

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MEVLUT OZBEY,	)	
Petitioner,	)	
	)	CASE NO.:
vs.	)	
	)	
KRISTEN SULLIVAN, <i>Field Office Director</i>	)	
<i>for ICE Atlanta Field Office, and</i>	)	
DAVID VENTURELLA, <i>in his official capacity as</i>	)	
<i>Acting Director of Immigration and Customs</i>	)	
<i>Enforcement; and</i>	)	
MARKWAYNE MULLIN, <i>Secretary</i>	)	
<i>of Homeland Security; and</i>	)	
TODD BLANCHE, <i>U.S. Attorney General.</i>	)	
	)	
Respondents.	)	
_____	)	

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. This habeas petition challenges the ongoing civil immigration detention of Petitioner Mevlut Ozbey, A# 206-XXX-934, who is detained by U.S. Immigration and Customs Enforcement (ICE) at the Robert A. Deyton Detention Facility in Lovejoy, Georgia.
2. Petitioner was arrested on Friday, July 31, 2026, between approximately 11:30 a.m. and 12:00 p.m., in Dawson County, Georgia, after a traffic stop for allegedly driving with an expired driver's license. His family paid the bond

but ICE lodged a hold, assumed custody, and transferred him to immigration detention.

3. Petitioner entered the United States years ago and was lawfully admitted with a visitor's visa, which he overstayed.
4. Petitioner is not an arriving alien, and ICE did not arrest him at a border, port of entry, or inspection point when it assumed custody following his Dawson County arrest and local bond payment.
5. Petitioner's removal proceedings remain pending, and he has a hearing scheduled for August 28, 2026 at 9:00 a.m. before the Immigration Court.
6. Petitioner is in pending immigration proceedings and intends to pursue all relief for which he is eligible.
7. Petitioner has no criminal history, does not drink or use drugs, works to support his lawful permanent resident parents, his lawful permanent resident sister, and her two children, and has strong family and community ties in the United States.
8. Respondents are treating Petitioner as subject to mandatory no-bond detention under 8 U.S.C. § 1225(b)(2)(A). That theory is unlawful because Petitioner was not seeking admission at the time ICE detained him in the interior after a local traffic arrest and bond payment.
9. Binding Eleventh Circuit precedent forecloses Respondents' detention theory.

In *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Mia.*, 175 F.4th 1258 (11th Cir. 2026), the Eleventh Circuit held that § 1225(b)(2)(A) does not impose mandatory no-bond detention on interior noncitizens who previously entered without inspection but were not seeking admission when later arrested. see also *Quiroz v. Mullin*, No. 26-6019 (10th Cir. June 30, 2026). Section 1226, not § 1225(b)(2)(A), governs Petitioner's custody unless Respondents establish that a specific mandatory detention provision applies. That conclusion applies with even greater force here because Petitioner was not an entrant without inspection; he was lawfully admitted on a visitor visa and later overstayed.

10. Upon information and belief, Petitioner was transferred from Dawson County custody to ICE custody and is now detained at the Robert A. Deyton Detention Facility. See Exhibit 1 (ICE Locator). Petitioner also suffers from severe allergies and asthma, and he has not been allowed adequate access to necessary medication while detained.

11. The Eleventh Circuit held that § 1225(b)(2)(A) is limited to applicants for admission who are "seeking admission," and that neither petitioner there was seeking lawful entry when arrested after a traffic stop.

12. The Eleventh Circuit further explained that § 1226 generally governs the arrest and detention of noncitizens present in the country pending removal proceedings, while § 1225 governs arriving noncitizens seeking entry at the

border or port of entry.

13. Petitioner is even more clearly outside § 1225(b)(2)(A) than the petitioners in *Hernandez Alvarez*: he was lawfully admitted on a visitor visa, later overstayed, was arrested in the interior after a traffic stop, and is being denied bond based solely on DHS's erroneous application of § 1225(b)(2)(A).

14. Independently, Petitioner challenges ICE's warrantless interior seizure and detention. Section 1226(a) authorizes arrest and detention "[o]n a warrant issued by the Attorney General," § 1357(a)(2) permits a warrantless immigration arrest only under limited circumstances, including where the officer has reason to believe the person is likely to escape before a warrant can be obtained. On information and belief, ICE assumed custody without a warrant and without an individualized basis to conclude that Petitioner was likely to escape before a warrant could be obtained. This claim provides an independent basis for relief or, at minimum, for an order requiring Respondents to justify the arrest and custody basis. In *Castañon-Nava v. U.S. Department of Homeland Security*, 175 F.4th 828 (7th Cir. 2026), the Seventh Circuit recognized that release may be appropriate where an immigration arrest violates § 1357(a)(2), but emphasized the need for an individualized determination that the arrest was unlawful. Here, upon information and belief, Petitioner was already in local custody after a minor traffic arrest, had posted

bond, had strong family ties, and had no criminal history, and ICE had no individualized basis to conclude that he was likely to escape before a warrant could be obtained.

15. District courts within this Circuit have repeatedly required that any court-ordered 8 U.S.C. § 1226 bond hearing place the burden on DHS to justify detention. In *J.G. v. Warden, Irwin Cnty. Detention Ctr.*, 501 F. Supp. 3d 1331 (M.D. Ga. 2020), the court held that placing the burden on the detained noncitizen at a § 1226(a) bond hearing violated the Fifth Amendment. In *B.A.M.A. v. Warden, Irwin County Detention Center*, Slip Copy, 2026 WL 1362520 (M.D. Ga. May 13, 2026); *I.A.A.M. v. Warden, Irwin County Detention Center*, Slip Copy, 2026 WL 1362519 (M.D. Ga. May 13, 2026); and *W.C. v. Warden, Irwin County Detention Center*, Slip Copy, 2026 WL 1658526 (M.D. Ga. June 4, 2026), the Middle District of Georgia ordered bond hearings under § 1226(a) and required DHS to prove by clear and convincing evidence that continued detention was justified.

II. JURISDICTION

A. This Court Has Jurisdiction Under 28 U.S.C. § 2241 and § 1331

16. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody and challenges the legal authority for his civil immigration detention.
17. This Court also has federal question jurisdiction under 28 U.S.C. § 1331 because Petitioner raises claims arising under the Constitution and laws of the United States.
18. In *Hernandez Alvarez*, the Eleventh Circuit reviewed § 2241 habeas petitions challenging detention under § 1225(b)(2)(A) and affirmed habeas relief where the district court concluded that § 1226 governed the petitioners' detention.
19. Petitioner challenges only the legal basis and procedures for his detention; he does not ask this Court to decide removability, terminate removal proceedings, or review any final order of removal.
20. Section 1252(f)(1) does not bar individualized relief for Petitioner. The Eleventh Circuit in *Hernandez Alvarez* affirmed habeas relief for two individual petitioners challenging their detention under § 1225(b)(2)(A).
21. To preserve this Court's habeas jurisdiction, Petitioner requests an order prohibiting Respondents from transferring him outside the Northern District of Georgia or changing his immediate custodian while this case is pending.

III. VENUE

22. Venue is proper in the United States District Court for the Northern District of Georgia because Petitioner is currently detained at the Robert A. Deyton Detention Facility in Lovejoy, Georgia, under the custody of the Department of Homeland Security (DHS). Habeas petitions generally are filed in the district court with jurisdiction over the Petitioner's place of custody, also known as the district of confinement, pursuant to 28 U.S.C. § 2241. Additionally, with respect to Petitioner's non-habeas claims seeking prospective declaratory and injunctive relief against federal officials (agencies and officers of the United States) sued in their official capacities, venue is proper under 28 U.S.C. § 1391(e)(1)(B) because a substantial part of the events or omissions giving rise to these claims, including the initial arrest and continued detention of Petitioner and the enforcement of the mandatory detention agency interpretation, occurred in this District. Furthermore, the Respondents are officers of United States agencies, the Petitioner is detained within this District, and there is no real property involved in this action.

IV. PARTIES

23. Petitioner, Mevlut Ozbey, A# 206-XXX-934, is a noncitizen who entered the United States years ago after being lawfully admitted on a visitor visa. On or about July 31, 2026, Petitioner was arrested in Dawson County, Georgia, after a traffic stop for allegedly driving with an expired driver's license. His family paid the local bond, but ICE lodged a hold and assumed custody. He is currently detained at the Robert A. Deyton Detention Facility in Lovejoy, Georgia. Petitioner has no criminal history, poses no danger to the community, and presents no meaningful risk of flight.
24. Respondent Kristen Sullivan is the ICE Atlanta Field Office Director. As such, Respondent Sullivan is responsible for the operation of the ICE Field office where Petitioner is detained and is the immediate custodian who is currently holding Petitioner in physical custody. Respondent Sullivan has immediate physical custody of the Petitioner and is sued in her official capacity.
25. Respondent David Venturella is the Acting Director of Immigration and Customs Enforcement (ICE). As such, Respondent Venturella is responsible for the oversight of ICE operations and the head of the federal agency responsible for all immigration enforcement in the United States. Respondent Venturella is being sued in his official capacity.

26. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Mullin is the cabinet-level official responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official capacity.
27. Respondent Todd Blanche is the Attorney General of the United States and is sued in his official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal cases and applications for bond and relief from removal do so as his designees at the Executive Office for Immigration Review (EOIR).
28. Petitioner names certain federal officials in their official capacities solely to preserve alternative, non-habeas avenues for prospective relief—such as as-applied declaratory and injunctive orders under 28 U.S.C. § 1331, the APA’s waiver of sovereign immunity, 5 U.S.C. § 702, the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and the All Writs Act, 28 U.S.C. § 1651—necessary to enjoin enforcement of DHS regulations and their interpretation as applied to Petitioner, ensure compliance with DHS/EOIR custody regulations, prevent transfer or removal of Petitioner, and effectuate any release the Court orders at the agency level where policy and implementation authority reside. See, e.g.,

Larson v. Domestic & Foreign Commerce Corp., 337 U.S. 682 (1949); *Dugan v. Rank*, 372 U.S. 609 (1963).

29. Petitioner acknowledges, consistent with *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that the proper respondent to the habeas claim is the immediate custodian, and does not rely on the federal officials as “habeas respondents.” Rather, Petitioner names these federal officials in their official capacities solely to ensure that the Court can issue effective relief on non-habeas claims, such as declaratory and injunctive relief, and to direct agency action to those with actual authority to implement it. Should the Court find these officials improper as respondents to the habeas count, Petitioner respectfully requests that any dismissal be limited to that claim and without prejudice to their continued status as respondents for the non-habeas claims. Maintaining these officials as parties is necessary to ensure that, if relief is granted, the responsible agency officials cannot simply re-arrest Petitioner or otherwise frustrate the Court’s order by invoking their erroneous interpretation of the INA. This approach is consistent with *Padilla* and ensures that the Court’s orders are both effective and enforceable.

V. STATEMENT OF FACTS AND PROCEDURAL HISTORY

30. Petitioner, Mevlut Ozbey, is a noncitizen who entered the United States years ago after being lawfully admitted on a visitor visa. Petitioner later overstayed that visa. Petitioner has continuously resided in the United States and currently has immigration proceedings pending, with his next hearing scheduled for August 28, 2026. Petitioner is not an arriving alien, was not apprehended at a border or port of entry, and was not seeking admission when ICE assumed custody.
31. Petitioner resides with strong family ties in the United States. His parents are lawful permanent residents, his brother is a lawful permanent resident, and his sister is a lawful permanent resident. Petitioner works to care for and financially support his parents, his sister, and his sister's two children.
32. Petitioner has no criminal history, no convictions, no history of violence, and no conduct suggesting that he poses a danger to the community. Petitioner does not drink alcohol or use drugs and is a productive, law-abiding member of his family and community.
33. On or about July 31, 2026, between approximately 11:30 a.m. and 12:00 p.m., Petitioner was stopped at a red light in Dawson County, Georgia, when a law enforcement officer stopped him for allegedly driving with an expired driver's license and arrested him.

34. Petitioner was taken to the Dawson County Jail. His family paid his local bond on Friday afternoon or evening. When Petitioner was expected to be released from local custody, officers informed Petitioner and/or his family that ICE had lodged a 48-hour hold.
35. Petitioner was subsequently transferred to ICE custody and is now detained at the Robert A. Deyton Detention Facility in Lovejoy, Georgia. See Exhibit 1.
36. ICE did not encounter Petitioner at the border, at a port of entry, or while he was attempting to seek admission into the United States years after his lawful admission on a visitor visa and after a local traffic arrest for an expired driver's license.
37. DHS is detaining Petitioner as though he were subject to mandatory detention under 8 U.S.C. § 1225(b), despite the fact that he was lawfully admitted on a visitor visa, later overstayed, was residing in the interior of the United States, and was not seeking admission when ICE assumed custody. Petitioner is not an arriving alien presently seeking admission into the United States, nor was he taking any step to obtain admission when he was seized by ICE.
38. Respondents have identified no individualized basis showing that Petitioner is a danger or flight risk. Petitioner's only known arrest was the July 31, 2026 traffic-related arrest for an expired driver's license, for which his family promptly paid the local bond. Petitioner has no criminal history, has strong

lawful permanent resident family ties, supports his family, and has a pending immigration hearing scheduled for August 28, 2026. DHS cannot convert a minor local traffic arrest and immigration hold into categorical no-bond detention without a lawful statutory basis and constitutionally adequate process.

39. Petitioner also suffers from severe allergies and asthma. While detained, Petitioner has not been allowed adequate access to necessary medication. This medical issue increases the urgency of judicial review and the irreparable harm caused by continued detention.

VI. EXHAUSTION OF REMEDIES

40. No statutory exhaustion requirement bars this habeas petition. Exhaustion is not required, or should be excused, because Petitioner presents a pure legal question controlled by binding Eleventh Circuit precedent: whether § 1225(b)(2)(A) authorizes no-bond detention of an interior noncitizen who was not seeking admission when ICE assumed custody. In *Hernandez Alvarez*, the Eleventh Circuit resolved that issue on habeas review and affirmed relief for interior petitioners detained under DHS's § 1225(b)(2)(A) theory.
41. Any administrative bond request would be inadequate if DHS or EOIR treats Petitioner as categorically ineligible for bond under § 1225(b)(2)(A). To the

extent Petitioner seeks procedural protections at any court-ordered § 1226(a) bond hearing, exhaustion should also be excused because that issue presents a constitutional due process question not within the BIA's authority to finally resolve.

42. To the extent Petitioner seeks constitutionally adequate procedures at a court-ordered § 1226(a) bond hearing, exhaustion should be excused because that issue concerns the legality of the detention process rather than a discretionary custody determination. Petitioner does not seek review of a discretionary custody outcome; he challenges the legal adequacy of the procedures that would govern any ordered bond hearing, including the burden of proof. Section 1226(e) does not bar that claim because the extent of the Government's detention authority is not a discretionary custody judgment insulated from review. *Jennings v. Rodriguez*, 583 U.S. 281, 296 (2018). The Northern District of Alabama applied that same distinction in *Gomez Tejada v. Powell*, No. 7:26-cv-01111-MHH-NAD (N.D. Ala. July 29, 2026), treating the burden allocation at a § 1226(a) bond hearing as a reviewable due process question and ordering a bond hearing with a court-specified burden of proof rather than leaving the issue to unreviewable agency discretion.

**VII. RESPONDENTS UNLAWFULLY DETAIN PETITIONER
WITHOUT A VALID STATUTORY BASIS OR CONSTITUTIONALLY
ADEQUATE CUSTODY DETERMINATION**

43. Petitioner's detention is unlawful because Respondents are treating him as categorically ineligible for bond under § 1225(b)(2)(A), even though he was lawfully admitted on a visitor visa, later overstayed, and was arrested in the interior after a local traffic stop. Respondents' current detention requires a valid statutory basis, an individualized custody determination, and constitutionally adequate process. Respondents' failure to provide those safeguards warrants release or, at minimum, an order requiring Respondents to justify the arrest, detention, and current custody classification.

A. Respondents Must Establish a Lawful Custody Basis Under § 1226, Not § 1225(b)(2)(A)

44. Petitioner is an interior noncitizen who was lawfully admitted on a visitor visa and later overstayed. He was not seeking admission when ICE assumed custody. Respondents therefore must establish that his detention is authorized under § 1226, unless they can identify a specific mandatory-detention provision that applies. They may not avoid § 1226 custody procedures by misclassifying Petitioner as an applicant for admission subject to mandatory detention under § 1225(b)(2)(A).

45. Section 1226(a) authorizes arrest and detention pending a removal decision and

permits release on bond or conditional parole except where § 1226(c) applies. Petitioner is not alleged to fall within § 1226(c). Accordingly, if Respondents seek to detain Petitioner at all, they must proceed under § 1226(a) and provide the custody process and bond eligibility required by that statute, its regulations, and the Due Process Clause. The custody regulations contemplate formal custody determinations and review. Under 8 C.F.R. § 236.1(d)(1), after an initial custody determination by the district director, the respondent may request review by an immigration judge at any time before the removal order becomes final, except as otherwise provided. The regulations also contemplate formal notice of a custody determination through Form I-286.

46. These safeguards are not mere formalities. They ensure that any deprivation of liberty is based on individualized evidence and subject to meaningful review. A categorical no-bond classification under § 1225(b)(2)(A), applied to an interior visitor-visa overstay who was not seeking admission, deprives Petitioner of that required process.

47. Here, Respondents have not provided Petitioner with a constitutionally adequate custody determination, have not identified an individualized basis showing danger or flight risk, and have not established that any mandatory detention provision applies. Respondents should therefore be required to produce any Form I-200 warrant, Form I-286 custody determination, notice of

custody rights, custody classification document, detainer or hold documentation, and any document identifying the official who authorized Petitioner's immigration arrest and detention.

48. The absence of a written and individualized custody determination is particularly significant because Petitioner has no criminal history, strong family ties, a pending hearing on August 28, 2026, and serious medical needs arising from asthma and severe allergies. If DHS contends that continued detention is necessary, it must identify the statutory authority, custody classification, and individualized facts supporting detention.

49. The absence of those documents is independently significant because § 1226 supplies the general framework for detention of interior noncitizens pending removal proceedings unless a specific mandatory-detention provision applies. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, 175 F.4th 1258 (11th Cir. 2026), the Eleventh Circuit held that § 1226, not § 1225(b)(2)(A), governs detention of interior noncitizens who were not seeking lawful entry when arrested. Petitioner is materially situated within that rule because he was arrested in the interior after a local traffic stop and bond payment and was not seeking lawful entry at a border, port of entry, or inspection point when ICE assumed custody. Respondents therefore cannot avoid the custody procedures applicable under § 1226 by reclassifying Petitioner as subject to mandatory no-

bond detention under § 1225(b)(2)(A).

B. The Detention Violates Petitioner's Fifth Amendment Right to Due Process

50. Petitioner has a protected liberty interest in freedom from physical detention.

The deprivation of that liberty through categorical no-bond detention without a lawful statutory basis, individualized custody determination, or meaningful opportunity for review violates the Fifth Amendment's Due Process Clause. The governing standard for procedural due process is the three-part balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976), which weighs the private interest, the risk of erroneous deprivation, and the government's interest.

51. First, Petitioner's private liberty interest is paramount. He has lived in the United States for years after lawful admission on a visitor visa, has no criminal history, supports his lawful permanent resident parents and family members, and has substantial family and community ties. "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 v. Davis*, 533 U.S. 678, 690 (2001). The abrupt and unexplained deprivation of this liberty constitutes a profound intrusion. That intrusion is aggravated by Petitioner's asthma and severe allergies and the alleged denial of access to necessary medication in detention.

52. Second, the risk of erroneous deprivation from the procedures used—which were no procedures at all—is exceptionally high. Detaining a compliant individual without advance notice, an individualized assessment, or an opportunity to be heard creates a near-certainty of error. That risk is especially acute where the triggering event was a minor traffic arrest, local bond was paid, and Respondents have identified no individualized danger or flight-risk facts. The procedural safeguards required by regulation and affirmed by federal courts—notice, a hearing, and a decision by an authorized official—are the “substitute procedural safeguards” that would eliminate this risk.

53. Third, the government’s interest does not justify detention without process.

While the government has an interest in detaining noncitizens who pose a flight risk or danger, Respondents have not identified any individualized basis showing that Petitioner is a danger or flight risk. The administrative burden of providing written notice, a custody determination, and a prompt opportunity for review is minimal compared to the severe harm of physical detention. Respondents’ failure to provide these procedural protections renders continued detention unlawful and supports immediate release or, at minimum, prompt custody review under § 1226(a), with DHS bearing the burden of proof as a matter of due process.

54. The need for this Court to specify burden allocation is especially acute because the regulations separate bond hearings from the merits of removal. Under 8 C.F.R. § 1003.19, a custody redetermination is “separate and apart from” the removal hearing. The burden rules governing removability and relief from removal appear elsewhere, in 8 C.F.R. § 1240.8. A § 1226(a) bond hearing therefore should not become a premature merits adjudication in which a newly detained respondent is denied release because he has not yet filed, or cannot yet prove, ultimate relief from removal.
55. Recent Board precedent underscores that risk. In *Matter of A-L-S-*, 29 I. & N. Dec. 794 (BIA 2026), the Board vacated an immigration judge’s bond order after concluding that the judge had relied on a planned asylum filing and speculative future eligibility for adjustment of status and cancellation of removal. The Board further stated that the fact that an alien has filed, or intends to file, an application for relief “does not meaningfully indicate” compliance with a future removal order and that speculative future eligibility does not materially diminish flight risk. *Matter of A-L-S-*, 29 I. & N. Dec. 794 (BIA 2026). That recent published Board bond trend, reflected in *A-L-S-*, favors DHS and makes it especially important that a court-ordered bond hearing remain separate from the merits of removal and place the burden on DHS rather than on a newly detained respondent. If the detainee bears the burden at the outset of

proceedings, that reasoning creates a serious danger that the absence of an already-developed relief record will itself become a built-in reason to deny bond.

C. Respondents Should Not Be Permitted To Re-Characterize Petitioner's Detention Status To Avoid § 1226 Custody Procedures

56. By taking custody of Petitioner in the interior after a local traffic arrest, Respondents are operating within the custody framework governing noncitizens present in the United States pending removal proceedings. Section 1226(a) permits release on bond or conditional parole except where § 1226(c) applies.
57. Respondents should not be permitted to re-characterize Petitioner's detention status to avoid those custody procedures. If DHS instead contends that Petitioner is now subject to mandatory detention under § 1225(b)(2)(A), that position is foreclosed by *Hernandez Alvarez*, which held that § 1226 governs interior noncitizens who were not seeking lawful entry when arrested.
58. Petitioner was lawfully admitted on a visitor visa, has lived in the United States for years, has strong lawful permanent resident family ties, has no criminal history, and has a pending hearing scheduled for August 28, 2026. To allow Respondents to detain him without written notice, a lawful custody classification, or a meaningful custody determination would undermine the statutory and regulatory process governing civil immigration detention.

59. Accordingly, Respondents must be required to establish a lawful statutory and regulatory basis for Petitioner's arrest and continued detention. If they cannot produce a valid warrant, custody determination, notice of custody rights, detainer or hold documentation, custody classification, and documentation identifying the official responsible for the detention, Petitioner is entitled to release or, at minimum, immediate custody process under § 1226(a).
60. If Respondents contend that Petitioner is subject to mandatory detention, they must identify the specific statutory provision that allegedly applies and the facts supporting that classification. If they cannot do so, Petitioner must be treated under § 1226(a) and provided a constitutionally adequate bond hearing.

**VIII. ICE'S WARRANTLESS INTERIOR ARREST AND DETENTION
PROVIDE AN INDEPENDENT BASIS FOR RELIEF**

61. Petitioner's detention is unlawful, or at minimum requires immediate judicial scrutiny, because ICE assumed custody following a local traffic arrest without producing a valid warrant or any individualized basis showing that a warrantless civil immigration arrest was necessary. Section 1226(a) authorizes arrest and detention pending removal proceedings only "[o]n a warrant issued by the Attorney General," except where a separate statutory basis for warrantless arrest applies. 8 U.S.C. § 1226.
62. On this record, Respondents have not established that ICE possessed a valid

warrant before assuming custody, nor have they shown facts supporting any exigent warrantless-arrest theory. Petitioner was already in local custody, his family had paid the local bond, he had no criminal history, he had strong family ties, and he had a pending immigration hearing scheduled for August 28, 2026. Those facts do not support a categorical inference that Petitioner was likely to escape before ICE could obtain a warrant.

63. Courts have recognized the importance of the warrant requirement in this context, but recent decisions also counsel careful tailoring of the remedy. In *Gomez Tejada v. Powell*, No. 7:26-cv-01111-MHH-NAD (N.D. Ala. July 29, 2026), the court stated that ICE must have a warrant to arrest someone under § 1226(a), noted apparent procedural defects where ICE documents did not indicate that ICE had a warrant before the stop, but declined immediate release where the government later produced a warrant and a lawful basis for continued detention could exist. In *Flores v. Cooper*, Slip Copy, 2026 WL 1477831 (E.D. Tenn. May 27, 2026), the court likewise declined immediate release based solely on alleged defects in the initial arrest, reasoning that habeas redresses unlawful custody and that defects in the original arrest do not require discharge if a sufficient lawful basis for detention is later shown.
64. Accordingly, Petitioner does not ask the Court to disregard any lawful custody basis Respondents can actually establish. Rather, Petitioner asks the Court to

require Respondents to prove that lawful basis now. Respondents should be ordered to show cause and produce any Form I-200 warrant, ICE detainer or hold documentation, Form I-286 custody determination, notice of custody rights, custody classification document, and any document identifying the official who authorized Petitioner's immigration detention.

65. If Respondents cannot produce a lawful basis for Petitioner's arrest and continued custody, release is warranted. If Respondents establish that Petitioner may lawfully be detained under § 1226(a), then Petitioner must receive a prompt, constitutionally adequate bond hearing at which DHS bears the burden of justifying continued detention with individualized evidence.
66. This tailored remedy accords with the approach in *Gomez Tejada* and *Flores*. In *Gomez Tejada v. Powell*, No. 7:26-cv-01111-MHH-NAD (N.D. Ala. July 29, 2026), the court denied immediate release but ordered the government either to provide a § 1226(a) bond hearing within seven days or release the petitioner. In *Flores v. Cooper*, Slip Copy, 2026 WL 1477831 (E.D. Tenn. May 27, 2026), the court granted habeas relief in part by ordering the government either to release the petitioner or provide an individualized § 1226(a) bond hearing within ten days with the government bearing the burden by clear and convincing evidence.
67. Thus, the warrantless-arrest defect remains an independent basis for relief. At minimum, it supports an order requiring Respondents to produce the

documents authorizing Petitioner's arrest and detention, to justify the current custody classification, and to provide a prompt § 1226(a) bond hearing if continued detention is legally available.

IX. LEGAL FRAMEWORK AND ARGUMENT

A. Binding Eleventh Circuit precedent establishes that § 1225(b)(2)(A) does not govern Petitioner's detention

68. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, 175 F.4th 1258 (11th Cir. 2026), the Eleventh Circuit rejected DHS's new interpretation of § 1225(b)(2)(A).

69. The Eleventh Circuit held that § 1225(b)(2)(A) limits no-bond detention to applicants for admission who are "seeking admission."

70. The Eleventh Circuit held that interior noncitizens who entered without inspection years earlier and were later arrested after traffic stops were not "seeking admission" when detained.

71. The Eleventh Circuit further held that seeking relief from removal or contesting removal proceedings is not the same as seeking admission under § 1225(b)(2)(A).

72. Petitioner's case falls within *Hernandez Alvarez* because Petitioner was arrested in the interior after a local traffic stop and ICE hold and was not seeking lawful

entry into the United States when seized. Indeed, Petitioner's case is stronger because he was lawfully admitted on a visitor visa and later overstayed; he was not an applicant for admission at the time of his arrest.

73. Accordingly, DHS cannot lawfully deny Petitioner bond eligibility by classifying him as subject to mandatory detention under § 1225(b)(2)(A).

B. Section 1226 governs Petitioner's custody unless DHS proves a specific mandatory-detention provision applies

74. In *Hernandez Alvarez*, the Eleventh Circuit explained that § 1226 provides the general detention framework for noncitizens present in the United States pending removal proceedings.

75. The Eleventh Circuit also explained that § 1226(a) authorizes DHS either to continue detention or to release the noncitizen on bond or conditional parole, while § 1226(c) limits that discretion only for enumerated categories.

76. The Eleventh Circuit relied on *Jennings v. Rodriguez*, 583 U.S. 281 (2018), for the distinction between § 1225 detention of noncitizens seeking admission and § 1226 detention of noncitizens already present in the country.

77. The Eleventh Circuit also reasoned that DHS's reading would create serious redundancy with § 1226(c), including Congress's 2025 addition of § 1226(c)(1)(E) through the Laken Riley Act.

78. Petitioner is not alleged to fall within § 1226(c), so he must receive the custody

process available under § 1226(a).

C. Castañon-Nava confirms the same statutory reading

79. In *Castañon-Nava v. U.S. Department of Homeland Security*, 175 F.4th 828 (7th Cir. 2026), the Seventh Circuit held that § 1225(b)(2)(A) applies to noncitizens seeking lawful entry at the border or ports of entry, not to noncitizens living in the interior.
80. The Seventh Circuit found that the text, statutory context, legislative history, and longstanding Executive practice supported that conclusion.
81. The Seventh Circuit also explained that Congress's 2025 amendment to § 1226(c) would be redundant if all interior EWI noncitizens were already subject to mandatory detention under § 1225(b)(2)(A).
82. Although *Castañon-Nava* is persuasive rather than binding in this Court, its reasoning accords with the now-binding rule of *Hernandez Alvarez*.

X. LEGAL FRAMEWORK FOR THE RELIEF SOUGHT

83. This Court has fundamental authority and a constitutional duty under 28 U.S.C. § 2241 to remedy Petitioner's unlawful detention. The Supreme Court has consistently affirmed that the Great Writ is the primary instrument for challenging the legality of civil immigration detention.
84. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *I.N.S. v. St. Cyr*, 533 U.S. 289, 314

(2001); *Jennings v. Rodriguez*, 583 U.S. 281, 285–86 (2018). As “perhaps the most important writ known to the constitutional law,” habeas corpus is an equitable tool that empowers this Court not just to review custody, but to “dispose of the matter as law and justice require” under 28 U.S.C. § 2243. *Fay v. Noia*, 372 U.S. 391, 400 (1963); *Schlup v. Delo*, 513 U.S. 298, 319 (1995). That power explicitly includes ordering a petitioner’s immediate release. *Boumediene v. Bush*, 553 U.S. 723, 787 (2008). This Court’s jurisdiction is secure, as the concept of “custody” is broad, attaching at the time of filing and persisting despite subsequent release due to the significant ongoing restraints on Petitioner’s liberty. *See Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973).

85. The Court must grant the petition for writ of habeas corpus or order Respondent to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondent must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

86. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action

from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000).

XI. CAUSES OF ACTION AND CLAIMS FOR RELIEF

COUNT ONE

Unlawful Detention Under the INA and 28 U.S.C. § 2241

87. Respondents are detaining Petitioner under § 1225(b)(2)(A) even though he was arrested in the interior years after lawful admission on a visitor visa and was not seeking lawful entry when seized.
88. In *Hernandez Alvarez*, the Eleventh Circuit held that § 1225(b)(2)(A) does not authorize no-bond detention of similarly situated interior petitioners who were not seeking admission when arrested.
89. Respondents' continued classification of Petitioner as subject to § 1225(b)(2)(A) is contrary to binding Eleventh Circuit law.
90. Petitioner's detention must instead proceed, if at all, under § 1226.
91. Petitioner is entitled to habeas relief requiring Respondents to cease detaining him under § 1225(b)(2)(A) and to provide release or a prompt custody hearing under § 1226.

COUNT TWO
Unlawful Warrantless Arrest and Detention in Violation of the INA and Due Process (8 U.S.C. §§ 1226(a), 1357(a)(2))

92. Petitioner's seizure and detention are unlawful, or at minimum procedurally defective, because Respondents have not produced a valid warrant, detainer, custody determination, or individualized basis authorizing ICE's assumption of custody after the local traffic arrest. Section 1226(a) authorizes civil immigration arrest and detention pending a removal decision "[o]n a warrant issued by the Attorney General." 8 U.S.C. § 1226.
93. The defect is material. Petitioner was in local custody, his family had paid the local bond, he has no criminal history, he has strong family ties, and he had a scheduled immigration hearing. Respondents have not identified facts showing that Petitioner was likely to escape before a warrant could be obtained.
94. Petitioner therefore requests an order requiring Respondents to show cause why his arrest and continued detention are lawful and to produce any warrant, Form I-200, ICE detainer or hold documentation, Form I-286 custody determination, custody classification, and written notice supporting detention. If Respondents cannot establish a lawful custody basis, Petitioner should be released. If Respondents establish that detention may proceed under § 1226(a),

Petitioner should receive a prompt bond hearing with constitutionally adequate safeguards.

COUNT THREE
Violation of the Fifth Amendment of the U.S. Constitution
Procedural and Substantive Due Process

95. Petitioner's detention is a profound offense to the Fifth Amendment, violating his rights to both substantive and procedural due process. It is axiomatic that the Due Process Clause applies to all persons within the United States, regardless of immigration status, and that "freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner has a protected liberty interest in freedom from physical detention. Respondents' actions trample upon this fundamental right.
96. Petitioner's liberty interest is strengthened by the fact that he was lawfully admitted on a visitor visa, has lived in the United States for years, has no criminal history, has strong lawful permanent resident family ties, supports vulnerable family members, and has a pending immigration hearing scheduled for August 28, 2026. The summary detention of an interior noncitizen under an unlawful no-bond classification without individualized evidence of danger or flight risk is not merely a bond-eligibility problem; it is a deprivation of liberty without constitutionally adequate process.

97. Respondents have deprived Petitioner of liberty through a categorical no-bond detention regime that binding Eleventh Circuit law does not authorize. Because Petitioner is not subject to § 1225(b)(2)(A), continued detention without an individualized custody determination violates due process. At minimum, due process requires a prompt hearing at which the government must justify continued detention based on individualized evidence of flight risk or danger.
98. **Substantive Due Process:** The detention is substantively unconstitutional because it is arbitrary and serves no legitimate, non-punitive purpose. Civil immigration detention is permissible only to prevent flight or danger to the community. See *Jennings v. Rodriguez*, 583 U.S. 281, 296 (2018). As established, Petitioner is neither a flight risk nor a danger. Petitioner's mandatory detention, without any individualized assessment, bears no reasonable relation to any legitimate government purpose and is therefore arbitrary deprivation of liberty, excessive, and unconstitutional.
99. **Procedural Due Process:** Even if a legitimate purpose for detention existed, the procedures used to effectuate it are procedurally deficient. Due process demands a "meaningful opportunity to be heard at a meaningful time and in a meaningful manner" before a neutral decision-maker. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). The current scheme—whereby Respondents unilaterally subject Petitioner to mandatory

detention based on an unlawful policy—entirely lacks these fundamental safeguards and fails the three-part balancing test set forth in *Mathews*:

100. **The Private Interest:** Petitioner's liberty interest is paramount; the risk of erroneous deprivation is extreme considering that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c), is not a flight risk, and does not pose a danger to the community. Being free from physical detention by one's own government "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The right to be free of detention of indefinite duration pending a bail determination, is "without question, a weighty one." *Landon v. Plasencia*. Petitioner is being held in jail in the same conditions as criminal inmates, unable to work and is far from family. At minimum, the government must come forward with concrete, case-specific reasons that outweigh Petitioner's substantial liberty interest in continued release.

101. **The risk of erroneous deprivation** is substantial. If Petitioner is required to disprove danger and flight risk from detention, he must prove a negative while lacking ready access to records, witnesses, and documentary evidence. DHS, by contrast, has superior access to immigration, criminal-history, identity, law-enforcement, and custody records. Courts within this Circuit have recognized that placing the burden on the detained noncitizen in this context creates serious due process concerns.

102. That structural risk is not hypothetical. *J.G. v. Warden, Irwin Cnty. Detention Ctr.*, 501 F. Supp. 3d 1331 (M.D. Ga. 2020) explained that 8 C.F.R. § 236.1 places the burden on the noncitizen only in the arresting officer's initial custody decision, and that the Board extended that officer-based rule to immigration judges through *Matter of Adeniji*, 22 I&N Dec.1102 (BIA 1999) even though the statute itself is silent. After *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 412 (2024), this Court owes no reflexive deference to that agency-made burden allocation on a question of statutory meaning or constitutional adequacy. Independent judicial judgment is required, and that judgment should favor liberty unless the Government proves detention is necessary.
103. **The Government's Interest** does not justify detention under an unlawful no-bond classification. The Government has legitimate interests in ensuring appearance and protecting the community, but those interests must be served through a lawful custody framework and an individualized determination. Detention of a non-criminal § 1226(a) respondent without requiring DHS to prove danger or flight risk creates an unnecessary risk of erroneous liberty deprivation and imposes avoidable public costs.
104. All three *Mathews* factors weigh decisively in Petitioner's favor. The current scheme is fundamentally unfair, unconstitutional, and deprives Petitioner of liberty without the process that is, and has always been, due.

XII. REMEDIES

THE COURT SHOULD ORDER IMMEDIATE RELEASE

105. Respondents are detaining Petitioner under an unlawful custody theory.

Section 1226(a) supplies the general detention framework for noncitizens arrested and detained pending a removal decision, and it permits release on bond or conditional parole unless § 1226(c) applies. 8 U.S.C. § 1226(a), (c). In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, 175 F.4th 1258 (11th Cir. May 6, 2026), the Eleventh Circuit held that § 1226, rather than § 1225(b)(2)(A), governed the detention of interior noncitizens who were not seeking lawful entry when arrested.

106. Federal courts possess broad equitable power under 28 U.S.C. § 2243 to “dispose of the matter as law and justice require,” which includes ordering immediate release when the government’s custody is illegal. See *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987); *Rosado v. Figueroa*, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025). Here, law and justice demand nothing less than Petitioner’s release, as his detention is contrary to the INA, procedurally deficient, and unsupported by an individualized custody determination.

107. Because Petitioner was arrested in the interior and was not seeking lawful entry at a border, port of entry, or inspection point when ICE assumed custody, Respondents may not continue to detain him as categorically ineligible for

bond under § 1225(b)(2)(A). If Respondents seek to continue detaining Petitioner, they must proceed under § 1226 and provide the custody process available under that statute and its implementing regulations.

108. Immediate release is warranted because Respondents have not identified a lawful statutory basis for mandatory no-bond detention and have not made an individualized showing that Petitioner is a danger to the community or a flight risk. In the alternative, the Court should order Respondents to provide Petitioner with a prompt bond hearing under § 1226(a), at which DHS bears the burden of justifying continued detention based on individualized evidence.
109. A later bond hearing does not erase the procedural defect in the arrest and initial custody process. But courts have tailored habeas relief to the current legality of custody rather than treating every arrest defect as requiring automatic release. *Gomez Tejada v. Powell*, No. 7:26-cv-01111-MHH-NAD (N.D. Ala. July 29, 2026); *Flores v. Cooper*, Slip Copy, 2026 WL 1477831 (E.D. Tenn. May 27, 2026).
110. The proper remedy is therefore twofold. First, Respondents must be required to justify the arrest, detention, and custody classification with competent documentation. Second, if Respondents establish that custody may lawfully proceed under § 1226(a), the Court should order a prompt bond hearing with DHS bearing the burden of proving that continued detention is necessary.

111. If Respondents cannot establish a lawful basis for Petitioner's current detention, release is warranted. If they can establish a lawful § 1226(a) basis, then release remains warranted unless DHS proves at a constitutionally adequate bond hearing that Petitioner is a danger or flight risk.
112. Any release conditions should be individualized and reasonably related to a demonstrated risk of flight or danger. The Court should not permit Respondents to substitute physical detention with categorical or automatic electronic monitoring absent an individualized determination that such a condition is necessary and appropriately tailored. This relief preserves the Court's ability to remedy unlawful detention while allowing Respondents to request lawful, case-specific conditions if they can support them with evidence.
113. A delayed or procedurally inadequate bond hearing would not fully remedy the ongoing deprivation of liberty. Respondents have not made an individualized showing that Petitioner is a danger or flight risk. If the Court orders a bond hearing instead of immediate release, the order should require a prompt hearing with meaningful procedural safeguards, including an individualized determination based on evidence.

If Court Grants Bond Hearing – Ensure Burdens Are Met

114. Should this Court order a bond hearing as an alternative to immediate release, the order should contain explicit procedural safeguards. Without them, the remedy risks being illusory because the immigration court may simply apply the same burden allocation and the same detention-favoring framework that produced the constitutional injury in the first place.
115. 8 U.S.C. § 1226 does not assign the burden of proof at a bond hearing. The contrary practice derives from 8 C.F.R. § 236.1, a regulation addressed by its text to the arresting officer's release decision, and from the Board's later extension of that rule to immigration judges. *J.G. v. Warden, Irwin Cnty. Detention Ctr.*, 501 F. Supp. 3d 1331 (M.D. Ga. 2020). Because the statute is silent, and because the question presented here is one of constitutional adequacy, *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 412 (2024), confirms that this Court must exercise its own judgment rather than defer to the agency's preferred burden allocation.
116. The strongest authority within this Circuit supports placing the burden on DHS. In *J.G. v. Warden, Irwin Cnty. Detention Ctr.*, 501 F. Supp. 3d 1331 (M.D. Ga. 2020), the court held that placing the burden on the detainee at a § 1226(a) bond hearing violated due process. After *Hernandez Alvarez*, courts in this Circuit have repeatedly ordered bond hearings with the burden on DHS.

Each of those Middle District of Georgia decisions required DHS to establish by clear and convincing evidence that the petitioner was either a danger to the community or a flight risk. Those cases include: *B.A.M.A. v. Warden, Irwin County Detention Center*, Slip Copy, 2026 WL 1362520 (M.D. Ga. May 13, 2026); *I.A.A.M. v. Warden, Irwin County Detention Center*, Slip Copy, 2026 WL 1362519 (M.D. Ga. May 13, 2026); and *W.C. v. Warden, Irwin County Detention Center*, Slip Copy, 2026 WL 1658526 (M.D. Ga. June 4, 2026).

117. Other courts have articulated the same principle in slightly different form. The Northern District of Alabama's *Gomez Tejada* habeas decision found the First Circuit's reasoning in *Hernandez-Lara v. Lyons*, 10 F.4th 19 (1st Cir. 2021), more persuasive than contrary authority and held that due process requires the Government to carry the burden at a § 1226(a) bond hearing. *Gomez Tejada v. Powell*, No. 7:26-cv-01111-MHH-NAD (N.D. Ala. July 29, 2026). That court concluded that dangerousness must be proved by clear and convincing evidence and flight risk by a preponderance of the evidence. Even if this Court elects not to require clear and convincing evidence as to both prongs, the minimum constitutionally necessary protection is that DHS—not Petitioner—must bear the burden of justifying detention. See also *Velasco Lopez v. Decker*, 978 F.3d 842, 853–56 (2d Cir. 2020), *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213–14 (3d Cir. 2020).

118. Petitioner recognizes that some courts have reached a different conclusion in initial § 1226(a) proceedings, including *Miranda v. Garland*, 34 F.4th 338 (4th Cir. 2022), and *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022). But those decisions do not control here, and they are less persuasive in light of the repeated post-*Hernandez Alvarez* orders from courts within this Circuit requiring DHS to justify detention. *Sopo v. U.S. Attorney General*, 825 F.3d 1199 (11th Cir. 2016), vacated as moot, 890 F.3d 952 (11th Cir. 2018), likewise does not resolve this question because it was vacated and did not decide the due process issue presented by a non-criminal detainee's initial § 1226(a) hearing.
119. The *Mathews* factors confirm that burden shifting is required here. Petitioner's liberty interest is fundamental. *J.G. v. Warden, Irwin Cnty. Detention Ctr.*, 501 F. Supp. 3d 1331 (M.D. Ga. 2020). The risk of error is substantial because proving a negative—especially lack of dangerousness—is inherently difficult, and detainees often lack ready access to records, witnesses, and documentary proof while incarcerated. The Government, by contrast, ordinarily has access to criminal-history, immigration, employment, and identity records and can present them with minimal added burden. And every unnecessary detention imposes real public costs while separating families and removing breadwinners from their communities.
120. The Court therefore should direct that, if a bond hearing is ordered, DHS must

bear the burden of proving by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk. That is the rule repeatedly ordered in the Middle District of Georgia in *B.A.M.A. v. Warden, Irwin County Detention Center*, Slip Copy, 2026 WL 1362520 (M.D. Ga. May 13, 2026), *I.A.A.M. v. Warden, Irwin County Detention Center*, Slip Copy, 2026 WL 1362519 (M.D. Ga. May 13, 2026), and *W.C. v. Warden, Irwin County Detention Center*, Slip Copy, 2026 WL 1658526 (M.D. Ga. June 4, 2026), and it is the rule most consistent with due process where detention is civil, discretionary, and imposed on a non-criminal respondent in the early stages of removal proceedings.

XIII. CONCLUSION AND PRAYER FOR RELIEF

121. The continued detention of Petitioner violates due process rights. But for intervention by this Court, Petitioner has no means of release from ICE custody. Petitioner faces ongoing and irreparable harm as a result of unlawful detention, including deprivation of liberty, loss of employment, and separation from family. These injuries cannot be remedied by monetary damages and will continue absent immediate judicial intervention. The balance of equities and the public interest strongly favor expedited consideration and equitable relief, including immediate release or a prompt

bond hearing. Without such relief, Petitioner will continue to suffer irreparable harm, and the constitutional and statutory violations at issue will persist.

122. Given the egregious constitutional and statutory violations underlying Petitioner's arrest and continued detention, immediate release is warranted, or in the alternative, a prompt § 1226(a) bond hearing with constitutionally adequate procedures is required. Federal courts possess broad authority under 28 U.S.C. § 2243 to "dispose of the matter as law and justice require," which includes ordering immediate release when detention is found to be unlawful. See *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987).

WHEREFORE, Petitioner prays that this Court grant the following relief. Petitioner respectfully requests expedited consideration of this Petition due to the ongoing deprivation of liberty and irreparable harm:

- (1) Grant the Petition and order Respondents to release Petitioner because § 1225(b)(2)(A) does not authorize his mandatory no-bond detention;**
- (2) In the alternative, order Respondents to provide Petitioner with a bond hearing before an Immigration Judge under 8 U.S.C. § 1226(a) within forty-eight (48) hours, at which DHS shall bear the burden of proving by clear and convincing evidence that Petitioner is either a**

danger to the community or a flight risk; the Immigration Judge shall make an individualized determination based on the evidence presented; and the Immigration Judge shall consider non-bond alternatives to detention and, if setting bond, Petitioner's financial circumstances and ability to pay. The Court should further direct that the bond hearing remain limited to the custody issues authorized by 8 C.F.R. § 1003.19, remain separate and apart from the merits of removal, and not deny bond based solely on the absence of a previously filed application for relief or on speculative views about the ultimate merits of relief not yet required to be filed;

- (3) Independently, order Respondents to show cause and produce all documents authorizing Petitioner's arrest and current custody classification, including any warrant, Form I-200, Form I-286, ICE detainer or hold documentation, custody determination, notice of custody rights, document reflecting the statutory basis for detention, document identifying the official who authorized Petitioner's immigration detention, and any delegation of authority relied upon; and order release if Respondents cannot establish a lawful basis for current custody;
- (4) **Issue an Order to Show Cause** directing Respondents to file a return

within three (3) days, pursuant to 28 U.S.C. § 2243, justifying in fact and law why the writ should not be granted;

- (5) Pending final resolution of this Petition, and consistent with the emergency relief requested in Section II above, issue a temporary order pursuant to 28 U.S.C. §§ 1651(a) and 2241 prohibiting Respondents from transferring Petitioner outside the Northern District of Georgia, or otherwise changing Petitioner's immediate custodian, and from removing Petitioner from the United States, absent prior leave of this Court, so as to preserve this Court's habeas jurisdiction under the district-of-confinement and immediate-custodian rule recognized in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004);
- (6) Order Respondents to provide Petitioner with immediate and adequate access to necessary medication and medical care for his severe allergies and asthma while he remains detained;
- (7) Award Petitioner reasonable attorney's fees and costs including under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and any other applicable fee-shifting statute; and
- (8) **Grant** such other and further relief as this Court deems just, proper or equitable under the circumstances.

Respectfully Submitted,

This 4th Day of August, 2026.

/s/ Karen Weinstock

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 U.S.C. § 2242.

This 4th Day of August, 2026.

/s/ Karen Weinstock
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