrative Procedure Act, the Suspension Clause of the United States Constitution, and binding agency regulations. DHS's reliance on a categorical jurisdictional bar has resulted in prolonged civil confinement without adequate procedural safeguards or meaningful judicial review.

10. Petitioner seeks habeas relief ordering his immediate release from ICE custody or, in the alternative, an order directing Respondents to provide him with a prompt, constitutionally adequate, and individualized custody determination before a neutral decisionmaker with authority to order release. For the foregoing reasons, the Court should grant the writ and restore Petitioner's liberty.

II. JURISDICTION

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner challenges the legality of his ongoing civil immigration detention and seeks relief that is within the traditional scope of habeas corpus. Jurisdiction also lies under 28 U.S.C. § 1331, as this Petition raises federal questions arising under the Constitution, laws, and treaties of the United States. The Suspension Clause of the United States Constitution further guarantees Petitioner's right to seek habeas corpus review where no other adequate remedy exists.

2. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner challenges the legality of his ongoing civil immigration detention and seeks relief that is within the traditional scope of habeas corpus. Jurisdiction also lies under 28 U.S.C. § 1331, as this Petition raises federal questions arising under the Constitution, laws, and treaties of the United States. The Suspension

Clause of the United States Constitution further guarantees Petitioner's right to seek habeas corpus review where no other adequate remedy exists.

3. Federal district courts have jurisdiction to hear habeas corpus claims brought by noncitizens challenging the lawfulness of their immigration detention. See *Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over challenges to immigration detention); *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001) (same). That jurisdiction extends to claims alleging that detention exceeds statutory authority, violates constitutional guarantees, or results from agency action that is arbitrary, capricious, or contrary to law.

4. No petition for a writ of habeas corpus has previously been filed in any court regarding Petitioner.

III. VENUE

1. Venue is proper in the United States District Court for the Middle District of Georgia, Colombus Division, pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), because Petitioner is physically confined within this District and his immediate custodian—the Warden of Stewart Detention Center– exercises day-to-day control over his detention within the territorial jurisdiction of this Court.

2. Venue is also proper pursuant to 28 U.S.C. § 1391(e) because Respondents are officers, employees, and agencies of the United States acting in their official capacities, and because a substantial part of the events and omissions giving rise to Petitioner's claims—including his warrantless arrest, continued detention, denial of any individualized custody determination, and the implementation of DHS's detention policy—occurred within the Middle District of Georgia.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

1. Petitioner satisfies the requirements of 28 U.S.C. §2243 because he is presently in custody under the authority of Respondents and is being unlawfully restrained in violation of the Constitution and laws of the United States. Petitioner respectfully requests that this Court issue an Order to Show Cause directing Respondents to state the legal basis for Petitioner's continued detention and to provide any records relied upon to justify such detention.

2. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of int or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

V. PARTIES

1. Petitioner **Juan Armando Gonzalez Flores** is an applicant for asylum from Mexico who is being detained at Stewart Detention Center. He was assigned alien number [redacted] and is under the direct control and in the custody of Respondents and their agents since April 21, 2026. Petitioner entered the United States on or about September 19, 2024, and his removal proceedings remain pending

2. Respondent **Todd Lyons** is sued in his official capacity as the Acting Director of **U.S. Immigration and Customs Enforcement**. In this capacity, Respondent is a legal custodian of Petitioner and possesses authority over ICE detention policies, including the authority to release Petitioner from custody. He is sued in his official capacity.

3. Respondent **George Sterling** is sued in his official capacity as the Field Office Director of **ICE's Enforcement and Removal Operations for the Atlanta Field Office**. As such,

Respondent is responsible for overseeing Petitioner's detention and custody within the Atlanta Area of Responsibility and exercises authority over Petitioner's continued confinement. He is a legal custodian of Petitioner

4. Respondent **Markwayne Mullin** is sued in his official capacity as the Secretary of the **U.S. Department of Homeland Security ("DHS").** In this capacity, Respondent is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent is a legal custodian of Petitioner.

5. Respondent **Department of Homeland Security (DHS)** is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

6. Respondent **Todd Blanche** is sued in his official capacity as the Attorney General of the United States and the senior official of the **U.S. Department of Justice ("DOJ")**. In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review, which administers the immigration courts and the BIA. Respondent is a legal custodian of Petitioner.

7. Respondent **Executive Office for Immigration Review (EOIR)** is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

8. Respondent **Warden of the Stewart Detention Center** is named in his official capacity as the Warden of the facility where Petitioner is currently detained. As Warden, he is responsible for the operation of the detention facility, including the custody and supervision of individuals detained therein, and therefore is the immediate custodian of the Petitioner for purposes

of this habeas action. Respondent Warden's address is 146 CCA Road, Lumpkin, Georgia 31815. He is sued in his official capacity.

VI. FACTUAL BACKGROUND

1. Petitioner, Juan Antonio Gonzalez Flores, is a Mexican asylum seeker. He has no criminal convictions, no history of violence or dangerous behavior, and no pending criminal charges. Throughout his immigration proceedings, Petitioner has consistently complied with all requirements imposed by immigration authorities.

2. Petitioner entered the United States on or about September 19, 2024, and sought protection from persecution upon arrival. After establishing a credible fear of persecution, the expedited removal process under INA § 235(b)(1) was vacated pursuant to 8 C.F.R. § 208.30. Thereafter, Petitioner was granted parole into the United States and served with a Notice to Appear ("NTA"), placing him into full removal proceedings under INA § 240, 8 U.S.C. § 1229a. Petitioner's removal proceedings remain pending before the Immigration Court, and he has filed applications for asylum, withholding of removal under INA § 241(b)(3), and protection under the Convention Against Torture ("CAT").

3. On April 21, 2026, nearly two years after being granted parole into the United States, Petitioner was unexpectedly detained during a routine ICE check-in appointment. Petitioner appeared at the appointment in full compliance with ICE instructions and in good faith reliance upon the reporting requirements imposed upon him. His detention, occurring in the course of his good-faith compliance with ICE reporting requirements, undermines the integrity of the reporting system and raises serious due process concerns, as it discourages compliance by individuals who would otherwise adhere to the Government's instructions.

4. Petitioner is currently detained at Stewart Detention Center. Located in Lumpkin GA, within the Middle District of Georgia. He has remained continuously detained since April 21, 2026, despite having no criminal convictions, no disciplinary infractions while in custody, and no individualized finding that his detention is necessary to serve a legitimate governmental purpose.

5. Petitioner has fully complied with all requirements of his removal proceedings and has cooperated with immigration authorities at all times. His pending applications for asylum, withholding of removal, and CAT protection involve complex factual and country- conditions issues, and resolution of those claims is expected to require extended proceedings. Prior to his detention, Petitioner had complied with all directives, maintained his presence in the community, and demonstrated a consistent willingness to cooperate with immigration authorities, with no indication of flight risk or danger to the community.

6. Petitioner's ongoing detention—imposed without any opportunity for an individualized custody determination and based solely on a categorical jurisdictional interpretation—has resulted in prolonged and potentially indefinite civil confinement. His detention under restrictive, penal-like conditions, despite his compliance with immigration authorities and lack of any criminal history, inflicts serious liberty harms and raises grave constitutional concerns.

7. Petitioner was arrested without a warrant pursuant to 8 U.S.C. § 1226(a). Respondents did not revoke or formally modify the prior release determination, nor did they provide any meaningful process before re-detaining him

8. The specific basis for the arrest remains unclear, as the Department of Homeland Security has not produced a Form I-213 or otherwise identified the charges underlying the arrest

or any further criminal charges. Petitioner has no criminal history whatsoever, not even a ticket for a traffic violation.

9. Petitioner affirmatively sought an individualized custody redetermination before the Immigration Court. The Immigration Court in *Matter of Q. Li* expressly denied the bond request solely on jurisdictional grounds, concluding that the court lacked authority to consider bond or conduct any custody review based on DHS's classification of Petitioner as subject to mandatory detention under INA § 235(b).

10. As the Immigration Court expressly determined in *Yajure Hurtado*, that it lacked jurisdiction to conduct any custody redetermination, Petitioner has no administrative mechanism through which to challenge the legality, duration, or necessity of his detention.

11. On or about January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance instructing all immigration judges that: "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*." Immigration judges are instructed to treat the BIA's decision in *Matter of Yajure Hurtado* as binding precedent. EOIR guidance further states that a "declaratory judgment" is not binding and lacks authority to compel specific action. Under these circumstances, no administrative body within EOIR has authority to provide the relief sought.

12. As a result of his continued detention, Petitioner remains separated from his one-year-old United States citizen child, his partner, and his family. Petitioner is unable to provide the essential financial, emotional, and parental support upon which his household depends, thereby causing substantial hardship and disruption to his family unit and adversely affecting the well-being and stability of his child and loved ones.

13. His detention is unlawful under the Immigration and Nationality Act and violative of the Fifth Amendment. Because Respondents have applied an inapplicable mandatory detention provision and denied him the procedural safeguards guaranteed by statute, immediate release is the appropriate remedy. In the alternative, and at a minimum, Petitioner is entitled under 8 U.S.C. § 1226(a) to an individualized bond hearing with full procedural protections. Continued detention without release—or without the bond hearing mandated by statute— is arbitrary, unreasonable, and contrary to both the INA and the Constitution.

VII. EXHAUSTION OF ADMINISTRATIVE REMEDIES

1. Petitioner has exhausted all available administrative remedies, and no further administrative relief is available or required.

2. Further administrative exhaustion would be futile. On or about January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance instructing all immigration judges that: "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*." Immigration judges are instructed to treat the BIA's decision in *Matter of Yajure Hurtado* as binding precedent. EOIR guidance further states that a "declaratory judgment" is not binding and lacks authority to compel specific action.[2] Under these circumstances, no administrative body within EOIR has authority to provide the relief sought.

3. DHS's discretionary parole authority does not constitute an available or adequate administrative remedy that must be exhausted prior to habeas review. Parole decisions are committed to agency discretion, are not subject to neutral adjudication, and provide no mechanism for Petitioner to challenge the legality of his detention. Courts have consistently held that discretionary parole is not an exhaustion prerequisite to habeas corpus relief.

[2] See https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista

4. Therefore, Petitioner has been categorically denied access to any administrative custody review, and no adequate alternative remedy exists; exhaustion is either satisfied or excused as futile. A writ of habeas corpus is the sole avenue to vindicate Petitioner's constitutional, statutory, and regulatory rights and to restore his liberty.

VIII. LEGAL FRAMEWORK AND DISCUSSION

A. Due Process

1. Although Petitioner requests, in the alternative, an individualized bond hearing under 8 U.S.C. § 1226(a), he respectfully submits that such relief would not provide a meaningful remedy under the current circumstances.

2. The immigration courts, operating under recent precedential directives and institutional constraints, have declined to exercise bond jurisdiction in cases materially identical to Petitioner's. As explained in the following section, the structural limitations imposed by recent agency interpretations prevent the provision of a genuinely neutral and effective custody determination.

3. Noncitizens present in the United States are entitled to due process protections. See, e.g., *Trump v. J.G.G.*, 604 U.S. 670 (internal citations and quotations omitted) ("It is well established that the Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.*"); Zadvydas,* 533 U.S. at 693 (applying due process in the context of detention).

4. The rights of noncitizens include rights to "notice and opportunity to be heard 'appropriate to the nature of the case.'" *J.G.G.,* 604 U.S. at 673 (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950)); see also *Mathews v. Eldrige*, 424 U.S. 319, 332 (1976). To determine whether detention violates procedural due process, the court weighs (1)

the private interest at stake, (2) the risk of an erroneous deprivation of that private interest and the value of additional safeguards, and (3) the Government's countervailing interests. Id.

5. Respondents violated Petitioner procedural due process rights. As a person who had been previously released from detention on parole, the Petitioner was owed prior notice, individualized assessment, and an opportunity to be heard before re detention.

6. To reach this conclusion, it is not necessary to decide whether the Petitioner was subject to mandatory detention. The subject of this analysis not Respondents' authority to detain, **but the adequacy of the process by which they detained the Petitioner**. See *Caisa Telenchana v. Hermosillo*, No. 2:26-CV-00363-GJL, 2026 WL 696806, at 10; *Rodríguez Cabrera v. Mattos*, 808 F. Supp. 3d 1159, 1178 (D. Nev. 2025).

- **The Private Interest**

7. Having earlier been granted parole, the Petitioner has a liberty interest in his release. "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Hamdi,* 542 U.S. at 529; see also *Zadvydas*, 533 U.S. at 696.

8. Even when an individual is subject to conditions of parole or release, they have "**relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions,**" and their liberty interest "is valuable and must be seen as within the protection of the [Due Process clause]" **such that termination of parole "calls for some orderly process.**" *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

9. District courts in other circuits have applied this principle to parole from immigration detention. See, e.g., *Ramirez Tesara v. Wamsley*, No. 2:25-CV-01723-MJP-TLF, 800 F.Supp.3d 1130 (W.D. Wash. Sept. 12, 2025) (collecting cases).

10. Following his initial release from detention, the Petitioner acquired a significant liberty interest entitled to the protection of the Due Process Clause. In reasonable reliance on this liberty interest, Petitioner obtained a work permit, he applied for relief outside of removal proceedings in reliance on his continued liberty, such as derivative asylum. *Telenchana*, 2026 WL 696806, at *11; *Musaev v. Hermosillo*, No. 2:26-CV-00522-RAJ, 2026 WL 925611, at *5 (W.D. Wash. Apr. 6, 2026).

- **Risk of Erroneous Deprivation**

11. Since Respondents failed to comply with the regulatory requirements for revoking humanitarian parole, the risk of the erroneous deprivation of the Petitioner's liberty is high. *Flores Torres v. Hermosillo*, No. 2:25-CV-02687-LK, 2026 WL 145715, at *7 (W.D. Wash. Jan. 20, 2026).

12. Humanitarian parole may be terminated in two ways. First, parole terminates automatically and without notice if the noncitizen departs from the United States or "at the expiration of the time for which parole was authorized." 8 C.F.R. § 212.5(e)(1). Second, if parole is not terminated automatically, either "the purpose for which parole was authorized" must have been accomplished or a DHS official with authority must decide that "neither humanitarian reasons nor public benefit warrants the continued presence of the [noncitizen] in the United States." 8 C.F.R. § 212.5(e)(2)(i); see also 8 U.S.C. § 1182(d)(5)(A) ("[W]hen the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the [noncitizen] shall forthwith return or be returned to the custody from which he was paroled[.]"). Except in cases of automatic termination, the noncitizen must be provided written notice. 8 C.F.R. § 212.5(e)(2)(i).

13. Whether automatic or with notice, once a noncitizen's parole has been terminated, implementing regulations require that "any order of exclusion, deportation, or removal previously entered shall be executed." 8 C.F.R. § (emphasis added); see also 8 C.F.R. § 212.5(e)(1). **"If the**

exclusion, deportation, or removal order cannot be executed within a reasonable time, the [noncitizen] shall again be released on parole unless in the opinion of [a DHS official with authority] the public interest requires that the [noncitizen] be continued in custody." 8 C.F.R. § 212.5(e)(2)(i) (emphasis added).

14. In sum, under the regulations DHS has three options upon revoking parole. First, DHS may detain the previously-paroled person and then remove them promptly. Id. Second, DHS may detain them and then issue an individualized determination that the public interest requires that they remain in custody. Id. Third, DHS may re-parole the person.

15. Here, DHS's failure to detain the Petitioner upon the expiration of his parole effectively continued Petitioner parole status. Although Petitioner's parole automatically terminated upon expiration on November 28, 2025 (one year after being paroled), he was not returned to custody either for the timely execution of a removal order or with an individualized decision regarding his custody by an authorized DHS official.

16. Instead, he was not detained again until almost six months after his official term of parole expired. For those months with the implied consent of DHS, the Petitioner was living at liberty in the United States, which is the essential effect of a grant of parole under. 8 U.S.C. § 1182(d)(5).

17. DHS having failed to pursue its options to finally terminate Petitioner's parole, it made its only remaining choice under 8 C.F.R. § 212.5(e): it re-paroled him. See, e.g., *Musaev*, 2026 WL 925611, at *6; *Dieng v. Hermosillo*, No. 2:26-CV-00190-LK, 2026 WL 411857, at *6 (W.D. Wash. Feb. 13, 2026); *Telenchana*, 2026 WL 696806, at *7. Since the Petitioner was effectively re-paroled without an expiration date, he became entitled to the protections of 8 C.F.R. § 212.5(e)(2)(i).

18. Petitioner extended parole could only be terminated on notice and an opportunity to be heard. See, e.g., *Musaev*, 2026 WL 925611, at *6; Dieng, 2026 WL 411857, at *6; Telenchana, 2026 WL 696806, at *7.

19. The Petitioner was not provided with any process prior to re-detention. The lack of any procedural safeguards whatsoever creates a risk of factual and legal mistakes. *Rodriguez Cabrera*, 808 F. Supp. 3d at 1181; *Gaitan Coreas*, 2026 WL 1121974, at *7.

20. DHS initially found upon granting parole that the Petitioner was not a danger or a flight risk, and DHS has not shown that circumstances changed. Respondents' failure to follow their own regulations created an undue risk of erroneous deprivation. Due process requires, at minimum, that the government justify the basis for re-detention, and that the noncitizen be given the opportunity to be heard with respect to re-detention at a meaningful time and in a meaningful manner. *Telenchana* at *12, Dieng, 2026 WL 411857, at *8; see also *Gaitan Coreas*, 2026 WL 1121974, at *7; *O.F.B. v. Maldonado*, No. 25-CV2 6336 (HG), 2025 WL 3277677, at *6 (E.D.N.Y. Nov. 25, 2025).

- **The Government's Interest**

21. The Government has a strong interest in the efficient administration of immigration laws, including those regarding detention of noncitizens. *Rodriguez Diaz*, 53 F.4th at 1208. However, the Government's interests will still be adequately protected if immigrants are afforded some minimal procedural guarantees. *Rodriguez Cabrera*, 808 F. Supp. 3d at 1182; *see Gaitan Coreas*, 2026 WL 1121974, at *7 ("[T]he government's interest in detaining Petitioner without a hearing is low").

22. Respondents do not have a legitimate interest in pursuing the detention of noncitizens in a manner that violates their own regulations, nor have they demonstrated that

continued detention is necessary under the circumstances. In fact, maintaining Petitioners in continued detention imposes significant and unnecessary governmental costs, particularly where less restrictive alternatives are available and Petitioners do not pose a danger to the community or a flight risk.

B. The INA Establishes Two Distinct Detention Frameworks

1. The Immigration and Nationality Act ("INA") establishes multiple detention authorities governing noncitizens in removal proceedings, depending on procedural posture and statutory classification. These detention provisions operate against the backdrop of constitutional limitations on civil confinement and long-recognized principles of individualized custody review

2. First, INA § 236(a), 8 U.S.C. § 1226(a), authorizes the discretionary detention of noncitizens placed in full removal proceedings under INA § 240, 8 U.S.C. § 1229a.

3. Historically, individuals in section 1226(a) detention are 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).

4. Second, INA § 235(b), 8 U.S.C. § 1225(b), governs the detention of noncitizens classified as "applicants for admission," including individuals subject to expedited removal under § 1225(b)(1) and those referred to full removal proceedings under § 1225(b)(2). Section 1225(b)(2)(A) provides that certain applicants for admission "shall be detained" pending removal proceedings, subject to limited parole authority.

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

6. The detention provisions at section 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(c) was most recently amended earlier this year by the LRA, Pub. L. No. 119- 1, 139 Stat. 3 (2025). Congress enacted these provisions against a longstanding background principle that civil immigration detention must remain tied to legitimate regulatory purposes and must comport with constitutional due-process requirements.

7. Following IIRIRA's enactment, the Executive Office for Immigration Review promulgated regulations explaining that, as a general matter, noncitizens who entered without inspection and were placed in § 240 removal proceedings were detained under § 1226(a), not § 1225(b). 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). In the decades that followed, most noncitizens who entered without inspection—unless they were subject to some other detention authority—received bond hearings. This practice was also consistent with pre-IIRIRA procedure, in which noncitizens not deemed "arriving" were entitled to a custody hearing before an Immigration Judge or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that section 1226(a) simply "restates" the detention authority previously found at section 1252(a)).

8. On July 8, 2025, DHS issued a memo to all employees of Immigration and Customs Enforcement ("ICE") stating that "[t]his message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA) [8 U.S.C. § 1225], rather than section 236 [8 U.S.C. § 1226], is the applicable immigration detention

authority for all applicants for admission. The following interim guidance is intended to ensure immediate and consistent application of the Department's legal interpretation while additional operational guidance is developed." The memo further stated DHS' new position with regard to custody determinations as follows:

> An "applicant for admission" is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. INA § 235(a)(1). Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole. These aliens are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated. **The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).**
>
> Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286. See https://www.aila.org/ice-memointerim-guidance-regarding-detention-authorityfor-applications-foradmission (last accessed August 4, 2025) (emphasis original).

9. As a result, DHS now considers all noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including longtime U.S. residents, are now considered to be subject to mandatory detention under section § 1225(b) and ineligible for release on bond. Conversely, according to DHS "[t]he only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal proceedings are aliens admitted to the United States and

chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)]." Id.

10. On September 5, 2025, the BIA issued a precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding that, based on the plain language of 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to noncitizens who are present in the United States without admission. Courts across the country have rejected this expansive interpretation because it conflicts with the statutory text, structure, and longstanding practice.

11. Section 1225(b)(1) applies only to noncitizens subject to expedited removal for fraud under § 1182(a)(6)(C) or lack of proper documentation under § 1182(a)(7), and only when encountered at a port of entry or within the expedited-removal designation period. See 8 U.S.C. § 1225(b)(1)(A)(i).

12. In this case, the Respondents themselves validated the propriety of placing Petitioner in full removal proceedings under INA § 240, as reflected in the Notice to Appear issued in this case and by their decision to release him shortly after his apprehension at the border nearly two years ago. By issuing an NTA and initiating regular removal proceedings—rather than placing him in expedited removal—Respondents confirmed that his case falls outside the scope of § 1225(b).

13. Because neither subsection of § 1225(b) applies to Petitioner, his detention must be analyzed under 8 U.S.C. § 1226(a). Section 1226(a) governs individuals detained "pending a decision on whether the alien is to be removed from the United States." Removal proceedings under § 1229a determine inadmissibility or deportability, and the text of § 1226 expressly

contemplates custody determinations for individuals charged as inadmissible — including those present without admission.

14. The structure of the statute confirms this conclusion. Congress created specific mandatory detention categories in § 1226(c), including for certain inadmissible individuals. See 8 U.S.C. § 1226(c)(1)(E). By carving out those limited mandatory categories within § 1226 itself, Congress demonstrated that § 1226(a) is the default detention authority for individuals in removal proceedings. As courts have explained, when Congress creates specific exceptions within a statutory framework, it confirms that the general rule otherwise applies. See *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257.

15. District courts within Georgia and the Eleventh Circuit have adopted this reasoning, holding that § 1226(a)—not § 1225(b)—governs detention of noncitizens arrested in the interior after residing in the United States. See *Aguirre Villa*, 2025 WL 3095969; *Patel v. Parra*, No. 2:25-cv-00870 (M.D. Fla. Dec. 1, 2025). These courts have recognized that § 1225(b) is a border-focused statute and does not extend to individuals long present within the country.

16. Courts confronting materially identical facts, including *Granados* and *Pineda*, have likewise concluded that detention under § 1225(b) in such circumstances is unlawful. Accordingly, because § 1225(b) does not apply, Petitioner is being detained under an inapplicable mandatory detention provision. His detention lacks statutory authority. Habeas relief is therefore proper. Absent intervention by this Court, Petitioner will remain confined without lawful authorization and without the individualized custody review Congress expressly provided under § 1226(a).

17. For these reasons, Petitioner's detention is not only contrary to the statutory scheme—it is unconstitutional. Respondents have invoked an inapplicable mandatory detention provision and, in doing so, have deprived Petitioner of the individualized custody determination

Congress required and the Constitution demands. When detention lacks lawful statutory authority and is imposed without the procedural safeguards guaranteed by the Fifth Amendment, continued confinement cannot be justified. Under these circumstances, release is not merely appropriate—it is constitutionally compelled. This Court should therefore grant the writ and order Petitioner's immediate release from custody.

C. Bond not an Adequate Remedy; Due process requires that an Impartial; Adjudicator Decide if Petitioner's Continued Detention Bears Reasonable Relation of flight risk and danger to Community

1. As relevant here, due process requires that immigration detention "bear a reasonable relation to the purpose for which the individual was committed." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)).

2. Specifically, immigration detention must be reasonably related to the government's goals of preventing flight and protecting the community from harm and be accompanied by adequate procedural protections to ensure that those goals are being served. See *Zadvydas*, 533 U.S. at 690-91.

3. Chief among these procedural protections is "the guarantee of an impartial and disinterested tribunal," which the Due Process Clause requires "in both civil and criminal cases." *Marshall v. Jerrico*, Inc., 446 U.S. 238, 242 (1980).

4. The immigration court system has been transformed into a body that is structurally incapable of upholding Petitioner's statutory and constitutional rights. The immigration court system is not an independent adjudicative body. It operates under the Department of justice ("DOJ"). In the last year the DOJ and its sub-agencies, the Executive Office for Immigration Review ("EOIR") and the Board of Immigration Appeals ("BIA"), in apparent coordination with

the Department of Homeland Security ("DHS") have systematically dismantled the integrity of the immigration court system to turn it into an extension of DHS' deportation and detention operations.

5. The evidence of EOIR's institutional capture falls into five categories, each independently sufficient to establish bias, but together demonstrating systematic destruction of judicial independence: (1) the ongoing mass-scale purge of immigration judges perceived as obstacles to DHS' enforcement agenda; (2) the parallel purge and reconstitution of the BIA, resulting in a 97% pro-government decision rate; (3) the recruitment and installation of two explicitly enforcement-aligned "deportation judges" with dramatically reduced qualifications, (4) EOIR policy directives establishing expectations that adjudications favor the government over noncitizens; and (5) explicit instructions to defy district court rulings that impede DHS's enforcement goals.

6. The message to remaining immigration judges is unmistakable: neutrality is a terminable offense. No adjudicator can remain impartial when faced with the choice between upholding due process and keeping their position. Any immigration judge assigned to Petitioner's bond hearing now operates under the understanding that granting bond may cost them their livelihood.

7. Under these circumstances, ordering a bond hearing would not cure the constitutional violation. A custody determination conducted within a structurally compromised system—one operating under binding precedent that forecloses jurisdiction, directives that prioritize enforcement over neutrality, and leadership that has openly resisted federal court rulings—cannot provide the meaningful process the Constitution requires. Due process guarantees not the mere formality of a hearing, but a fair and impartial adjudication. Where the adjudicatory

mechanism itself has been rendered incapable of delivering that protection, additional process becomes illusory.

8. Accordingly, because Petitioner's detention lacks lawful statutory authority and because no neutral forum presently exists to review its necessity, immediate release is the only remedy capable of fully vindicating his statutory and constitutional rights.

IX. CLAIMS FOR RELIEF

COUNT ONE

Unlawful Detention in Violation of the Immigration and Nationality Act (INA) and Implementing Regulations

1. Petitioner re alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

2. The Immigration and Nationality Act authorize immigration detention only to the extent it serves legitimate, non-punitive statutory purposes—namely, to ensure an individual's appearance at future proceedings or to protect public safety. Detention that does not advance those purposes, or that becomes arbitrary and indefinite, exceeds the government's statutory authority. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Clark v. Martinez*, 543 U.S. 371, 381 (2005).

3. Petitioner entered the United States on or about September 19, 2024, was placed into removal proceedings under INA § 240, and has pending applications for asylum, withholding of removal, and protection under the Convention Against Torture. His removal proceedings remain ongoing.

4. Petitioner has no criminal convictions and no record of violence, and has never exhibited conduct suggesting danger to the community or risk of flight. Nothing in his immigration file indicates that he poses a threat to public safety or that he would fail to appear for his hearings if released.

5. Petitioner has been continuously detained in civil immigration custody since April 21, 2026, following an ICE enforcement operation, and is currently confined at the Stewart Detention Center

6. The INA does not permit detention to operate as punishment, deterrence, or coercion, nor does it authorize prolonged confinement absent a meaningful mechanism to assess whether continued detention is necessary to serve its legitimate aims. *Zadvydas*, 533 U.S. at 690–91; Clark, 543 U.S. at 380–81.

7. Even where detention is initially authorized under INA § 235(b)(2)(A), the statute must be applied consistent with its limited purpose and in conjunction with the INA's broader detention framework, including DHS's continuing discretionary authority to release noncitizens through parole, supervision, or other conditions where detention no longer serves a legitimate statutory objective. See 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5.

8. DHS has not conducted any individualized assessment of whether Petitioner's continued detention is necessary to ensure appearance or protect public safety, nor has it articulated any reasoned basis for rejecting less restrictive alternatives to detention. The categorical reliance on *Yajure Hurtado* as a blanket bar to custody review effectively transforms a civil detention scheme into one of indefinite confinement without statutory justification.

9. Petitioner's continued detention bears no reasonable relationship to the purposes of the INA. It is not tied to imminent removal, is not supported by any individualized finding of danger or flight risk, and persists solely as a result of a categorical legal interpretation that eliminates all meaningful custody review.

10. Detention under these circumstances exceeds the detention authority Congress conferred in the INA and contravenes the statute's non-punitive design, its implementing

regulations, and controlling Supreme Court precedent limiting civil immigration detention to what is reasonably necessary to achieve its lawful purposes.

11. Accordingly, Petitioner's continued detention is unlawful under the Immigration and Nationality Act and its implementing regulations. Petitioner respectfully requests that this Court grant habeas relief by ordering his immediate release, or, in the alternative, ordering Respondents to provide a prompt, lawful, and meaningful individualized custody determination consistent with the INA and governing law.

COUNT TWO

Violation of Petitioner's Order of Release

1. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

2. Regulations at 8 CFR § 236.1(c)(9) and (g) require specific procedures to release or revoke the release of an individual. This regulation also limits the authority to make these decisions to specific enumerated officers.

3. At the time Petitioner was re-detained, Petitioner's release on parole had not been lawfully revoked.

4. Respondents violated the provisions at 8 CFR § 236.1(c)(9) because they did not make individualized findings specific to Petitioner's circumstances.

5. Respondents violated the provisions at 8 CFR § 236.1(c)(9) because Petitioner's custody determination was not rendered by one of the specified officers.

6. Petitioner's detention is unlawful because the DHS violated the regulations and procedures at 8 CFR § 236.1(c)(9).

7. Petitioner requests release from detention because he was released on a valid parole which has not been revoked.

COUNT THREE

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution

1. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

2. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Noncitizens physically present in the United States—including those who entered without inspection are "persons" within the meaning of the Fifth Amendment and entitled to full procedural due process protections. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) 92.

3. Petitioner is an asylum seeker who entered the United States on September 19, 2024, and was placed into full removal proceedings under INA § 240. His removal proceedings remain pending, and he has filed applications for asylum, withholding of removal, and protection under the Convention Against Torture.

4. Petitioner has no criminal convictions and no record of violence, and no pending criminal charges, and has never exhibited conduct suggesting danger to the community or risk of flight, and has consistently cooperated with immigration authorities since his apprehension.

5. Petitioner has been continuously detained in civil immigration custody since April 21, 2026, when he was taken into ICE custody during his routine check in visit.

6. Petitioner has been categorically barred from receiving any hearing before a neutral adjudicator to determine whether his detention is justified. He has been denied the opportunity to

present evidence, contest the government's assertions, or obtain a meaningful review of his custody.

7. The Supreme Court has made clear that the absence of a statutory right to a bond hearing does not foreclose as-applied constitutional challenges to immigration detention. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Court rejected a statutory bond-hearing requirement but expressly remanded for consideration of constitutional due process claims. Id. at 302–03. 101.

8. Petitioner faces a substantial risk of prolonged or indefinite detention under penal-like conditions without any finding that his confinement is necessary to serve the government's legitimate interests.

9. The constitutional infirmity here is not merely the length of detention but the complete absence of any meaningful custody process. Petitioner is detained pursuant to a regime in which: a). No immigration judge may conduct a bond hearing; b). DHS is not required to justify continued detention with evidence; and c) No neutral decisionmaker is empowered to order release, regardless of the Petitioner's lack of danger or flight risk.

10. This categorical denial of any individualized custody determination violates procedural due process. Fundamental fairness requires, at a minimum, a meaningful opportunity to be heard before a neutral adjudicator when the government restrains physical liberty for a prolonged period. *Zadvydas*, 533 U.S. at 690; *Mathews v. Eldridge,* 424 U.S. 319, 333 (1976).

11. The government's detention of Petitioner without any individualized assessment also violates substantive due process. Detaining an asylum seeker and father of a USC child, with no criminal history, no dangerousness, and no flight risk—without requiring the government to

justify detention or consider less restrictive alternatives renders the confinement excessive and punitive in effect.

12. Accordingly, Petitioner's continued detention without an individualized custody determination violates the Fifth Amendment as applied to him. Habeas relief is warranted. Petitioner respectfully requests that this Court order his immediate release from ICE custody, or in the alternative, order Respondents to provide a prompt, constitutionally adequate individualized custody hearing before a neutral decisionmaker with authority to grant release, at which the government bears the burden of justifying continued detention.

COUNT FOUR

Violation of the Equal Protection Guarantee of the Fifth Amendment

1. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

2. The Due Process Clause of the Fifth Amendment contains an implicit guarantee of equal protection that prohibits the federal government from treating similarly situated individuals differently without a rational and legitimate governmental purpose. *Reno v. Flores*, 507 U.S. 292, 302 (1993); *Plyler v. Doe*, 457 U.S. 202, 210 (1982); *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954).

3. Petitioner is in removal proceedings under section 240 of the Immigration and Nationality Act—the same adjudicatory framework that governs millions of noncitizens nationwide, whose cases proceed before immigration judges and whose liberty interests are assessed through individualized custody determinations.

4. Petitioner currently remains without access to an individualized custody determination due to Respondents' position that he falls outside the Immigration Court's bond jurisdiction based upon *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure-*

Hurtado, 29 I&N Dec. 216 (BIA 2025). As a result, Petitioner faces continued detention without any meaningful opportunity to demonstrate that he does not present a danger to the community or a flight risk. Petitioner is effectively deprived of the ability to present evidence regarding his compliance with immigration requirements, family and community ties, history of appearing as directed, and the existence of less restrictive alternatives to detention. Therefore, Petitioner seeks relief from this Court to obtain access to the individualized custody review that is otherwise being denied.

5. Equal protection requires that detention classifications bear a rational relationship to a legitimate governmental purpose. *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000). Civil immigration detention is permissible only insofar as it serves the non-punitive purposes of ensuring appearance at proceedings or protecting public safety. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

6. For nearly three decades, DHS and EOIR treated noncitizens in Petitioner's posture as eligible for individualized custody determinations. DHS's abrupt departure from that settled practice—without individualized justification—underscores the arbitrariness of the disparate treatment imposed here.

7. By denying Petitioner any opportunity to obtain an individualized custody determination while granting such a process to similarly situated noncitizens, DHS has violated the equal protection component of the Fifth Amendment.

8. Habeas relief is therefore warranted to remedy this unconstitutional disparate treatment. Petitioner respectfully requests that this Court order his immediate release or, in the alternative, direct Respondents to provide him with a prompt and meaningful individualized custody determination under constitutionally adequate standards.

COUNT FIVE

Violation of the Suspension Clause of the United States Constitution

1. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

2. The Suspension Clause of the United States Constitution provides that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. art. I, § 9, cl. 2. The Clause guarantees the availability of judicial review to challenge the lawfulness of executive detention. *Boumediene v. Bush*, 553 U.S. 723, 745–46 (2008); *INS v. St. Cyr*, 533 U.S. 289, 300–05 (2001).

3. Habeas corpus remains available to all persons in the United States who are detained by executive authority, including noncitizens in civil immigration custody. The Supreme Court has repeatedly held that Congress—and a fortiori the Executive—may not eliminate all avenues of meaningful judicial review of the legality of detention. St. Cyr, 533 U.S. at 305–06; Boumediene, 553 U.S. at 779.

4. Petitioner is detained solely under civil immigration authority and is currently confined at the Stewart Detention Center. He has no criminal convictions, no pending criminal charges, no history of violence, and his removal proceedings remain pending before an immigration judge.

5. The Suspension Clause forbids the government from implementing a detention scheme that eliminates all meaningful opportunity for detainees to test the legality of their confinement. Boumediene, 553 U.S. at 779 ("The writ must be effective."). When no adequate and effective substitute exists, habeas review is constitutionally required. St. Cyr, 533 U.S. at 305.

6. Petitioner's detention—prolonged, non-punitive in name but punitive in effect, and wholly insulated from individualized review—implicates the core protections of the Suspension Clause. Without habeas corpus, Petitioner has no judicial or administrative forum in which to contest the legality of his ongoing confinement.

7. Accordingly, habeas corpus relief is constitutionally required. Petitioner respectfully requests that this Court grant the writ and order Petitioner's immediate release from ICE custody or, in the alternative, direct Respondents to provide a prompt, meaningful, and individualized custody determination before a neutral decisionmaker with authority to order release.

8. In the ordinary case, "the Constitution requires some **kind of hearing before the State deprives a person of liberty or property**." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Thus, "**because the constitutional violation is the absence of predeprivation process, the proper remedy is to restore the status quo ante—that is, to return [Petitioner] to the conditions that existed before his unlawful detention**." *Kirykovich v. Hernandez*, No. 2:26-cv-00695-JNW, 2026 WL 890459, at *4 (Wash. Apr. 1, 2026) (emphasis in original).

COUNT SIX

Violation of the Accardi Doctrine with Respect to 8 C.F.R. § 287.8(C)(2)(I)

1. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

2. Under the Accardi doctrine, federal agencies are required to follow their own binding regulations, and failure to do so renders resulting agency action unlawful. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267–68 (1954); Morton v. Ruiz, 415 U.S. 199, 235

(1974). This principle applies with full force in immigration proceedings and is enforceable through habeas corpus where regulatory violations result in unlawful detention.

3. The United States has also failed to follow immigration specific arrest and processing regulations. Regulations governing immigration enforcement require that warrantless arrests comply with the standards set forth in 8 C.F.R. § 287.8(c). Specifically, for any arrest, immigration officers must have reason to believe that an individual committed an offense against the United States or was present in the United States illegally. 8 C.F.R. § 287.8(c)(2)(i). And, for a warrantless arrest, officers must also have reason to believe that an individual is "likely to escape before a warrant can be obtained." 8 C.F.R. § 287.8(c)(2)(ii).

4. These regulatory requirements are mandatory, not discretionary. They impose substantive limitations on ICE's authority to conduct warrantless arrests in the interior of the United States and are designed to protect against arbitrary deprivations of liberty.

5. At the time he was taken into ICE custody on April 21, 2026, and at all times thereafter, Petitioner had complied with all immigration requirements, including appearing for his immigration proceedings and remaining available to immigration authorities. Petitioner was taken into ICE custody during an ICE check in appointment.

6. Petitioner was not evading law enforcement; to the contrary, Petitioner was fully complying with the Government's reporting requirements and appeared as instructed at his scheduled ICE check-in appointment. Petitioner was not the subject of any criminal investigation, posed no danger to any individual or the community, and presented no risk of flight. There was no factual basis to conclude that Petitioner was "likely to escape before a warrant could be obtained," as required under 8 C.F.R. § 287.8(c)(2)(ii).

7. ICE officers, therefore, failed to comply with a mandatory regulatory prerequisite to a lawful warrantless arrest. This violation of DHS's own binding regulations renders Petitioner's arrest unlawful under the Accardi doctrine.

8. The consequences of this regulatory violation are not limited to the moment of arrest. Petitioner's ongoing detention flows directly from—and is predicated upon—the unlawful warrantless arrest conducted in violation of 8 C.F.R. § 287.8(c). Continued detention based on an arrest that contravenes binding regulations is itself unlawful.

9. Federal courts have repeatedly recognized that habeas corpus is an appropriate vehicle to remedy detention that results from an agency's failure to follow its own regulations, particularly where those regulations are designed to protect individual liberty. See *Accardi*, 347 U.S. at 267–68; St. Cyr, 533 U.S. at 301–05.

10. By arresting Petitioner without a warrant and without satisfying the regulatory requirements governing such arrests, DHS violated the Accardi doctrine and deprived Petitioner of liberty in a manner not authorized by law.

11. Habeas relief is therefore warranted. Petitioner respectfully requests that this Court grant the writ and order his immediate release from ICE custody or, in the alternative, provide appropriate relief to remedy the unlawful detention resulting from DHS's regulatory violations.

PRAYER FOR RELIEF

The "equitable and flexible nature of habeas relief" affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution. *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020); see also *Schlup v. Delo*, 513 U.S. 298, 319 (1995) (**"[H]abeas corpus is, at its core, an equitable remedy"**). This Court should order a remedy that fully addresses the statutory and constitutional violations in this case and is efficient to administer.

Carafas v. LaVallee, 391 U.S. 234, 238 (1968) (the habeas statute "does not limit the relief that may be granted to discharge of the applicant from physical custody. Its mandate is broad with respect to the relief that may be granted").

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this habeas corpus action pursuant to 28 U.S.C. §§ 2241 and 1331;

2. Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing Respondents to file a return within three (3) days, absent good cause for a short extension not exceeding ten days, and set the matter for a prompt hearing;

3. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of this action, absent further order of the Court;

4. Declare that Petitioner's continued detention violates the Constitution and laws of the United States, including but not limited to the Due Process Clause of the Fifth Amendment; the equal protection component of the Fifth Amendment; the Suspension Clause of Article I, Section 9 of the United States Constitution; the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and the Accardi doctrine, based on Respondents' failure to comply with binding immigration arrest regulations;

5. Grant the writ of habeas corpus and order Petitioner's immediate release from ICE custody; OR in the alternative, order Respondents to provide Petitioner with a prompt, constitutionally adequate, and individualized custody determination before a neutral decisionmaker with actual authority to order release, at which the government bears the burden of proving—by clear and convincing evidence—that continued detention is necessary to serve a legitimate governmental purpose and that no less restrictive conditions of supervision would suffice;

6. Award Petitioner her costs and reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and

7. Grant any other further relief this Court deems just and proper.

Respectfully submitted,

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