Sergey Risko, Esq.
New York State Bar #5773981
Risko Law Group, PLLC
227 West Street, Suite 2121
Brooklyn, NY 11222
(718)-757-7734
riskolawgroup@gmail.com
Attorney for Petitioner

UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

YEVHENII SAIENKO
(A# [redacted]),

Petitioner,

v.

JUAN BALTASAR, Warden, Denver Contract Detention Facility (Aurora), in his official capacity;

GEORGE VALDEZ, Acting Field Office Director for the Denver Field Office of U.S. Immigration and Customs Enforcement, in his official capacity;

DAVID VENTURELLA, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity;

MARKWAYNE MULLIN, Secretary of the U.S. Department of Homeland Security, in his official capacity;

TODD BLANCHE, Attorney General of the United States, in her official capacity,

Respondents.

Civil Action No.

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner, Yevhenii Saienko ("Petitioner"), brings this petition for a writ of habeas corpus under 28 U.S.C. § 2241, challenging the lawfulness of his immigration detention. Officers

of U.S. Immigration and Customs Enforcement ("ICE") unlawfully detained Petitioner despite the government's earlier grant of parole under the Uniting for Ukraine program, and despite his pending applications for re-parole and for asylum, the latter of which permitted him to remain in the United States awaiting a decision both at the time of his arrest and to the present.

2. Petitioner was taken into ICE custody without prior notice, without a *pre-deprivation bond hearing* before a neutral decisionmaker, and without any individualized assessment of risk.

3. For the reasons set forth below, Petitioner respectfully requests that this Court grant the writ.

JURISDICTION AND VENUE

4. This action arises under the Constitution, laws, and treaties of the United States, including 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution (the Suspension Clause). Relief is also authorized by the All Writs Act, 28 U.S.C. § 1651, and the Declaratory Judgment Act, 28 U.S.C. § 2201.

5. Claims where non-citizens challenge immigration enforcement-related detention "fall within the 'core' of the writ of habeas corpus and thus must be brought in habeas." *Trump v. J. G. G.*, 604 U.S. 670, 672 (2025) (quoting *Nance v. Ward*, 597 U.S. 159, 167 (2022)). Petitioner is "in custody" within the meaning of § 2241 while confined at the Denver Contract Detention Facility, 3130 North Oakland Street, Aurora, CO 80010.

6. Venue is proper in this District because, at the time this Petition was filed, Petitioner was confined at the Denver Contract Detention Facility. See *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

7. When Congress mandates it, courts require petitioners to exhaust their administrative remedies. *See McCarthy v. Madigan,* 503 U.S. 140, 144 (1992). But when, as here, Congress has not imposed a statutory exhaustion requirement, the decision whether to require a petitioner to exhaust lies within "sound judicial discretion." *Id.* In exercising that discretion, the Supreme Court has explained that "federal courts must balance the interest of the individual in retaining prompt access to a federal judicial forum against countervailing institutional interests favoring exhaustion." *Id.* at 146. Those institutional interests are "protecting administrative agency authority and promoting judicial efficiency." *Id.* at 145.

8. The Supreme Court also identified situations in which the interest of the individual weighs heavily against the institutional interests. *See id.* at 146–49. Relevant here, "an administrative remedy may be inadequate where the administrative body . . . has otherwise predetermined the issue before it." *Id.* at 148 (citing *Gibson v. Berryhill*, 411 U.S. 564, 575, n. 14 (1973); *Houghton v. Shafer,* 392 U.S. 639, 640 (1968) (in view of Attorney General's submission that the challenged rules of the prison were "validly and correctly applied to petitioner," requiring administrative review through a process culminating with the Attorney General "would be to demand a futile act").

9. The BIA adjudicates administrative appeals of Immigration Judge bond decisions. 8 C.F.R. § 1236.1(d)(3). It lacks authority to review constitutional challenges. See *Sterkaj v. Gonzales,* 439 F.3d 273, 279 (6th Cir. 2006). The BIA process is long, and the lengthy delays in adjudication often moot pending bond appeals before they are adjudicated. In 2024, EOIR data showed an average processing time of 204 days for bond appeals. *Rodriguez v. Bostock,* 779 F. Supp. 3d 1239, 1248 (W.D. Wash. 2025). Between 2015 and 2024, bond appeal cases took a

year or longer to resolve. *Id.* During the time it takes the BIA to resolve the bond appeal, most detainee's claims are mooted by adjudications in their removal proceedings. *Id.*

10. Petitioner challenges his detention asserting that it violates his due process rights. This means that Petitioner can only bring his constitutional claims in federal court. Moreover, in Petitioner's circumstances, requiring administrative exhaustion would be futile. It would not further the ends of judicial efficiency and protecting administrative authority because it would only delay the resolution of Petitioner's legal questions. His individual interest in having prompt access to this forum outweighs any institutional interests at stake.

PARTIES

11. Petitioner, Yevhenii Saienko, is a citizen of Ukraine. He is now detained at the Denver Contract Detention Facility, CO.

12. Juan Baltasar is the Warden of the Denver Contract Detention Facility (Aurora), who was the Petitioner's immediate custodian at the time this habeas petition was filed.

13. George Valdez is the Acting Field Office Director for the Denver Field Office of U.S. Immigration and Customs Enforcement, who administers the immigration laws and is responsible for detention and removal operations within this District, and who has legal custody of Petitioner.

14. Respondent David Venturella is the Acting Director of U.S. Immigration and Customs Enforcement (ICE).

15. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security ("DHS") and oversees ICE.

16. Respondent Todd Blanche is the Acting Attorney General of the United States.

STATEMENT OF FACTS

17. Petitioner was forced to flee his homeland, Ukraine, due to the war launched by Vladimir Putin's government. His home in the city of Luhansk was destroyed by a Russian missile.

18. Petitioner arrived in the United States on February 28, 2024, pursuant to travel authorization, and was granted parole under the Uniting for Ukraine program for humanitarian reasons. This program was created by the previous administration to save the lives of Ukrainians fleeing Russian military aggression. Subsequently, Petitioner filed an application for asylum with U.S. Citizenship and Immigration Services ("USCIS") and an application for re-parole. His applications for asylum and re-parole remain pending.

19. Petitioner has worked in the United States as a commercial truck driver, paid taxes, maintained strong community ties, and committed no criminal offense.

20. On July 19, 2026, Petitioner was detained during a routine traffic stop by local police in Cheyenne, Wyoming, after it was discovered that he did not have lawful immigration status in the United States. He was subsequently referred to U.S. Immigration and Customs Enforcement ("ICE") and taken into civil immigration custody without any criminal charge, warrant, or prior notice, and without being afforded an opportunity to be heard by a neutral decisionmaker. No individualized assessment of Petitioner's risk of flight or danger to the community was conducted before, at the time of, or after his detention.

21. On July 21, 2026, DHS initiated removal proceedings against Petitioner. His master calendar hearing before the Immigration Court is scheduled for July 30, 2026.

22. Based on these facts, Petitioner files a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging the lawfulness of his detention.

LEGAL BACKGROUND

I. Statutory Framework for Immigration-Related Detention

23. Congress established two statutes which principally govern detention of noncitizens pending removal proceedings. 8 U.S.C. §§ 1225 and 1226. The first–Section 1225–is a mandatory detention provision that states:

> **(2) INSPECTION OF OTHER ALIENS**
>
> **(A) In general**
>
> Subject to subparagraphs (B) and (C), in the case of an alien who is an *applicant for admission*, if the examining immigration officer determines that *an alien seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.

8 U.S.C. § 1225(b)(2)(A) (emphasis added).

24. Key to the issues raised here, Section 1225 applies to "applicants for admission," who are noncitizens "present in the United States who [have] not been admitted." 8 U.S.C. § 1225(a)(1). All applicants for admission must undergo screening by an examining immigration officer, and if it is determined that the applicant for admission "is not clearly and beyond a doubt entitled to be admitted," they "shall be detained for" standard removal proceedings. 8 U.S.C. § 1225(b)(2)(A). The only exception to this mandatory detention provision is for noncitizens who are released "for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A).

25. The second statutory provision–Section 1226–provides for a discretionary detention framework. It states, in relevant part:

> **(a) ARREST, DETENTION, AND RELEASE**
> On a warrant issued by the Attorney General, an alien *may* be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General—

> (1) may continue to detain the arrested alien; and
> (2) may release the alien on—
> (A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General...

8 U.S.C. § 1226(a) (emphasis added).

26. In *Jennings v. Rodriguez,* the Supreme Court explained that, for purposes of our immigration laws, § 1225 governs the processing of noncitizens at "the Nation's borders and ports of entry." 583 U.S. 281, 287, 138 S. Ct. 830, 200 L. Ed. 2d 122 (2018). Once noncitizens are "inside the United States," § 1226 "generally governs the process of arresting and detaining that group of aliens pending their removal." (citing Zadvydas, *Id.* at 288). In short, *Jennings* explained that § 1225 "authorizes the Government to detain certain aliens seeking admission into the country" while § 1226 "authorizes the Government to detain certain aliens already in the country." (citing Zadvydas, Id. at 289). See *Quiroz v. Mullin,* 2026 U.S. App. LEXIS 19162, *11, __ F.4th __ (10th Cir. June 30, 2026).

27. Tenth Circuit explained, that a noncitizen is "seeking admission" when he takes some kind of ongoing action to request lawful entry into the United States. "To be clear, we do not construe 'seeking admission' as limited to the literal moments that a noncitizen is filling out a form or speaking with an immigration official to request admission. It is enough that some pending request for admission remains open or ongoing because that indicates the process of securing admission is still active...Noncitizens...who entered the United States without admission and who have lived here since—are categorically unable to seek admission while they remain in the country. Part of the reason is a matter of logic and common sense. A person cannot make a present request for permission to enter the United States, lawfully or otherwise, once he or she has already entered. See *Quiroz v. Mullin,* 2026 U.S. App. LEXIS 19162, *14-15.

28. The only time a noncitizen can be said to be seeking admission is when he is seeking to enter the United States at the border. Since § 1225(b)(2)(A) applies only to those seeking admission, § 1225(b)(2)(A) is likewise limited to the border. See *Quiroz v. Mullin,* 2026 U.S. App. LEXIS 19162, *16-17.

29. As noted earlier, noncitizens detained under § 1226(a) are generally eligible for bond. 8 U.S.C. § 1226(a)(2). But § 1226(c) creates exceptions to that general rule, including specific exceptions for inadmissible noncitizens. 8 U.S.C. §§ 1226(c)(1)(A), (D), (E). There would be no need for § 1226(c) to provide such exceptions unless § 1226(a) applied to at least some inadmissible noncitizens. *Quiroz v. Mullin,* 2026 U.S. App. LEXIS 19162, *33.

30. Courts both within this district and in other districts have consistently held that § 1225(b)(2)(A) unambiguously requires an "applicant for admission" to also be "seeking admission" for the subsection to apply. See *Okujava v. Baltasar*, No. 1:26-cv-02123-NYW, ECF No. 5–6 (D. Colo. June 11, 2026); *Bartolome Abarca Calvario, Petitioner, v. Scarlet Grant,* et al., No. 5:26-cv-00690-HE (W.D. Okla. Apr. 29, 2026); *Deepak v. Bullock,* No. 2:26-cv-02218-TLP-atc, 2026 U.S. LEXIS 72779, at *5–6, 12–13 (W.D. Tenn. Apr. 2, 2026); *Flores-Rivera,* No. 2:26-cv-00008, 2026 U.S. Dist. LEXIS 64520, at *8–11 (M.D. Tenn. Mar. 26, 2026); *Yao v. Almodovar,* No. 25 CIV. 9982 (PAE), 2025 WL 3653433, at *5-6 (S.D.N.Y. Dec. 17, 2025); *Lopez Benitez v. Francis,* 795 F. Supp. 3d 475, 478-88 (S.D.N.Y. 2025).

II. Due Process Rights of Noncitizens

31. The Fifth Amendment's Due Process Clause prevents the Government from depriving any person of "life, liberty, or property without due process of law," U.S. Const. amend. V., regardless of "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); see also *Reno v. Flores*, 507 U.S.

292, 306 (1993). Due process demands that unless a person is "given[ ] notice of the case against [her] and opportunity to meet it," she may not be detained. *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976). Indeed, "[f]reedom 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.

32. Due process requires that, whenever the Government detains somebody, it must have a good reason for doing so. If the detention is civil and nonpunitive, like the immigration detention here, that reason must rise to the level of a "strong special justification." See *Quiroz v. Mullin*, 2026 U.S. App. LEXIS 19162, *39-40 (citing *Zadvydas*, 533 U.S. at 690). Adopting the Government's interpretation of § 1225(b)(2)(A) would pose grave constitutional problems because there is little justification, let alone a strong one, for detaining every one of the millions of unadmitted noncitizens in our country. *Id.*

33. When evaluating due process challenges to government action, the *Mathews v. Elridge* test set forth by the Supreme Court calls for a consideration of (1) "the private interest that will be affected by the [government] action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional procedural safeguards"; and (3) "the Government's interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail." 424 U.S. 319, 321 (1976).

34. Courts across the country have regularly applied *Mathews* to due process challenges to removal proceedings. See, e.g., *Hula v. Arnott*, No. 6:26-cv-3220-MDH, 2026 U.S. Dist. LEXIS 89558, at *4–11 (W.D. Mo. Apr. 23, 2026); *Flores-Rivera v. Ladwig*, No. 2:26-cv-00008, 2026 U.S. Dist. LEXIS 64520, at *10-13 (M.D. Tenn. Mar. 26, 2026); *Valdez v. Joyce*,

No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at *3 (S.D.N.Y. June 18, 2025) (citing *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)); *Rodriguez-Acurio v. Almodovar,* 811 F. Supp. 3d 274, 312-19 (E.D.N.Y. 2025); *Esquivel Pacheco v. LaRose*, No. 3:25-cv-02421-JO-AHG, ECF No. 20, at 10–13 (S.D. Cal. Jan. 29, 2026); *Herrera v. Warden, Karnes Cnty. Immigr. Processing Ctr.,* No. SA-26-CA-00862-XR, 2026 U.S. Dist. LEXIS 50169, at *11-31 (W.D. Tex. Mar. 9, 2026).

LEGAL CLAIMS

COUNT ONE

Violation of the INA: Detention under the Wrong Statutory Provision

35. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

36. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to individuals who previously entered the United States, were released into the country and were residing in the country before being detained. Such noncitizens are detained under § 1226(a), unless they are subject to § 1226(c) or § 1231.

37. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA. Petitioner was released into the interior of the United States, and has lived here at liberty for more than two years. He worked, paid taxes, has developed deep community ties, and therefore cannot be analogized to a person detained at the port of entry or stopped within 25 yards of the border. See *Rodriguez-Acurio,* 811 F. Supp. 3d 274, 313-15 (E.D.N.Y. 2025). Petitioner was not applying for entry in any literal sense, nor was he taking any cognizable step to obtain the rights and privileges of lawful entry when he was detained

following a traffic stop on July 19, 2026, Cheyenne, Wyoming; that is, he was not "seeking lawful entry after inspection and authorization by an immigration officer."

38. Thus, Respondents treated Petitioner as a noncitizen subject to Section 1226 and not as a noncitizen subject to mandatory detention under any of the applicable provisions of Section 1225(b). Accordingly, Petitioner's detention is governed by the discretionary provision of § 1226(a).

COUNT TWO

Violation of Due Process: Revocation of Release without Notice or Hearing

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

40. Applying *Mathews v. Eldridge*, Petitioner's detention without prior notice or a pre-deprivation hearing cannot survive due process scrutiny.

A. Petitioner's private interest in being free from detention is strong

41. "The Supreme Court has repeatedly affirmed that '[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.'" *Hernandez-Lara,* 10 F.4th at 27 (citing *United States v. Salerno,* 481 U.S. 739, 755 (1987)). "For this reason, 'civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protections.'" *Id.* (emphasis in original) (quoting *Addington v. Texas,* 441 U.S. 418, 425 (1979)). "The private interest affected by the official action is the most significant liberty interest there is—the interest in being free from imprisonment." *Black v. Decker*, 103 F.4th 133, 151 (2d Cir. 2024).

42. In the context of procedural due process, the Supreme Court has repeatedly affirmed that "[w]hen protected interests are implicated, the right to some kind of prior hearing is

paramount." *Bd. of Regents v. Roth,* 408 U.S. 564, 569–70 (1972); *accord Smith v. Org. of Foster Families for Equal. & Reform,* 431 U.S. 816, 848 (1977) ("It is true that before a person is deprived of a protected interest, he must be afforded opportunity for some kind of a hearing, except for extraordinary situations . . . ." (citation modified)); *Mitchell v. W.T. Grant Co.*, 416 U.S. 600, 624 (1974) ("[Procedural due process] requires that any such deprivation be accompanied by minimum procedural safeguards, including some form of notice and a hearing."); *Lopez-Arevelo*, 801 F. Supp. at 685 ("The essence of procedural due process is that a person risking a serious loss be given notice and an opportunity to be heard in a meaningful manner and at a meaningful time.").

43. After Respondents paroled Petitioner into the United States under Section 1182(d)(5)(A) in February 2024 for humanitarian reasons, they treated him as a noncitizen subject to Section 1226, rather than as a noncitizen subject to mandatory detention under Sections 1225(b)(1) or 1225(b)(2).

44. "When an immigrant is placed into parole status after having been detained, a protected liberty interest may arise," and the "Due Process Clause may protect this liberty interest even where a statute allows the immigrant's arrest and detention and does not provide for procedural protections." *Espinoza v. Kaiser,* 2025 WL 2675785, *9 (E.D. Cal. 2025).

45. Respondents therefore implicitly promised Petitioner's continued release, and he reasonably relied on that promise. See *Pinchi v. Noem,* 792 F. Supp. 3d 1025, 1034 (N.D. Cal. 2025) (citing *Morrissey v. Brewer,* 408 U.S. 471, 482 (1972)). Thus, Petitioner acquired a protectable liberty interest, when he was paroled into the United States. That promise carried with it the understanding that Petitioner would be detained only if he demonstrated that he had become a danger or a flight risk. *Sun v. Santacruz*, No. 5:25-CV-02198-JLS-JC, 2025 U.S. Dist.

LEXIS 165913, at *6 (C.D. Cal. Aug. 26, 2025). See also *Bonilla Barrios v. Noem*, No. 5:26-cv-00172, ECF No. 15 (S.D. Tex. Apr. 2, 2026) (finding that prior release strengthens the liberty interest of a noncitizen because their release created an expectation that they would be free from detention during the pendency of their removal proceedings; liberty interests "may arise from an expectation or interest created by state laws or policies" (citing *Wilkinson v. Austin*, 545 U.S. 209, 221 (2005)); *Ramirez Tesara,* 800 F.Supp.3d at 1137 (finding that Petitioner's private interest did not expire along with his parole agreement; once established, a liberty interest is a constitutional right that may be revoked only through procedures comporting with due process, including a hearing before a neutral decisionmaker to determine whether re-detention is warranted (citing *Padilla v. U.S. Immigr. & Customs Enf't*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023)); *Castellon v. Kaiser,* No. 1:25-CV-00968 JLT EPG, 2025 WL 2373425, at *9 (E.D. Cal. Aug. 14, 2025) (finding petitioner "has a substantial private interest in being out of custody, which would allow her to continue" working, attending community college, building connections in the community, and obtaining necessary medical care).

46. Thus, the first factor weighs heavily in favor of relief.

B. The risk of erroneous deprivation is high

47. Under the second *Mathews* factor, the courts consider "whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Lopez-Arevelo*, 801 F. Supp. 3d at 686 (quotation marks omitted).

48. Our immigration law has long recognized that noncitizens have an interest in an individualized hearing *prior to detention* in connection with immigration proceedings. *See*

Yamataya, 189 U.S. at 101. And the Supreme Court has required individualized hearings for deprivations of interests less fundamental than Petitioner's interest in freedom from detention. See *Goldberg v. Kelly,* 397 U.S. 254, 268 (1970) (requiring an individualized hearing prior to the termination of welfare benefits). While the Government undoubtedly has authority to detain Petitioner under Section 1226, Petitioner is entitled to "adequate procedural protections" before being deprived of his liberty. *Zadvydas*, 533 U.S. at 690.

49. Here, the risk of an erroneous deprivation of Petitioner's rights is high. Without an individualized *pre-deprivation hearing*, there is substantial risk that noncitizens with a substantial presence in the United States who pose neither flight risk nor danger to the community will be detained. An individualized assessment before an immigration judge substantially reduces this risk. See *Demore,* 538 U.S. at 531–32 (Kennedy, J., concurring) (reasoning that "due process requires individualized procedures to ensure there is at least some merit to the" charge and detention). *Ismoilov v. Marin,* No. ED CV 26-00450-FMO (DSR), ECF No. 7 at 8 (C.D. Cal. Feb. 9, 2026) (finding that in similar circumstance "due process requires that respondents provide petitioner *with notice and a pre-deprivation bond hearing* prior to his detention.").

50. An individualized analysis ensures the purpose of detention is not punitive. By releasing Petitioner into the interior, the government has already concluded that he does not present a flight or security risk. Without evidence of a change in the individualized circumstances, there is no reason to believe that re-detention serves any permissible purpose of confinement rather than, say, deterring him from pursuing any claims for relief by agreeing to self-deport. See *Herrera v. Warden, Karnes Cnty. Immigr. Processing Ctr.,* No. SA-26-CA-00862-XR, 2026 U.S. Dist. LEXIS 50169, at *28-30 (W.D. Tex. Mar. 9, 2026).

51. Respondents do not dispute that Petitioner fully complied with the terms of his humanitarian parole for over two years before he was suddenly rearrested and detained by ICE in July 2026. Nor do Respondents claim that there has been any change in the posture of his asylum case. Petitioner's release into the United States reflected ICE's determination that he does not pose a danger to the community or a flight risk. ICE's decision to detain Petitioner does not reflect any change in that assessment—nor could it, as nothing material has changed. Respondents have never provided any evidence of material change in circumstances. See *Singh v. Baltazar*, No. 1:26-cv-00336-CNS, 2026 U.S. Dist. LEXIS 26444, at *4-6 (D. Colo. Feb. 9, 2026); Naranjo Dominguez v. Baltazar, No. 1:26-cv-00482-RBJ, Doc. 11, at 3–5 (D. Colo. Mar. 12, 2026).

52. Petitioner's arrest and detention in July 2026, resulted from a blanket policy to detain everyone who crossed the border, without regard to compliance history, criminal record, or individualized risk factors. By failing to assess whether a change in these circumstances justified revoking Petitioner's release prior to re-detaining him, Respondents risked wrongfully depriving him of a protected liberty interest.

53. Thus, the second factor weighs heavily in Petitioner's favor.

C. The government's burden does not outweigh Petitioner's interests

54. Finally, the government has an interest in maintaining its current procedures. While providing a bond hearing or other form of due process prior to depriving someone of their liberty poses some degree of "fiscal and administrative burden," *Diaz*, 53 F.4th at 1209 (quoting *Mathews*, 424 U.S. at 335), the government has not provided any evidence that the burden would be a significant one.

55. Moreover, Petitioner's continued prolonged detention has already caused—and will inevitably continue to cause—far greater expenses than the cost of conducting a bond hearing, thereby placing an unnecessary burden on the public fisc and adversely affecting the interests of taxpayers.

56. This factor therefore weighs in favor of Petitioner, especially when balanced against the significant liberty interest at stake and the need for adequate procedural safeguards to prevent the erroneous deprivation of that interest.

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57. In sum, Respondents incarcerated Petitioner without affording adequate process to determine whether any change in circumstances justified revoking his prior release, despite the fact that Petitioner's release was secured through parole under the Uniting for Ukraine program which was created to save Ukrainians from Russian military aggression. Petitioner's arrest and detention were not the result of any individualized determination, but rather of a blanket policy applied without any meaningful opportunity to be heard. Due process required a pre-deprivation, individualized assessment before an immigration judge—not a belated, post hoc bond hearing after liberty had already been extinguished. Because Petitioner possessed a protected liberty interest in his continued release, the Government's failure to provide these fundamental procedural safeguards resulted in an unlawful and unconstitutional deprivation of liberty in violation of the Due Process Clause of the Fifth Amendment.

SCOPE OF RELIEF

I. Immediate Release

58. District courts have the power and authority to dispose of habeas corpus matters "as law and justice require." 28 U.S.C. § 2243.

59. In essence, habeas is "a remedy for unlawful executive detention." *Munaf v. Geren*, 553 U.S. 674, 693 (2008) "The typical remedy is, of course, release." *Id.*; see also *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020) ("Habeas has traditionally been a means to secure release from unlawful detention.").

60. The most appropriate remedy in a case like this, where Petitioner has been detained in violation of the Due Process Clause, is release on recognizance without further conditions of release. See *Alfaro Herrera v. Baltazar,* No. 1:25-cv-04014, 2026 WL 91470, at *13 (D. Colo. Jan. 13, 2026) (given that petitioner had been previously released by ICE and holding a bond hearing would prolong his unlawful detention, "[r]espondents' violations of Petitioner's rights are best remedied by ordering Petitioner's immediate release from immigration detention.")[1]; *Ambroladze v. Maldonado,* No. 26-CV-00474 (HG), 2026 WL 280182, at *3 (E.D.N.Y. Feb. 3, 2026) (given that the typical remedy for unlawful detention is release, "the government's ongoing detention of Petitioner, in the face of yet another complete failure of process, entitles him to immediate release."); *Faizyan v. Casey,* No. 3:25-cv-02884-RBM-JLB, ECF No. 1, at 15 (S.D. Cal. Nov. 17, 2025) (holding that due process requires release—not a post-detention bond hearing—because once detained, the petitioner has already suffered the injury at issue) (citing *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021); *Domingo v. Kaiser,* No. 25-cv-05893 (RFL), 2025 WL 1940179, at *3 (N.D. Cal. July 14, 2025) ("Even if Petitioner[] received a prompt post-detention bond hearing under 8 U.S.C. § 1226(a) and was released at that point, he will have already suffered the harm that is the subject of his motion; that is, his potentially erroneous detention."); *E.A.T.-B. v. Wamsley,* 795 F. Supp. 3d 1316 (W.D. Wash. 2025) ("Although the Government notes that Petitioner may request a bond hearing while detained, such a post-deprivation hearing cannot serve as an adequate procedural safeguard

[1] See also *Singh,* LEXIS 26444, at *5-6 (D. Colo. Feb. 9, 2026); *Naranjo Dominguez,* Doc. 11, at 3–5.

because it is after the fact and cannot prevent an erroneous deprivation of liberty."); *Cardona* LEXIS 265047, at *18 (M.D. Tenn. Dec. 23, 2025) (because Petitioner's rights to a bond hearing under §1226(a) have been denied, bond hearing after the fact, by definition, *would not and cannot cure that constitutional violation and that although Petitioner's release cannot cure his loss of liberty*, this remedy, relative to the procedural one of ordering a bond hearing, is the one that comes closest to doing so (citing *Yao*, 2025 WL 3653433, at *12).

61. In *Salto-Salto v. Soto,* No. 1:26-cv-00612, ECF No. 6, at 4 (D.N.J. Jan. 23, 2026) the Court explained that "[w]hereas the basis for the Petitioner's continued "detention [was] blatantly unlawful from the start, the only commensurate and appropriate equitable remedy to even partially restore [Petitioner] is to immediate release him and enjoin the Government from further similar transgressions," (citing *Martinez v. McAleenan,* 385 F. Supp. 3d 349, 366, 371–73 (S.D.N.Y. 2019) ("[T]he Supreme Court has repeatedly upheld prisoners' rights to challenge the constitutionality of their detentions, and allow[ed] courts to implement corrective remedies, regardless of whether there were other bases for the petitioners to be subsequently detained.")).

62. "The flexibility of habeas relief allows the Court *to restore Petitioner to the position he would have occupied had DHS adhered to law.* In light of Respondents' failure to demonstrate a lawful basis for detention under § 1225(b), and consistent with the Court's authority to "dispose of the matter as law and justice require," 28 U.S.C. § 2243, immediate release is the appropriate remedy." *Cifuentes v. Soto,* No. 25-cv-18029, 2025 WL 3771380, at *4 (D.N.J. Dec. 31, 2025) (emphasis added).

63. In multiple cases nationwide, immigration judges have failed to conduct neutral, individualized bond hearings or to apply the burden of proof as directed by habeas courts. U.S. district courts are increasingly identifying a systemic and troubling pattern in which such

hearings are fundamentally flawed, at times reflecting predetermined outcomes rather than a meaningful evaluation of the evidence.[2]

64. "The Court cannot ignore that the circumstances surrounding these proceedings raise substantial concerns as to whether any non-citizen can receive the impartial hearing that due process requires. As one court observed long ago, judges need not 'shut our eyes to matters of public notoriety and general cognizance. When we take our seats on the bench we are not struck with blindness, and forbidden to know as judges what we see' as ordinary members of society. *Ho Ah Kow v. Nunan,* 12 F. Cas. 252, 255, F. Cas. No. 6546, 27 *Pitts. Leg. J.* 40 (C.C.D. Cal. 1879). Respondents have reportedly terminated nearly one hundred IJs in recent months. And now openly advertise these vacancies for 'deportation' judges. YOU BE THE JUDGE, U.S. Dep't of Just., https://join.justice.gov/ (last visited March 20, 2026). These developments, among others, raise a serious question as to whether the constitutional guarantee of an impartial decisionmaker is being honored in any case brought before an IJ." *Haiguang Zheng v. Rokosky,* No. 26-cv-01689, 2026 U.S. Dist. LEXIS 60485, at *18-19 (D.N.J. Mar. 23, 2026).

65. "The mounting evidence that bond determination hearings conducted in Immigration Court under § 1226(a) have preordained outcomes has become impossible to ignore. As a result, courts across the country have, with increasing frequency, ceased "order[ing] even initial bond hearings in cases like this one involving unlawful detention under § 1225(b) because Respondents' conduct can no longer be attributed to mere negligence or ineptitude, . . . and doing so would effectively allow the Government to transform an unlawful detention into a lawful one through post-hoc justifications." *Zheng,* LEXIS 60485, at *11; *Singh v. Valdez,* No. 26-cv-1109-

[2] *See, e.g.,* Kyle Cheney, *Judges Keep Ordering Immigration Hearings—but Say the Results Are a Sham*, Politico (Mar. 6, 2026), available at https://www.politico.com/news/2026/03/06/immigration-case-hearings-judges-00815660

WJM, 2026 U.S. Dist. LEXIS 71846, at *13 (D. Colo. Apr. 1, 2026); *Santos Cardoso v. Blanche,* No. 1:26-cv-02534-RBJ, ECF No. 8 (D. Colo. July 22, 2026).

66. In The New York Times article "How Trump Purged Immigration Judges to Speed Up Deportation," it is reported that "Teresa Riley, the chief immigration judge, has received daily reports about bond rulings, according to a Justice Department official. Her office has sometimes emailed judges asking for an explanation about their decisions to grant bond, three people said. Ms. Riley declined to comment. One current judge said the 'pressure to deny bond is overt.' The judge said that there was a requirement to inform a supervisor every time bond was granted, underscoring how closely the administration was monitoring decisions."[3]

67. Even if an immigration judge were to hold a hearing and grant bond, it is a "foregone conclusion under [*Yajure*] *Hurtado*" that ICE would succeed in reversing that decision on appeal. *Carlos v. Noem,* No. 25-cv-1900, 2025 WL 2998184, at *4 (D. Nev. Oct. 24, 2025).

68. It is undisputed that Petitioner was detained without prior notice, *a pre-deprivation bond hearing,* or any individualized assessment of risk. Therefore, *immediate release* is warranted and necessary to remedy the ongoing violation of Petitioner's rights.

II. Bond Hearing

69. In alternative, the Court should order Respondents to provide a prompt bond hearing before a neutral Immigration Judge consistent with constitutional requirements. Critically, such a hearing must place the *burden on the Government*—not the detained individual—to justify ongoing detention.

70. As previously noted, every noncitizen who like Petitioner has been released into the interior of the United States has already been determined by a government official to pose

[3] See https://www.nytimes.com/2026/04/09/us/politics/trump-miller-immigration-judges-purge.html?smid=nytcore-ios-share&referringSource=articleShare

neither a danger to the community nor a flight risk. In this posture, it is the Government that should bear the burden of demonstrating a substantial change in circumstances warranting the revocation of release.

71. Courts routinely place the burden of proof on the Government in similar cases. As Tenth Circuit explained in *Quiroz*, "Due process requires that, whenever the Government detains somebody, it must have a good reason for doing so. If the detention is civil and nonpunitive, like the immigration detention here, that reason must rise to the level of a "**strong special justification.**" See *Quiroz v. Mullin,* 2026 U.S. App. LEXIS 19162, *39-40.

72. In ordering the district court to provide a bond hearing or release within seven days, 10th Circuit referenced *Requejo Roman v. Castro,* 816 F. Supp. 3d 1267, 1285 (D.N.M. 2026)—a case in which the district court placed the burden on the government to prove by clear and convincing evidence that the petitioner poses a flight risk or danger to the community. 2026 U.S. App. LEXIS 19162, *43 n.13.

73. "In sum, the Government's misclassification of Petitioner under § 1225 deprived him of a bond hearing in violation of his due process rights. To address this violation, due process requires that he be provided a bond hearing at which the Government bear the burden of proving that Petitioner is not a flight risk or a danger to the community...the standard of proof the Government must meet is one of 'clear and convincing evidence.'" See *Roman v. Castro,* 816 F. Supp. 3d 1267, 1284, 2026 (citing L.G. v. Choate, 744 F.Supp.3d at 1186). See also *Okujava v. Baltasar*, No. 1:26-cv-02123-NYW, ECF No. 6–8 (D. Colo. June 11, 2026); *Meder Alymkulov v. Markwayne Mullin*, No. 1:26-cv-01581-NYW, ECF No. 17, at 7–8 (D. Colo. May 11, 2026); *Giri v. Lyons,* No. 5:26-CV-00149, 2026 U.S. Dist. LEXIS 108662, at *35-37 (S.D. Tex. May 12, 2026); *Banegas Avila v. Frink,* 2026 U.S. Dist. LEXIS 79400, at *14 (S.D. Tex. April 10,

2026); *Banda*, 385 F. Supp. 3d at 1120; *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011), abrogated on other grounds by *Jennings v. Rodriguez*, 583 U.S. 281, 138 S. Ct. 830, 200 L.Ed.2d 122 (2018) (holding that such burden was proper to determine bond in immigration cases).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. **Order that Petitioner shall not be removed from the United States without an order by this Court allowing such removal and transferred outside the District of Colorado, absent further order of this Court;**

c. **Expedite consideration of this Petition under 28 U.S.C § 1657 ("the court shall expedite the consideration of any action brought under chapter 153", which includes petitions for habeas corpus);**

d. Issue an Order to Show Cause directing Respondents to explain why the writ should not be granted within three days, as required by 28 U.S.C. § 2243;

e. Declare Petitioner's detention unlawful;

f. Order Petitioner's **immediate release;**

g. Order enjoining Respondents from re-detaining Petitioner unless they demonstrate, by clear and convincing evidence at a pre-deprivation bond hearing before a neutral decisionmaker, that petitioner is a flight risk or danger to the community such that his physical custody bears strong special justification;

h. Order limiting Respondents to the restraints on Petitioner's liberty that existed prior to his. See *Khabazha v. United States Immigr. & Customs Enf't*, No. 25-cv-5279, 2025 WL 3281514, at *8 (S.D.N.Y. Nov. 25, 2025);

i. Order Respondents to return to Petitioner any and all funds or property seized from Petitioner at the time of his arrest. See *Ambroladze v. Maldonado*, No. 26-CV-0473 (PKC), 2026 U.S. Dist. LEXIS 23367, at *5 (E.D.N.Y. Feb. 4, 2026);

j. ***In the alternative***, order Respondents to provide, within a fixed and prompt period set by the Court, an individualized bond hearing before an Immigration Judge at which:

- the Government bears the burden of proof;
- the standard of proof is clear and convincing evidence; and
- continued detention is permitted only upon an individualized finding, supported by a strong special justification, that Petitioner presents a danger to the community or a risk of flight;

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

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

Respectfully submitted,
Date: July 24, 2026

/s/ Sergey Risko
Sergey Risko, Esq.
New York State Bar #5773981
Risko Law Group, PLLC
227 West Street, Suite 2121
Brooklyn, NY 11222
(718)-757-7734
riskolawgroup@gmail.com
Attorney for Petitioner

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

I, Sergey Risko, Esq., represent the Petitioner, Yevhenii Saienko, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus under 28 U.S.C. § 2242 or under the U.S. Constitution are true and correct to the best of my knowledge.

Date: July 24, 2026

/s/ Sergey Risko
Sergey Risko, Esq.
New York State Bar #5773981
Risko Law Group, PLLC
227 West Street, Suite 2121
Brooklyn, NY 11222
(718)-757-7734
riskolawgroup@gmail.com
Attorney for Petitioner