

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

Raju Ahmed

Petitioner,

v.

Raul MALDONADO JR., Warden,
Metropolitan Detention Center; Judith
ALMODOVAR, New York Field Office
Director for U.S. Immigration and Customs
Enforcement; Todd BLANCHE, Attorney
General of the United States; Markwayne
MULLIN, Secretary of Homeland Security;
and David J. VENTURELLA, Senior Official
Performing the Duties of Director, U.S.
Immigration and Customs Enforcement,

Respondents.

Civil Action No. 26-3656

AMENDED PETITION FOR
WRIT OF HABEAS CORPUS

Petitioner brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, the All Writs Act, 28 U.S.C. § 1651, and Article I, Section 9, of the Constitution of the United States. Petitioner alleges in support of his petition:

PRELIMINARY STATEMENT

1. Petitioner Raju Ahmed is in the physical custody of Respondents at the Metropolitan Detention Center. He now faces unlawful detention because the Department of Homeland Security (“DHS”) and the Executive Office of Immigration Review (“EOIR”) have concluded that he is subject to mandatory detention.

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

3. Based on this allegation in Petitioner’s removal proceedings, DHS denied Petitioner release from immigration custody, consistent with a new 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. But as the Second Circuit recently held, the discretionary statute 8 U.S.C. § 1226(a), rather than § 1225, applies to individuals, like Petitioner, “who are present in the United States, but charged as inadmissible for entering the country without inspection and admission.” *Cunha v. Freden*, No. 25-3141-PR, 2026 WL 1146044, at *2 (2d Cir. Apr. 28, 2026). Petitioner’s detention under § 1225(b)(2)(A) violates the plain language of the Immigration and Nationality Act, as this provision does not apply to individuals, like Petitioner, who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond, and requires an individualized determination upon arrest. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

6. Since Petitioner filed his Petition, Respondents have contrived new legal theories to keep him in detention, namely that he is subject to mandatory detention under 8 U.S.C. §§ 1225(b)(1) and 1226(c)(1)(E). But Respondent’s own documents demonstrate that his detention is governed by Section 1226(a)—the statute under which they released him in 2023 and under which they redetained him in May 2026. Respondents’ about face that he is now subject to Section 1225(b)(1) cannot be credited and do not justify Petitioner’s detention because “an agency must defend its actions based on the reasons it gave when it acted,” not on “impermissible post hoc rationalizations.” *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 21-22, 24 (2020); *see also Rueda Torres v. Francis*, No. 25 CIV. 8408 (DEH), 2025 WL 3168759, at *5 (S.D.N.Y. Nov. 13, 2025).

7. But even taken on their merits, these theories provide no justification for detaining Petitioner. Section 1225(b)(1), on its face, only governs detention of noncitizens at the border, not individuals who, like Petitioner, have resided within the United States for years. And

§ 1226(c)(1)(E), the newly-enacted Laken Riley Act, violates due process in mandating unreviewable federal immigration detention based only on whether an individual has been arrested or charged with a vague list of predicate charges by state prosecutors, detention that is inhibiting Petitioner's ability to present evidence of his innocence in a pending criminal case.

8. Petitioner's confinement is unlawful. Accordingly, Petitioner brings this petition seeking immediate and unconditional release.

PARTIES

9. Petitioner Raju AHMED is alleged to be a citizen of Bangladesh who has been in immigration detention since May 6, 2026.

10. Respondent Judith ALMODOVAR, New York Field Office Director for U.S. Immigration and Customs Enforcement is named in her official capacity as the Field Office Director for ICE's New York Field Office. She is responsible for the administration of immigration laws and the execution of detention warrants and removal orders.

11. Respondent TODD BLANCHE is named in his official capacity as the Attorney General of the United States. He is responsible for the policies and operations of the DOJ.

12. Respondent MARKWAYNE MULLIN is named in his official capacity as the Secretary of DHS. He directs each of the component agencies within DHS, including ICE.

13. Respondent DAVID J. VENTURELLA is named in his official capacity as Senior Official Performing the Duties of the Director of ICE. He directs ICE operations and is responsible for the administration of the immigration laws.

JURISDICTION AND VENUE

14. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause); and 28 U.S.C. § 1651 (All Writs Act).

15. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness of their detention by DHS. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

16. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue is proper in this District under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is incarcerated at the Metropolitan Detention Center within this District; the ICE office that controls the location of his detention is based in New York City; and a substantial part of the events giving rise to the claims and relevant facts occurred in this District.

EXHAUSTION

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

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

19. Such exhaustion may be excused when any of the following apply: “(1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) in certain

instances a plaintiff has raised a substantial constitutional question.” *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003).

20. Petitioner’s case meets every requirement. Not only will he face irreparable injury if his detention continues, and not only does his petition raise substantial constitutional questions, but intervening events have rendered administrative appeal futile and unable to provide a genuine opportunity for adequate relief.

21. Respondents have alleged that Petitioner is subject to mandatory detention under both §§ 1226(c) and 1225(b), and thus the agency will deny him any administrative remedies of a custody hearing.

STATEMENT OF FACTS

22. Petitioner has resided in the United States since 2023. He entered the United States on or about July 17, 2023, Exh. 1 at 4, and DHS arrested him shortly thereafter under an 8 U.S.C. § 1226 warrant, which was served on him upon his release on August 6, 2023. *See* Exh. 1 at 6, I-200, Warrant of Arrest of Alien (authorizing Petitioner’s arrest by “[a]ny immigration office authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act...”). Records indicate that at some point an asylum officer may have found the he had demonstrated a credible fear of persecution or torture. *See* Exh. 1 at 1, Notice to Appear (checking a box related to the credible fear process). On August 6, 2023, ICE released Mr. Ahmed under 8 U.S.C. § 1226. *See* Exh. 1 at 5, I-286, Notice of Custody Determination (“Pursuant to the authority contained in section 236 of the Immigration and Nationality Act¹...you will be released...”).² In

¹ INA § 236 corresponds to 8 U.S.C. § 1226.

² DHS also issued Mr. Ahmed an “Interim Notice Authorizing Parole” that same day. *See* Exh. 1 at 7, Interim Notice Authorizing Parole. The notice indicates that the parole would expire after one year. This document was issued after Mr. Ahmed was arrested under § 1226, so any argument that this parole returned him to his prior

February 2024, DHS placed Mr. Ahmed in regular removal proceedings before the immigration court pursuant to 8 U.S.C. § 1229a. *See* Exh. 1 at 1, Notice to Appear. ICE has charged Petitioner with, *inter alia*, being inadmissible as someone who entered the United States without inspection.

23. In the United States, Mr. Ahmed works as an Uber driver. In that capacity, he appears to have accepted a request to courier a package between two parties as part of a scam apparently orchestrated by the package recipient on the package sender. Declaration of Brenna Ramirez, June 4, 2026, ¶ 6. Due to his role as a courier, which transpired without Mr. Ahmed's awareness of the fraudulent scheme, he was charged with petit larceny under N.Y.P.L. § 155.25.

24. On May 6, 2026, Petitioner was complying with a required routine ICE check-in, when he was arrested with no prior notice.

25. Petitioner is neither a flight risk nor a danger to the community; he is seeking asylum, and while doing so, working as an Uber driver.

26. Mr. Ahmed remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his community.

LEGAL BACKGROUND

Immigration Detention Framework

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

28. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally

custody would likewise indicate that his custody could only be under 8 U.S.C. § 1226, the statute of initial custody, according to the administrative record in this case.

entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while DHS subjects noncitizens to mandatory detention who have been arrested, charged with, or convicted of certain crimes, *see* 8 U.S.C. § 1226(c).

29. Second, the INA provides for mandatory detention of noncitizens at the border subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

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

31. This case concerns the detention provisions at 1226(a) and (c)(1)(E) and §§ 1225(b)(1) and (2).

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

33. Under the Section 1226(a) 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*, 795 F. Supp. 3d 475, 493 (S.D.N.Y. 2025). If, after an individualized consideration, ICE chooses to detain the noncitizen pursuant to § 1226(a) pending removal proceedings, the individual may ask for a bond redetermination hearing before the immigration judge. 8 C.F.R. §1003.19. This Section

provides the only authority for detaining Petitioner. However, the government has failed to invoke it or comply with its requirements.

34. Section 1226(c) long provided for mandatory detention of individuals convicted of certain crimes. In 2025, Congress passed the Laken Riley Act, dramatically expanding the scope of mandatory detention under § 1226 by requiring the detention of any noncitizen who “is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person”. 8 U.S.C. § 1226(c)(1)(E)(ii). As addressed below, these requirements violate due process.

35. Respondents also rely on detention provisions set out in 8 U.S.C. § 1225. These do not apply to Petitioner, who has been living inside the United States for years.

§ 1225(b)(1)

36. The INA gives DHS mandatory detention authority over noncitizens who are subject to expedited removal. *See generally* 8 U.S.C. § 1225(b)(1).

37. As with all forms of mandatory detention, noncitizens held under 8 U.S.C. § 1225(b)(1) are not entitled to a bond hearing at the outset of their confinement.

38. Expedited removal and related, mandatory detention apply to only two categories of noncitizens. *See* 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii).

39. The first category comprises “arriving” noncitizens whom DHS deems inadmissible under 8 U.S.C. § 1182(a)(6)(C) (inadmissibility based on fraud or misrepresentation in seeking or procuring admission, an entry document, or another immigration benefit) or under 8 U.S.C. § 1182(a)(7) (inadmissibility based on lacking a valid entry document). *See* 8 U.S.C. §

1225(b)(1)(A)(i). Hereinafter, this petition will refer to this category of people subject to expedited removal as the “Arriving Category.”

40. The second category of people subject to expedited removal comprises noncitizens already within the interior of the United States who meet the following four conditions: (1) they have “not been admitted or paroled”³; (2) DHS deems them inadmissible under § 1182(a)(6)(C) (inadmissibility based on fraud or misrepresentation in seeking or procuring admission, an entry document, or another immigration benefit) or under § 1182(a)(7) (inadmissibility based on lacking a valid entry document); (3) they have “not affirmatively shown, to the satisfaction of an immigration officer, that [they have] been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility”; and (4) DHS has designated them for expedited removal. *See* 8 U.S.C. §§ 1252(b)(1)(A)(i), (iii); *see also* 8 C.F.R. § 235.3(b)(i). This petition hereinafter refers to this category of people who are subject to expedited removal as the “Designation Category.”

41. Here, it seems DHS had applied expedited removal to Petitioner under the Designation Category. That is a fair inference to draw, given the fact that DHS’s Notice to Appear, through which it instituted standard removal proceedings against Petitioner, charged him not as “arriving” (leaving that box unchecked) but as someone “present in the United States” who had “not been admitted or paroled” (checking that box). *See* Ex. 1 at 1 (Notice to Appear).

42. Regardless, as explained below, Petitioner is not within the ambit of 8 U.S.C. § 1225(b)(1) *currently*, under either the Arriving Category or the Designation Category.

³ “Parole” refers to DHS’s release of a noncitizen into or within the U.S., where DHS has not otherwise admitted the person.

43. Petitioner does not fit within the Arriving Category because he has been physically present within the interior of the United States since he effected his entry into the country in 2023.

44. In this context, courts have given “arrive” its plain meaning: physical arrival at a U.S. border. *See, e.g., Qasemi v. Francis*, No. 25-cv-10029 (LJL), 2025 WL 3654098, 2025 U.S. Dist. LEXIS 261199 *17–*21 (S.D.N.Y. Dec. 17, 2025) (citing *Rodriguez-Acurio v. Almodovar*, 811 F. Supp. 3d 274, 305–08 (E.D.N.Y. Nov. 28, 2025), and *Coal. for Humane Immigrant Rights v. Noem*, 805 F. Supp. 3d 48, 90–92 (D.D.C. Aug. 1, 2025)).

45. Moreover, courts, including the Second Circuit, have confirmed that “arriving,” like the cognate present participle “seeking,” is a present-tense limitation: it observed that § 1225(b)(2)(C) “uses the parallel construction ‘an alien . . . who is arriving on land’” and treated that phrase as referring to a present condition. *Da Cunha v. Freden*, No. 25-3141-pr, 2026 U.S. App. LEXIS 12201, at *25 n.4 (2d Cir. Apr. 28, 2026).

46. Under the reasoning of *Da Cunha*, to deem a noncitizen who arrived years ago to be presently “arriving” under § 1225(b)(1) would convert a present-tense action into a permanent status, the very error the Second Circuit and numerous courts have rejected in construing the phrase “seeking admission” in § 1225(b)(2). *Id.* at *25; *Sidqui v. Almodovar*, No. 25-CV-9349 (VSB), 2026 WL 251929, at *12 (S.D.N.Y. Jan. 30, 2026) (analyzing a petition where the government alleged petitioner was under § 1252(b)(1), and noting that § 1225(b) “applies to an assessment of individuals at the United States’ borders and ports of entry for individuals seeking admission’ into the country, i.e., presenting at arrival, not those already in the country pending the outcome of removal proceedings, which are instead governed by § 1226(a).” (quoting *Gonzalez v. Joyce*, No. 25 CIV. 8250 (AT), 2025 WL 2961626, at *4 (S.D.N.Y. Oct. 19, 2025),

appeal withdrawn sub nom. Gonzalez v. Noem, No. 26-237, 2026 WL 1211500 (2d Cir. Feb. 17, 2026)) (cleaned up)); *Qasemi*, 2025 WL 3654098, 2025 U.S. Dist. LEXIS 261199 at *17 (finding that “arrive” within 8 U.S.C. § 1225 refers to ““a process that occurs upon physical entry at the border, “not an interminable implicit statutory status.””) (quoting language used in both *Rodriguez-Acurio*, 811 F. Supp. 3d at 305–08, and *Coal. for Humane Immigrant Rights*, 805 F. Supp. 3d at 90–92); *id.* at *18 (describing “arrival” as the temporally limited act of physical entry through a U.S. border and distinguishing someone’s arrival from their otherwise being “an applicant for admission,” which, by contrast, “describes a status that does not conclude until the non-citizen is formally admitted”) (emphases added).

47. Nor does Petitioner now fit within the Designation Category because in 2023 DHS released him on his own recognizance through a conditional “parole” under 8 U.S.C. § 1226(a). That prior “parole” now takes him out of the ambit of 8 U.S.C. § 1225(b)(1)(A)(iii), based on its plain language—since that provision only applies to noncitizens who have “not been admitted or paroled.”

48. But even if Petitioner somehow were currently within the ambit of the Arriving Category or the Designation Category—which he is *not*—Section 1225(b)(1) only mandates the detention of people under two circumstances, neither of which applies to Petitioner.

49. First, for an individual who has demonstrated to an asylum officer that they have a credible fear of persecution, their continued detention is mandated pending consideration of their asylum application. *Id.* § 1225(b)(1)(B)(ii); *see also Jennings v. Rodriguez*, 583 U.S. 281, 287, 302–03 (2018).⁴

⁴ During the current Administration’s prior term, the Attorney General deemed that such mandatory detention applies even where DHS moves the noncitizen from expedited removal proceedings under 8 U.S.C. § 1225(b)(1) into standard removal proceedings under 8 U.S.C. §

50. Here, the asylum officer who interviewed Petitioner in 2023 found Petitioner maintained a credible fear of persecution or torture. DHS, however, removed petitioner from the expedited removal pathway by paroling him under Section 1226(a). *See* Ex. 1 at 5 (Order of Release on Recognizance).

51. In short, Petitioner stopped being subject to mandatory detention under 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) once DHS invoked Section 1226(a) authority and released him.

52. More broadly, DHS cannot reinitiate the inspection and expedited removal procedures under §1225(b)(1) after a noncitizen, like Petitioner, has been living in the United States for a prolonged period after being released under the separate statutory authority §1226 and has been proceeding through standard removal proceedings under 8 U.S.C. § 1229a.

53. A myriad of courts, including courts in this District, have found that (1) after DHS releases someone into or within the interior on *any* form of parole and (2) that person is subject to standard removal proceedings, the person's redetention and related eligibility for release are governed by 8 U.S.C. § 1226, even if upstream DHS had applied to them procedures and/or custody under 8 U.S.C. § 1225(b)(1). Courts have reached that conclusion both for noncitizens whose upstream release occurred through humanitarian parole under 8 U.S.C. § 1182(d)(5)⁵ and

1229a (for the immigration court to consider the asylum application). *See Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019).

⁵ *See Qasemi*, 2025 WL 3654098, 2025 U.S. Dist. LEXIS 261199 *14-*15, *29-*35; *Baca Bances*, 816 F. Supp. 3d at 222-23; *see also, e.g., Rodriguez-Acurio*, 811 F. Supp. 3d at 283; *Washington Murillo-Castillo v. Florentino*, Civ. No. 25-16728 (MCA), 2026 WL 1383062, 2026 U.S. Dist. LEXIS 109028 *10-*16 (D.N.J. May 18, 2026).

for noncitizens, like Petitioner, whose upstream release occurred through conditional parole under 8 U.S.C. § 1226(a).⁶

§ 1225(b)(2)

54. The INA gives DHS mandatory detention authority over a noncitizen to whom expedited removal does not otherwise apply and who is both an “applicant for admission” *and* “seeking admission.” *See* 8 U.S.C. § 1225(b)(2)(A).

55. The current Administration has instituted an aggressive new interpretation of 8 U.S.C. § 1225(b)(2)(A) that conflates being an “applicant for admission” with “seeking admission.” This new statutory interpretation vastly expands the universe of people whom DHS claims to be subject to mandatory detention. It does so by sweeping into its ambit, and taking *out* of the ambit of 8 U.S.C. § 1226(a), virtually any noncitizen within the interior who has not yet been admitted—no matter how long they have been in the U.S. and no matter how nonexistent a bail risk (danger or flight risk) they present. Indeed, as part of its new-fangled statutory interpretation, DHS maintains that 8 U.S.C. § 1226(a) only applies to noncitizens within the interior who have overstayed a visa: a view that has no support in the plain text of 8 U.S.C. § 1226(a).

⁶ *See M.K. v. Arteta*, No. 25-cv-9918 (LAK), 2025 WL 3720779, 2025 U.S. Dist. LEXIS 265542 (S.D.N.Y. Dec. 23, 2025); *Sidqui*, 2026 U.S. Dist. LEXIS 19371 (S.D.N.Y. Jan. 30, 2026); *see also, e.g., Gomez v. Bondi*, No. 2:26-cv-00264-RFB-BNW, 2026 WL 788805, 2026 U.S. Dist. LEXIS 58620 (D. Nev. Mar. 20, 2026); *Amar K. v. Warden, Mesa Verde Detention Center*, No. 1:26-cv-01731-TLN-CKD, 2026 WL 760531, 2026 U.S. Dist. LEXIS 56974 (E.D. Cal. Mar. 17, 2026); *Ahmadi v. Becerra*, No. 1:25-cv-01044-CDB (HC), 2026 WL 309561, 2026 U.S. Dist. LEXIS 24404 (E.D. Cal. Feb. 5, 2026); *Ceballo v. Parra*, No. 25-cv-25271-JB, 2025 WL 3481908, 2025 U.S. Dist. LEXIS 250326 (S.D. Fla. Dec. 4, 2025); *Sanchez v. Bondi*, No. 1:25-cv-01888-MSN-IDD, 2025 U.S. Dist. LEXIS 225018 (E.D. Va. Nov. 14, 2025); *De Andrade v. Moniz*, 802 F. Supp. 3d 325 (D. Mass. Oct. 7, 2025); *Jimenez*, 799 F. Supp. 3d 59.

56. The current Administration instituted its new interpretations of 8 U.S.C. §§ 1225(b)(2)(A) and 1226 through a series of steps.

57. On May 15, 2025, the Board of Immigration Appeals (“BIA”) issued a precedential decision finding that a noncitizen whom DHS apprehended about 100 yards north of the southern border and about 5 miles from a port of entry was subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and ineligible for bond, even downstream from DHS’s release of the individual through parole. *See Matter of Q. Li*, 29 I. & N. Dec. 66 (B.I.A. Sep. 15, 2025).

58. On July 8, 2025, DHS issued an internal memo, leaked to the public,⁷ stating that “effective immediately, it is the position of DHS that [any noncitizens who have not been admitted to the country] are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)] and may not be released from ICE custody except by INA § 212(d)(5) [8 U.S.C. § 1182(d)(5)] parole. These [noncitizens] 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.”

59. The BIA doubled down on the imperatives of DHS’s July 8 memorandum by subsequently issuing a precedential decision holding that, under 8 U.S.C. § 1225(b)(2)(A), IJs lack authority to conduct bond hearings for any noncitizen present in the U.S. without admission, including people who have been present in the U.S. for at least 2 years. *See Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (B.I.A. Sep. 5, 2025).

60. Respondents’ new interpretation of DHS’s detention powers under 8 U.S.C. § 1225(b)(2)(A) contradicts decades of agency action construing the custody and release of

⁷ See Am. Immigr. Lawyers Assoc., *ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission* (July 8, 2025), <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

individuals who entered the U.S. without inspection to be governed by 8 U.S.C. § 1226(a). Regulations promulgated nearly thirty years ago provide that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination” under Section 1226. 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

61. For almost 30 years, all participants in the immigration system had understood that people whom DHS takes into custody inside the United States generally fall within § 1226 for detention purposes and therefore, unless subject to bars not applicable here, must receive a bond hearing upon request—even if they initially entered the country without permission. *See, e.g., Matter of Garcia-Garcia*, 25 I. & N. Dec. 93 (B.I.A. 2009); *Matter of D-J-*, 23 I. & N. Dec. 572 (A.G. 2003); *see also* Tr. of Oral Argument at 44:24–45:2, *Biden v. Texas*, 597 U.S. 785 (2022) (No. 21-954) ([Solicitor General]: “DHS’s long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended.”).

62. Such a longstanding and consistent interpretation “is powerful evidence that interpreting the Act in [this] way is natural and reasonable.” *Abramski v. United States*, 573 U.S. 169, 203 (2014) (Scalia, J., dissenting); *see also Bankamerica Corp. v. United States*, 462 U.S. 122, 130 (1983) (relying in part on “over 60 years” of government interpretation and practice to reject government’s new proposed interpretation of the law at issue). As the Second Circuit recently noted, “the fact that the Executive Branch has for nearly three decades acted inconsistently with the newfound interpretation strongly counsels against adopting it.” *Cunha*, 2026 WL 1146044, at *19.

63. Since Respondents’ implementation of their new interpretations of 8 U.S.C. §§ 1225(b)(2)(A) and 1226(a), “over ninety percent of district court judges” have “rejected the government’s position.” *Cunha*, 2026 WL 1146044. *See also Rodriguez*, 2025 WL 2782499, at *1 (collecting cases and noting that the majority of courts that have confronted this issue “ha[ve] concluded that the government’s [new] position belies the statutory text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice.”);⁸

64. In litigation challenging the current Administration’s interpretation of 8 U.S.C. § 1225(b)(2)(A), the Second Circuit has distinguished a noncitizen’s being an “applicant for admission” from their “seeking admission,” and it has construed “seeking admission” to mean seeking *entry* into the United States. *Da Cunha v. Freden*, 175 F.4th 61 (2d Cir. Apr. 28, 2026); *see also Castañon-Nava v. U.S. Dep’t of Homeland Sec.*, 161 F.4th 1048, 1062 (7th Cir. 2025).⁹

65. Consequently, under the Second Circuit’s decision in *Da Cunha*, people, like Petitioner, who are *already present* within the interior of the United States are *not* subject to mandatory detention under § 1225(b)(2)(A): instead, their custody is *discretionary* and governed by 8 U.S.C. § 1226(a)..

⁸ *See, e.g., Lopez Benitez v. Francis*, 795 F. Supp. 3d 475 (S.D.N.Y. 2025); *Aceros v. Kaiser*, 25-CV-06924 (EMC), 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); *Maldonado Vazquez v. Feeley*, 805 F. Supp. 3d 1112 (D. Nev. 2025); *Romero v. Hyde*, 795 F. Supp. 3d 271 (D. Mass. 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted sub nom. Rocha Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Maldonado v. Olson*, 795 F. Supp. 3d 1134 (D. Minn. 2025); *Velasquez Salazar v. Dedos*, 806 F. Supp. 3d 1231 (D.N.M. 2025); *Beltran Barrera v. Tindall*, 3:25-CV-541 (RGJ), 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771 (E.D. Mich. 2025); *Jimenez v. FCI Berlin, Warden*, 799 F. Supp. 3d 59 (D.N.H. 2025); *Choglllo Chafila v. Scott*, 804 F. Supp. 3d 247 (D. Me. 2025).

⁹ *But see Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 508 (5th Cir. 2026) (finding “applicant for admission” and “seeking admission” to be synonymous within § 1225(b)(2)(A)); *Avila v. Bondi*, 170 F.4th 1128, 1138 (8th Cir. 2026) (same).

66. Petitioner was arrested after two years of continuous presence in the United States, not while “arriving” nor while “seeking admission.” Further, his pending asylum application [and other forms of relief] are not legally considered a process of “seeking admission.” See *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 488 n.7 (S.D.N.Y. 2025); *Garcia-Mendez v. Lynch*, 788 F.3d. 1058 (9th Cir. 2015). Thus, he is not subject to mandatory detention under § 1225(b)(2)(A).

Constitutionality of the Laken Riley Act

67. The Laken Riley Act mandates detention of individuals “arrested for” or “charged with” an ambiguous set of predicate offenses. 8 U.S.C. § 1226(c)(1)(E)(ii). In doing so, it deprives people of their liberty in violation of the constitutional guarantee of due process. U.S. Const., amend. V.

68. “Freedom from imprisonment” is at the “heart” of the liberty interest protected by the due process clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). That is because “[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *Foucha v. Louisiana*, 504 U.S. 71, 81-82 (1992) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)). Outside of a criminal proceeding, detention is only justifiable in “narrow,” “non-punitive” circumstances where a “special justification” is present. *Id.* In particular, preventive detention is permissible “only when limited to specially dangerous individuals and subject to strong procedural protections.” *Zadvydas*, 533 U.S. at 690; see *Salerno*, 481 U.S. at 747 (affirming the constitutionality of pretrial detention that provided “a prompt detention hearing”). These required procedural protections include individualized assessments of a permissible basis for detention. Thus, civil detention consequent upon a criminal conviction may satisfy constitutional scrutiny by affording a detainee “the full

procedural protections our criminal justice system offers.” *See Demore v. Kim*, 538 U.S. 510, 513 (2003).

69. Absent such individualized procedural safeguards, civil and preventive detention schemes are unconstitutional. *See, e.g., Addington v. Texas*, 441 U.S. 418, 425 (1979) (“[C]ivil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.”). Detention schemes that, for instance, burdened an individual with disproving dangerousness are insufficient to satisfy constitutional review. *Foucha*, 504 U.S. at 81-82. The same is true of civil detention schemes that set too low of a burden of proof on the government to justify detention, or schemes that improperly burden detainees with disproving the existence of any basis for detention. *Addington*, 441 U.S. at 427 (finding that “a mere preponderance of the evidence” was an inadequate standard of proof to justify civil detention); *Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir. 2020). Moreover, “[i]n cases in which preventive detention is of potentially indefinite duration, we have also demanded that the dangerousness rationale be accompanied by some other special circumstance, such as mental illness, that helps to create the danger.” *Zadvydas*, 533 U.S. at 690.

70. The Laken Riley Act flouts these constitutional safeguards by categorically mandating detention of individuals who have not been convicted of a crime without any individualized determination of a permissible basis for that detention. Unlike post-conviction detention mandated by 8 U.S.C. § 1226(c), detention based on mere “charges” or “arrests” under the Laken Riley Act does not provide a “sharply focused scheme,” instead requiring the unreviewable detention of broad swathes of individuals based only on mere allegations of a vague and dizzying array of often low-level predicates. *Foucha*, 504 U.S. at 81. There is no

requirement that the charge actually have been adjudicated in any court, or actually have resulted in a conviction. *See* § 1226(c)(1)(E).

71. Numerous district courts have agreed that this statutory scheme is unconstitutional as applied to individual petitioners accused of or charged with relevant offenses, emphasizing the lack of evidence that “Congress, in enacting the Laken Riley Act, made specific legislative findings that those merely arrested or charged with certain crimes are, as a class, dangerous or likely to flee,” *Peralta-Malla v. Mullin*, 26 Civ. 2903 (AT), 2026 U.S. Dist. LEXIS 107423 at *9-9 (May 14, 2026), and emphasizing “the danger of using a mere accusation to trigger mandatory detention without bond.” *Nosirov v. Rife*, No. 2:26-cv-1534, 2026 U.S. Dist. LEXIS 71519, at *14, *15-18 (E.D. Pa. Apr. 1, 2026); *C.R.R. v. Bondi*, Civil File No. 26-01282 (MJD/DJF), 2026 U.S. Dist. LEXIS 54812, at *8 (D. Minn. Mar. 17, 2026); *Alcantara Guerrero v. Wesling*, No. 26 Civ. 10928, 2026 U.S. Dist. LEXIS 74837, at *13-15 (D. Mass. Apr. 6, 2026); *Doe v. Moniz*, 800 F. Supp. 3d 203, 215-17 (D. Mass. 2025); *Sandoval Rodriguez v. Warden of the Cal. City Det. Facility*, 26 Civ. 2080, 2026 U.S. Dist. LEXIS 79143, at *2-5 (E.D. Cal. Apr. 10, 2026), report and recommendation adopted, 2026 U.S. Dist. LEXIS 86781, 2026 WL 1068774 (E.D. Cal. Apr. 20, 2026); *S.E. v. Noem*, No. 26 Civ. 356, 2026 U.S. Dist. LEXIS 15054, 2026 WL 206085, at *2-4 (E.D. Cal. Jan. 27, 2026); *but see Oldacre v. Arteta*, 26-cv-2672 (JGK), 2026 U.S. Dist. LEXIS 111247, at *13 (S.D.N.Y. May 19, 2026).¹⁰

72. Courts have also found that the dismissal or disposition of a predicate offense triggering the Laken Riley Act voids the mandatory detention provision. *H.A. v. Genolo*, 2026 U.S. Dist. Lexis 95783 (S.D.N.Y. Apr. 28, 2026); *Guzman v. Areta*, 26-cv-02808 (DEH), Dkt.

¹⁰ The court in *Oldacre* amended its decision in light of the fact that the charges forming the predicate for detention under the Laken Riley Act in that case were dismissed four days before the Court’s decision. *See Oldacre v. Arteta*, 26-cv-2672 (JGK), 2026 U.S. Dist. LEXIS 132104 (S.D.N.Y. May 19, 2026).

No. 19, Apr. 16, 2026); *Sidqui v. Almodovar*, supra, 2026 U.S. Dist. Lexis 19371, (S.D.N.Y. Jan. 30, 2026); *Rueda Torees v. Francis*, 2025 U.S. Dist. Lexis, 224357 (S.D.N.Y. Nov. 13, 2025). In accord, across the nation, are 20 additional decisions.

73. Any governmental interest in detaining individuals arrested for or charged with Laken Riley predicates is adequately protected by 8 U.S.C. § 1226(a), which permits the Attorney General to detain individuals on the basis of individualized determinations and with individualized processes to review that detention. Section 1226(a) balances the government's interest in detaining dangerous or evasive individuals subject to removal and pending criminal charges with individuals' liberty interests. Section 1226(c)(1)(E)(ii) does not balance these interests. By mandating blanket indefinite detention of a broad swathe of individuals on the basis of mere allegations with no available avenues for individualized assessment of any proper constitutional basis for detention, it violates the Constitutional guarantee of due process.

Noncitizens' Procedural Due Process Rights

74. 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).

75. 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*, 781 F. Supp. 3d 137, 144 (W.D.N.Y. 2025) (citing *United States ex. rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954)).

76. 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.” *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 149 (W.D.N.Y. 2025).

77. In the context of immigration detention due process claims, the Second Circuit has applied the three-factor balancing test set forth in *Mathews v. Eldridge* to determine what due process requires. These factors are: (i) “the private interest that will be affected by the official action”; (ii) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (iii) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020).

78. In light of a noncitizen’s due process rights and the procedural rights conferred by Section 1226(a) and the implementing regulations, a decision to detain a noncitizen requires an individualized determination as to the noncitizen’s risk of flight and danger to the community. *See Velesaca v. Decker*, No. 20-CV-1803, 458 F. Supp. 3d 224, 235 (S.D.N.Y. 2020); *Lopez Benitez*, 795 F. Supp. at 495; *Kelly v. Almodovar*, No. 25-CV-6448, 2025 WL 2381591, at *3 (S.D.N.Y. Aug. 15, 2025).

79. 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*, 795 F. Supp. at 492 (“[Petitioner] invokes the most significant liberty interest there is—the interest in being free from imprisonment”)

(quoting *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)) (citing *Hamdi*, 542 U.S. at 529); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. Nov. 22, 2019) (noncitizens in immigration custody had an arguably even greater liberty interest in remaining out of detention than criminal parolees who required due process protection).

80. With respect to the second *Mathews* factor, “the private interest affected by the official action is the most significant liberty interest there is—the interest in being free from imprisonment.” *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). 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.* Here, there was no notice or opportunity to be heard, and there was certainly none afforded at the time of his arrest.

81. In assessing the second factor—the risk of erroneous deprivation—“the primary interest is not that of the Government but the interest of the detained individual.” *Velasco Lopez*, 978 F.3d at 852. Subjecting a noncitizen to mandatory detention runs a high risk of the erroneous deprivation of liberty, particularly here where the agency already found he was not a flight risk or danger when releasing him under § 1226 in August 2023. And subjecting a noncitizen to mandatory detention under the LRA also presents a high risk of erroneous deprivation of Petitioner’s liberty because of the evidence that his detention by DHS is interfering with his ability to advance his actual innocence defense and secure dismissal of pending criminal charges against him. *See Ramirez Decl.* ¶¶ 8-10.

82. For the third *Mathews* factor, “the Attorney General’s discretion to detain individuals under 8 U.S.C. § 1226(a) is valid where it advances a legitimate government purpose.” *Velasco Lopez*, 978 F.3d at 854. The recognized government interests in immigration detention are “ensuring the appearance of [noncitizens] at future immigration proceedings” and “preventing danger to the community.” *Zadvydas*, 533 U.S. at 690. Absent evidence in the record that a noncitizen is dangerous, and in situations when the noncitizen has appeared for immigration proceedings, district courts have held that the government cannot demonstrate a significant interest in their detention. *See Lopez Benitez*, 795 F. Supp. at 496; *Valdez v. Joyce*, 803 F. Supp. 3d 213, 218–19 (S.D.N.Y. 2025).

83. Recent decisions by federal courts in various jurisdictions confirm that due process requires the government to make individualized determinations to detain noncitizens and give them notice and a meaningful opportunity to be heard when challenging their detention. Further, if a noncitizen does not receive individualized consideration pre-deprivation, his due process rights are irrevocably violated, and no amount of procedure provided post-detention can remedy that violation. This is particularly clear where the government has already made determination that a petition is not a flight risk or a danger, and no change of circumstance justifies re-detention, as they have in this case. *See, e.g., Lopez Benitez*, 795 F. Supp. at 497 (“Given the nature of the constitutional violation Mr. Lopez Benitez sustained here—i.e., Respondents’ failure to conduct any kind of individualized assessment before detaining him—any post-deprivation review by an immigration judge would be inadequate.”); *see also Chipantiza-Sisalema*, 2025 WL 1927931, at *3 (finding 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); *Kelly*, 2025 WL 2381591, at *3 (same). Here, Respondents did precisely that in 2023 by releasing Petitioner into the United States with reference to § 1226.

84. As a result, courts have ordered a noncitizen's immediate release where their pre-detention due process rights have been violated. Here, immediate release is appropriate because Respondents have not—and cannot—show that they conducted an individualized determination regarding Petitioner. *Cuy Comes v. DeLeon*, No. 25 CIV. 9283 (AT), 2025 WL 3206491, at *6 (S.D.N.Y. Nov. 14, 2025) (ordering immediate release where petitioner's first encounter with ICE was a detention without an individualized determination); *Perez Velasquez v. Noem*, No. 25 CIV. 10338 (AT), 2025 WL 3707526, at *4 (S.D.N.Y. Dec. 22, 2025) (same); *Campos v. Deleon*, No. 25-CV-10099 (LJL), 2025 WL 3514120, at *2 (S.D.N.Y. Dec. 8, 2025) (collecting cases).

85. Respondents' apparent initial reliance on Section 1225(b)(2)'s mandatory detention provision and post-hoc invocations of the mandatory detention provisions of Section 1225(b)(1) and 1226(c)(1)(E) establishes their decision to forgo any evaluation of whether Petitioner's circumstances would otherwise warrant detention under Section 1226(a), which provides the sole lawful authority for detaining individuals residing in the U.S. Moreover, Respondents have already recognized in releasing Petitioner in 2023 with reference to Section 1226(a) that it provides no basis for detaining him. Thus, immediate release is particularly appropriate here.

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

this is insufficient to vindicate the immense due-process violation, a bond hearing is a mechanism to mitigate his continued unlawful confinement.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION:

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

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

88. The mandatory detention provisions at 8 U.S.C. § 1225(b)(1) and (2) do not apply to all noncitizens residing in the interior of the United States.

89. Petitioner is detained under § 1226(a), binding law, and longstanding historical practice, and because Respondents have consistently treated Petitioner as falling under § 1226 . Yet DHS now contends that Petitioner is subject to mandatory detention under § 1225(b).

90. Section 1226(a) requires an individualized, pre-deprivation determination that a noncitizen whom Respondents intend to detain presents a danger or a flight risk.

91. ICE did not conduct an individualized determination of the propriety of Petition's detention before it detained him. There has been no material change in circumstances since ICE released Petitioner from custody at the border pursuant to its discretionary authority under §1226(a). Petitioner has complied with all the requirements imposed on him when he was released on recognizance.

92. The application of § 1225(b)(1) or (2) to Petitioner unlawfully mandates his continued detention and violates the INA.

**SECOND CAUSE OF ACTION
ICE'S FAILURE TO EXERCISE ITS DISCRETION VIOLATES DUE PROCESS
U.S. CONST. AMEND. V**

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

94. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the [Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

95. In assessing whether a person has been deprived of the right to procedural due process, courts weigh the factors from *Mathews v. Eldridge*: (1) “the private interest that will be affected by the official action”; (2) “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 (3) “the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” 424 U.S. at 335.

96. Here, all three factors weigh in favor of finding that Respondents have violated Petitioner’s right to procedural due process by asserting unlawful authority to subject him to mandatory detention, by affording Petitioner no process upon detention, and by providing Petitioner no way to meaningfully contest his unlawful detention.

**THIRD CAUSE OF ACTION:
VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT,
5 U.S.C. § 706(2)(A)**

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

98. The Administrative Procedure Act permits a reviewing court, as relevant here, to “hold unlawful and set aside agency, findings, and conclusions found to be—(A) arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity; (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; [or] (D) without observance of procedure required by law[.]”.

99. Agency action is arbitrary and capricious or an abuse of discretion where 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.” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

100. Petitioner’s detention is final agency action reviewable under the APA because it marks the consummation of DHS’s decision-making process and determines his rights under law.

101. Petitioner’s detention is final agency action reviewable under the APA because it marks the consummation of DHS’s decision-making process and determines his rights under law.

Petitioner’s detention violates the APA in at least five ways:

- a. Respondents’ assertion of authority to subject Petitioner to mandatory detention under § 1225(b)(1) or (2) is in excess of statutory authority or limitations, and is ultra vires;

- b. Respondents' assertion of authority to subject Petitioner to mandatory detention under §§ 1225(b)(1) and 1226(c)(1)(E) is arbitrary and capricious as a post hoc rationalization advanced to defend agency action rather than a basis for the initial action;
 - c. Respondents' detention of Petitioner without the individualized determination as to danger and flight risk required by 8 U.S.C. § 1226(a) is an abuse of discretion and without observance of procedure required by law;
 - d. Respondents' detention of Petitioner without a showing of any changed circumstances since he was released on recognizance is arbitrary and capricious and an abuse of discretion.
 - e. Respondents' arrest of Petitioner without a warrant or probable cause as required by 8 U.S.C. § 1357(a)(2) and the Fourth Amendment is in excess of statutory authority or limitations and contrary to constitutional right;
102. Respondents' detention of Petitioner therefore violates the APA.

FOURTH CAUSE OF ACTION:

MANDATORY DETENTION FOR MERE ARRESTS AND CHARGES UNDER THE LAKEN RILEY ACT VIOLATES DUE PROCESS UNDER U.S. CONST. AMEND. V

103. Petitioner realleges and incorporates by reference each and every allegation contained above.
104. The Laken Riley Act's provision for mandatory detention of individuals merely "is arrested for" or "is charged with" certain offences with no individualized assessment of any valid basis for detention violates due process. U.S. Const. amend. V.
105. In the event that these charges are dismissed, the Laken Riley Act's mandatory detention provisions would no longer apply, as the plain language of the statute only

applies to individuals who are presently arrested for or charged with an enumerated offense.

106. As a result, the Laken Riley Act provides no basis to subject Petitioner to mandatory detention for pending charges.

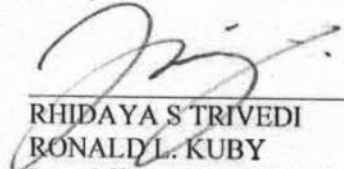
PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court or removing him from the United States pending the resolution of this case, pursuant to the All Writs Act;
3. 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;
4. In the alternative, the Court should conduct a constitutionally adequate, individualized bond hearing for the Petitioner within fourteen to twenty-one days. If, instead, Respondents are ordered to carry out such a hearing in front of an impartial adjudicator, the Court should direct that at that hearing:
 - a. ICE must bear the burden of establishing by clear and convincing evidence that continued detention is justified;
 - b. The adjudicator must meaningfully consider alternatives to imprisonment such as release on recognizance, parole or electronic monitoring; and
 - c. The adjudicator must meaningfully consider Petitioner's ability to pay if setting a monetary bond.
5. Award Petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and
6. Grant such further relief as the Court deems just and proper.

Respectfully Submitted,

Dated: June 17, 2026
New York, NY



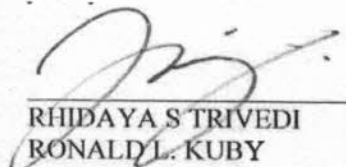
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Pro Bono Counsel for Petitioner

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242.**

I, Rhiya Trivedi, am submitting this verification on behalf of the Petitioner as an attorney for Petitioner. I, or my co-counsel have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: June 17, 2026
New York, NY



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