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Petitioner, Alien Registration Number A [REDACTED], is a native and citizen of Mexico who was born on [REDACTED]. He entered the United States as an infant in approximately August 1998 and has continuously resided in the United States for nearly his entire life. Petitioner was raised in Texas, attended public schools in Taylor Independent School District, and graduated from high school in Texas. Throughout his adult life, Petitioner has maintained steady employment, paid taxes, and established deep family and community ties in the United States. These facts are reflected in the intake materials and immigration records provided to counsel.

United States Citizenship and Immigration Services ("USCIS") previously granted Petitioner Deferred Action for Childhood Arrivals ("DACA") and subsequently renewed that protection. During that period, Petitioner was authorized to work lawfully in the United States, was issued employment authorization, and received a Social Security number. Petitioner relied upon those grants of deferred action to lawfully work, support his family, and comply with all applicable requirements imposed by the federal government. The immigration records submitted with this Petition document Petitioner's DACA approvals and employment authorization.

Petitioner is married to Samara Jane Oviedo, a United States citizen, and they were lawfully married in Williamson County, Texas, on December 12, 2020. Petitioner and his wife are the parents of a United States citizen daughter. Petitioner's continued detention has resulted in significant hardship to his wife and child, who depend upon him for financial and emotional support.

On or about July 31, 2026, Petitioner was pulled over by the police for driving 5 (five) miles above the speed limit. He was unable to produce an unexpired driver's license. He was not issued a ticket nor issued a traffic citation. He was immediately taken into ICE custody. Petitioner has no criminal convictions reflected in the information available to counsel and has lived a

law-abiding life in the United States, maintaining steady employment and supporting his family. He is currently detained at the T. Don Hutto Detention Center in Taylor, Texas.

Removal proceedings are pending before the Immigration Court. According to the Executive Office for Immigration Review's Automated Case Information System, Petitioner's case was docketed on August 6, 2026, remains pending, and no future hearing has been scheduled.

Petitioner has resided in the United States for nearly twenty-eight years, entered this country as a baby, has repeatedly been granted deferred action by DHS, has no criminal history, is married to a United States citizen, is the father of a United States citizen child, and presents neither a danger to the community nor a meaningful risk of flight. Nevertheless, Respondents continue to deprive him of his liberty through civil detention without providing a prompt opportunity for meaningful judicial or administrative review of that detention. Petitioner therefore seeks immediate habeas relief and all other appropriate declaratory and injunctive relief authorized by law.

PARTIES

1. Respondent **Sylvester Ortega** is the Field Office Director for U.S. Immigration and Customs Enforcement ("ICE"), San Antonio Field Office, and is responsible for Petitioner's continued detention.
2. Respondent **The Warden of the T. Don Hutto Detention Center**, not known by name, is Petitioner's immediate custodian.
3. Respondents **Markwayne Mullin**, Secretary of the Department of Homeland Security ("DHS"); **David J. Venturella**, Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement; and **Todd Blanche**, Acting Attorney General of the United States, are federal officials acting under color of federal law and are responsible for the authority pursuant to which Petitioner is detained.

CUSTODY

4. Petitioner is in the physical custody and control of Respondents within this judicial district.

JURISDICTION AND VENUE

5. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner is in federal custody and alleges that his custody violates the Constitution and laws of the United States; pursuant to 28 U.S.C. § 1331 because this action arises under federal law and the Constitution; pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202; and pursuant to the Court’s traditional equitable authority and the All Writs Act, 28 U.S.C. § 1651.
6. A petition under § 2241 is the traditional mechanism for challenging the legality of present physical confinement, including immigration detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).
7. The Supreme Court has repeatedly recognized federal habeas jurisdiction over constitutional and legal challenges to immigration detention. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *INS v. St. Cyr*, 533 U.S. 289, 300–14 (2001).
8. Statutory limitations on judicial review, including 8 U.S.C. §§ 1226(e), 1252(a)(2), 1252(b)(9), 1252(g), and related provisions, do not bar this action because Petitioner does not seek judicial review of a final removal order, the commencement of removal proceedings, the execution of a removal order, or a discretionary bond determination.
9. Petitioner instead challenges the constitutional and legal basis for present physical confinement and the absence of a meaningful individualized procedure capable of resulting in release.

10. Section 1226(e) does not prevent review of constitutional challenges to the statutory framework or procedures governing detention. *Jennings v. Rodriguez*, 583 U.S. 281, 295–96, 303–12 (2018).
11. Section 1252(b)(9) likewise does not bar jurisdiction because Petitioner’s claims concern detention and are collateral to the merits of his removal proceedings. *Id.* at 292–95.
12. Petitioner’s injury is physical confinement, not the institution or continuation of removal proceedings.
13. His claims can be fully adjudicated without determining whether Petitioner is removable or ultimately entitled to immigration relief.
14. To the extent Respondents contend that any provision of § 1252 must be interpreted to eliminate meaningful habeas review of the legality of Petitioner’s present physical confinement, that construction would raise the serious Suspension Clause concerns addressed separately below.
15. Venue is proper because Petitioner is confined at the T. Don Hutto Detention Center in Taylor, Texas, within the Western District of Texas.
16. Petitioner’s immediate physical custodian is located within this District.
17. Venue is therefore proper under 28 U.S.C. §§ 1391(e) and 2241. See *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35, 442–43 (2004).

EXHAUSTION

18. Petitioner has exhausted all administrative remedies available to him, or, alternatively, exhaustion should be excused because no adequate or effective administrative remedy exists to challenge the legality of his continued detention. Petitioner’s claims arise under the Constitution and laws of the United States and are properly brought pursuant to 28 U.S.C. § 2241. To the extent any administrative remedies remain theoretically available,

requiring further exhaustion would be futile because those procedures cannot provide the prompt judicial review necessary to remedy Petitioner's ongoing deprivation of liberty.

19. Petitioner has remained continuously detained by ICE since approximately July 31, 2026.

Although removal proceedings have been initiated, the Executive Office for Immigration Review reflects that Petitioner's case is merely pending, and no future hearing has been scheduled. Even if a hearing is scheduled, the Petitioner will not be afforded an opportunity to present evidence that he is not dangerous and is not a flight risk. These days, immigration bond hearings are often illusory, with bond rarely granted. However, when conducted under safeguards imposed by federal courts, these hearings become more meaningful, and the likelihood of obtaining bond improves somewhat.

20. In addition, bond hearings are *"no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause."* Cruz-Reyes, 2026 WL 332315, at *5 (quotation marks omitted). *"The suggestion that government agents may sweep up any person they wish without consideration of dangerousness or flight risk, so long as the person will, at some unknown future date, be allowed to ask some other official for his or her release, offends the ordered system of liberty that is the pillar of the Fifth Amendment."* Gonzalez v. Joyce, No. 25 Civ. 8250 (AT), 2025 WL 2961626, at *5 (S.D.N.Y. Oct. 19, 2025). Further, in cases of re-detention of a noncitizen in violation of the Fifth Amendment, *"a post-deprivation bond hearing before a DHS officer or even an immigration judge would provide no genuine opportunity to relief because the detention without adequate pre-deprivation procedures has already been carried out."* (Emphasis added). Rodriguez-Acurio v. Almodovar, ___ F. Supp. 3d ___, ___, No. 2:25CV-6065 (NJC), 2025 WL 3314420, at *31 (E.D.N.Y. Nov. 28, 2025). As a result, Petitioner

continues to be deprived of his liberty without any meaningful opportunity to obtain prompt judicial review of the legality or necessity of his continued civil detention.

21. Petitioner has no adequate administrative mechanism through which to obtain the relief requested in this action. A writ of habeas corpus is therefore the appropriate and necessary vehicle to challenge the legality of his continued detention and to vindicate his rights under the Fifth Amendment to the United States Constitution.

STATEMENT OF FACTS

22. Petitioner, Jose Marcos Araujo Medina, is a native and citizen of Mexico. He was born on [REDACTED] and entered the United States in approximately August 1998, when he was less than one year old. Since that time, Petitioner has continuously resided in the United States and has spent virtually his entire life in this country.

23. Petitioner was raised in Taylor, Texas, attended public schools in the Taylor Independent School District, and graduated from high school in Texas. The United States is the only home Petitioner has known since infancy. His family, employment, and community ties are all located within the United States.

24. United States Citizenship and Immigration Services ("USCIS") previously granted Petitioner Deferred Action for Childhood Arrivals ("DACA") and subsequently renewed that protection. As a result, Petitioner was lawfully authorized to work in the United States and was issued an Employment Authorization Document and a Social Security number. Petitioner complied with the conditions of his DACA grants and relied upon those grants to lawfully support himself and his family.

25. Unfortunately, the Petitioner tried to renew his DACA pro se and had his packet returned for insufficient payment. He tried to resend the package and only received it back when it was too late to renew. If more than one year has passed since the recipient's DACA

expired, USCIS will treat the filing as an initial DACA request rather than a renewal. This distinction is particularly significant because, under the existing federal court orders, USCIS may accept initial DACA requests but is prohibited from processing or approving them. Consequently, a recipient who waits more than one year after expiration may be unable to obtain a new DACA approval while the current restrictions remain in effect. See USCIS, Consideration of Deferred Action for Childhood Arrivals (DACA), Frequently Asked Questions, Questions 48–52; *Texas v. United States*, 50 F.4th 498 (5th Cir. 2022).

26. On December 12, 2020, Petitioner lawfully married Samara Jane Oviedo, a United States citizen. Petitioner and his wife have established their family in Texas and are the parents of a United States citizen daughter. Petitioner's wife and daughter rely upon him for financial, emotional, and familial support.
27. Petitioner has maintained steady employment since approximately seventeen years of age, has paid taxes, and has no criminal convictions reflected in the information available to counsel. Prior to his current detention, Petitioner lived openly in Texas, maintained stable employment, and established substantial ties to his community.
28. On or about July 31, 2026, Petitioner was stopped for supposedly driving 5 (five) miles above the speed limit. He was unable to produce an unexpired driver's license. Petitioner was not convicted of any criminal offense arising from that encounter before being transferred to immigration authorities. Following the traffic stop, officers transferred Petitioner to the custody of U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is presently detained at the T. Don Hutto Detention Center, where he has remained continuously confined.

29. Removal proceedings have been initiated against Petitioner. According to the Executive Office for Immigration Review's Automated Case Information System, Petitioner's case was docketed on August 6, 2026 and remains pending. However, no future hearing has been scheduled, and Petitioner continues to be detained while awaiting further action in his immigration proceedings.
30. Petitioner's continued detention serves no legitimate governmental purpose. Petitioner has resided in the United States for nearly twenty-eight years, entered this country as an infant, has previously been granted deferred action by DHS, has maintained lawful employment, has a United States citizen spouse and child, and has demonstrated strong and enduring ties to his community. He poses neither a danger to the community nor a meaningful risk of flight.
31. Despite these compelling equities, Respondents continue to detain Petitioner without affording him a prompt and meaningful opportunity to challenge the necessity of his continued civil detention. As a result, Petitioner's continued confinement violates the Due Process Clause of the Fifth Amendment and the governing provisions of the Immigration and Nationality Act.

LEGAL FRAMEWORK

32. Pursuant to 28 U.S.C. § 2243, this Court must either grant the instant Petition for Writ of Habeas Corpus or issue an Order directing Respondents to show cause within three days why the writ should not be granted, unless it appears from the Petition that Petitioner is not entitled to relief. If the Court issues an Order to Show Cause, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." 28 U.S.C. § 2243.

33. The Fifth Amendment to the United States Constitution guarantees that no person shall be deprived of liberty without due process of law. It is well established that noncitizens physically present in the United States are entitled to the protections of the Due Process Clause during removal proceedings. *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)).
34. The Supreme Court has repeatedly recognized that "[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 v. Davis*, 533 U.S. 678, 690 (2001). Immigration detention is civil rather than criminal in nature and therefore must remain reasonably related to its legitimate governmental purposes.
35. Although Congress has authorized the detention of certain noncitizens during removal proceedings, that authority is subject to constitutional limitations. Civil detention must bear a reasonable relationship to its regulatory purpose and may not become arbitrary, excessive, or punitive in violation of the Fifth Amendment. See *Demore*, 538 U.S. at 527–28; *Zadvydas*, 533 U.S. at 690.
36. The Supreme Court has recognized that the legitimate purposes of civil immigration detention include ensuring a noncitizen's appearance at future immigration proceedings and protecting the community from danger. Detention that is not reasonably related to either of these purposes exceeds constitutional limits. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528.
37. Habeas corpus under 28 U.S.C. § 2241 remains the traditional mechanism through which federal courts review the legality of executive detention. Federal district courts possess

jurisdiction to determine whether continued immigration detention complies with the Constitution and laws of the United States.

38. Petitioner presents exceptionally strong equities demonstrating that continued detention is unnecessary. Petitioner entered the United States as an infant and has resided continuously in this country for nearly twenty-eight years. **On multiple occasions**, the Department of Homeland Security exercised prosecutorial discretion in Petitioner's favor by granting and renewing Deferred Action for Childhood Arrivals ("DACA"), thereby authorizing him to remain in the United States and to obtain lawful employment. Petitioner relied upon those grants of deferred action to maintain steady employment, pay taxes, and support his family. He has established deep family and community ties, is married to a United States citizen, and is the father of a United States citizen child.
39. Petitioner has no criminal convictions reflected in the information available to counsel and has demonstrated throughout his adult life that he is neither a danger to the community nor a meaningful flight risk. Prior to his detention, Petitioner lived openly in Texas, maintained steady employment, and supported his United States citizen family.
40. Petitioner's removal proceedings remain pending before the Immigration Court. According to the Executive Office for Immigration Review's Automated Case Information System, Petitioner's case was docketed on August 6, 2026, remains pending, and no future hearing has been scheduled. Petitioner therefore continues to remain in civil detention while awaiting further proceedings without a scheduled hearing before the Immigration Court.
41. Under these circumstances, Petitioner's continued detention without a prompt and meaningful opportunity to obtain review of the necessity of that detention raises serious

constitutional concerns. The Due Process Clause requires that civil detention remain reasonably related to its regulatory purposes and not become an arbitrary deprivation of liberty.

42. Because Petitioner presents substantial evidence that he poses neither a danger to the community nor a meaningful risk of flight, and because Respondents continue to deprive him of his liberty while removal proceedings remain pending without a scheduled hearing, judicial intervention is necessary to ensure that Petitioner's continued detention comports with the Constitution and laws of the United States.

GOVERNING CONSTITUTIONAL PRINCIPLES

43. The Due Process Clause of the Fifth Amendment protects every “person” within the United States, including noncitizens, from arbitrary deprivation of liberty. U.S. Const. amend. V; *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Freedom from physical restraint lies at the core of the liberty protected by due process. *Id.* at 690.
44. Civil detention is a severe deprivation of liberty even when imposed in the immigration context. *Id.*
45. Because immigration detention is civil rather than criminal, it may not be imposed as punishment. *Id.* at 690–91. Civil confinement must bear a reasonable relationship to a legitimate, nonpunitive governmental purpose. *Id.*
46. The Supreme Court has identified preventing flight and protecting the community as regulatory purposes supporting immigration detention. *Demore v. Kim*, 538 U.S. 510, 528 (2003). Even when Congress authorizes detention, that authority remains subject to constitutional limitations. *Jennings v. Rodriguez*, 583 U.S. 281, 312 (2018).

47. In *Jennings*, the Supreme Court rejected a statutory interpretation that inserted periodic bond-hearing requirements into immigration detention statutes. *Id.* at 296–304. The Court expressly did not decide the merits of the constitutional challenges and remanded them for further consideration. *Id.* at 312.
48. Thus, *Jennings* does not hold that mandatory detention is constitutionally permissible in every application, under every procedure, or for every duration. Instead, *Jennings* confirms that the statutory and constitutional inquiries are distinct.
49. Due process requires procedures appropriate to the nature and severity of the deprivation. *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976).
50. A meaningful opportunity to be heard must occur at a meaningful time and in a meaningful manner. *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965).
51. Where the Government physically confines a person, due process requires meaningful procedures sufficient to test the factual and legal basis for confinement. See *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004).
52. The risk of erroneous confinement must be addressed through procedural protections proportionate to the profound liberty interest at stake. *Addington v. Texas*, 441 U.S. 418, 425–33 (1979).
53. In *Addington*, the Supreme Court required clear and convincing evidence in the civil-commitment context because physical confinement implicates an exceptionally significant liberty interest and the consequences of erroneous confinement are grave. *Id.*
54. By analogy, where the Government seeks to continue civil immigration incarceration on the ground that an individual is dangerous or likely to flee, a heightened evidentiary standard is necessary to appropriately allocate the risk of error.

55. The Government should therefore bear the burden of establishing the necessity of continued confinement by clear and convincing evidence.

STATUTORY DETENTION FRAMEWORK

56. Respondents are expected to contend that Petitioner is detained under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), because he entered the United States without inspection and was never formally admitted or paroled.

57. Section 1225(b)(2)(A) provides that, subject to specified exceptions, an applicant for admission whom an examining immigration officer determines is not clearly and beyond a doubt entitled to admission “shall be detained” for removal proceedings.

58. Section 1226(a), by contrast, authorizes the arrest and detention of a noncitizen pending a decision on whether the person is to be removed and permits release on bond or conditional parole. 8 U.S.C. § 1226(a).

59. Petitioner maintains that § 1226(a) is the provision most naturally applicable to a person who has lived continuously in the interior for approximately twenty-eight years, was apprehended far from the border, was not attempting to enter the country, and is proceeding through ordinary removal proceedings under INA § 240.

60. Applying a border-oriented mandatory-detention provision to a settled interior resident apprehended more than twenty-eight years after entry collapses the practical distinction between persons arriving at the border and persons already living in the United States.

61. Petitioner was not “seeking admission” in any ordinary or contemporaneous sense when ICE detained him.

62. He was living with his United States citizen wife and child, working, paying taxes, and ready to pursue a family-based immigration process.

63. Petitioner recognizes, however, that the Fifth Circuit held in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 502–08 (5th Cir. 2026), that an unadmitted noncitizen may be detained under § 1225(b)(2)(A) after residing in the interior for many years.
64. In *Buenrostro-Mendez*, the Fifth Circuit concluded that §§ 1225 and 1226 may overlap and that the Government may detain under § 1225(b)(2)(A) persons who entered without inspection and were later apprehended in the interior. *Id.* at 502–06.
65. The Court therefore rejected the argument that § 1226(a) necessarily supplies the exclusive detention authority for every long-term interior resident placed in ordinary removal proceedings. *Id.*
66. Petitioner preserves his statutory argument for further review and in light of any subsequent authority modifying, distinguishing, or overruling *Buenrostro-Mendez*.
67. The statutory holding in *Buenrostro-Mendez*, however, does not resolve this Petition. *Buenrostro-Mendez* addressed which statutory provision authorized detention. It did not decide whether the Fifth Amendment permits the Government to exercise § 1225(b)(2)(A) detention authority categorically, without any individualized assessment of the necessity of confinement and without a meaningful procedure capable of resulting in release.
68. Statutory authorization and constitutional sufficiency are separate questions. Congress’s authorization of civil detention does not eliminate the Fifth Amendment’s protection against arbitrary or excessive physical confinement. *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001).
69. Accordingly, even if § 1225(b)(2)(A) provides the statutory authority for Petitioner’s detention, Respondents’ exercise of that authority remains subject to procedural and substantive due process.

THE PENDING *EN BANC* PROCEEDINGS IN *SOSNAVA RODRIGUEZ* CONFIRM THAT THE CONSTITUTIONAL QUESTION WAS NOT RESOLVED BY *BUENROSTRO-MENDEZ*

70. The constitutional question implicated by Petitioner's claims is presently before the Fifth Circuit sitting en banc in *Sosnava Rodriguez v. Ortega*, No. 26-50183, consolidated with Nos. 26-50219 and 26-50221.

71. The petitioners in *Sosnava Rodriguez* were long-term residents who had entered without inspection years earlier, were later arrested in the interior, had no criminal histories, and were detained pursuant to § 1225(b)(2)(A) without individualized custody determinations.

72. Like Petitioner, those petitioners did not rely exclusively on the contention that § 1226(a) supplied the applicable detention authority. They also presented independent constitutional challenges to physical detention without a meaningful opportunity to establish that incarceration was unnecessary.

73. On July 2, 2026, a divided panel of the Fifth Circuit issued a published opinion addressing those constitutional claims. *Sosnava Rodriguez v. Ortega*, 174 F.4th 221, 228–41 (5th Cir. 2026), reh'g en banc granted and opinion vacated, No. 26-50183, 2026 WL 2014647 (5th Cir. July 10, 2026). Because the panel opinion has been vacated, Petitioner does not rely upon it as binding precedent.

74. The vacated panel accepted *Buenrostro-Mendez* as controlling on the statutory question and recognized that § 1225(b)(2)(A) required detention as a matter of statutory interpretation. *Sosnava Rodriguez*, 174 F.4th at 232–34, opinion vacated.

75. The panel nevertheless treated the independent constitutional question as analytically distinct. *Id.* at 234–41. The panel concluded that, after a specified period, continued detention without individualized custody review violated due process. *Id.* at 240–41.
76. On July 10, 2026, the Fifth Circuit, acting on its own motion, granted rehearing en banc and vacated the panel opinion pursuant to Fifth Circuit Rule 41.3. *Sosnava Rodriguez v. Ortega*, No. 26-50183, 2026 WL 2014647, at *1 (5th Cir. July 10, 2026).
77. The vacated panel opinion therefore does not constitute binding circuit precedent while en banc proceedings remain pending. See *Comer v. Murphy Oil USA, Inc.*, 718 F.3d 460, 468 (5th Cir. 2013).
78. The procedural posture of *Sosnava Rodriguez* nevertheless remains relevant to defining what *Buenrostro-Mendez* did and did not decide. The grant of rehearing *en banc* did not transform *Buenrostro-Mendez* into a constitutional holding.
79. *Buenrostro-Mendez* did not hold that detention under § 1225(b)(2)(A) is constitutionally permissible in every individual case, under every procedure, regardless of the factual necessity for incarceration.
80. Nor has the Fifth Circuit held that long-term interior residents detained pursuant to § 1225(b)(2)(A) possess no procedural-due-process rights concerning the necessity of physical confinement.
81. The pendency of *en banc* review therefore does not eliminate this Court’s obligation to adjudicate the individual habeas petition before it under presently binding Supreme Court and Fifth Circuit authority.
- 82. Petitioner’s loss of liberty is occurring now.** His constitutional injury does not cease merely because appellate proceedings involving other detainees remain pending.
83. Petitioner suffers a continuing loss of physical liberty each day he remains detained.

84. His wife and child continue to suffer the loss of his financial, practical, and emotional support.
85. His household obligations likewise continue notwithstanding his confinement.
86. Habeas corpus exists to test the legality of present physical detention, not merely to provide retrospective relief after detention has already inflicted irreparable harm. See *Preiser v. Rodriguez*, 411 U.S. 475, 484–87 (1973).
87. This Court should therefore adjudicate Petitioner’s individual constitutional claims under existing Supreme Court authority, binding circuit precedent, and the particular facts of this case rather than postpone consideration indefinitely pending the resolution of separate en banc proceedings.
88. In addition, Respondents may request that this Court postpone adjudication of Petitioner’s constitutional claims pending the Fifth Circuit’s en banc decision in *Sosnava Rodriguez*.
89. Such a delay would impose the entire cost of appellate uncertainty upon Petitioner’s physical liberty. The Fifth Circuit has not directed district courts to stay all habeas petitions raising constitutional challenges to § 1225(b)(2)(A) detention. Nor has the Fifth Circuit issued a controlling decision holding that such constitutional claims fail as a matter of law.
90. Petitioner’s alleged constitutional injury is occurring now.
91. Every additional day of unconstitutional confinement represents an additional deprivation of liberty that cannot later be restored.
92. Habeas corpus protects present physical liberty and should not be transformed into a remedy available only after the detention it challenges has already run its course.

93. This Court therefore can and should adjudicate Petitioner's individual constitutional challenge under existing binding authority while the separate en banc proceedings remain pending.

PETITIONER'S CONSTITUTIONAL CLAIM DOES NOT DEPEND SOLELY UPON THE NUMBER OF DAYS HE HAS BEEN DETAINED

94. Petitioner's constitutional challenge does not rest solely upon the passage of a particular number of days.

95. The constitutional defect began with the process through which Respondents deprived Petitioner of liberty and continues because no neutral decisionmaker has determined that incarceration is necessary.

96. Respondents detained Petitioner following an encounter that apparently began as a minor traffic violation.

97. Petitioner was not arrested for criminal conduct.

98. Petitioner has no criminal history.

99. He has lived in the United States for approximately twenty-eight years.

100. He is married to a United States citizen and has a United States citizen daughter.

101. He has maintained employment, filed taxes, and supported his household.

102. He is ready to pursue a family-based immigration process through consular processing and a waiver, after he was unable to renew his DACA.

103. Yet Respondents have provided no written individualized finding of danger.

104. Respondents have provided no written individualized finding of flight risk.

105. Respondents have provided no written explanation why reporting requirements, supervision, electronic monitoring, ISAP, or other conditions would be inadequate.

106. Respondents have provided no neutral adjudicator possessing authority to test those questions and order Petitioner's release.
107. Instead, Petitioner's incarceration follows categorically from Respondents' legal classification of him under § 1225(b)(2)(A).
108. A statutory detention classification may identify persons whom the Government has statutory authority to detain, but it does not answer the distinct constitutional question whether continued physical incarceration is necessary in this individual case.
109. Nor does a statutory classification eliminate the requirement that the Government's exercise of civil detention authority remain constitutionally permissible.
110. The Government may not answer every individualized circumstance with an irrebuttable presumption that every person classified under § 1225(b)(2)(A) must remain physically incarcerated regardless of actual danger, actual flight risk, family ties, community stability, available alternatives, or the circumstances of apprehension.
111. The Due Process Clause requires examination of the actual deprivation imposed upon Petitioner, the procedures accompanying that deprivation, the risk of erroneous confinement, and the governmental interests asserted. *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976).
112. Those considerations overwhelmingly favor meaningful individualized review in Petitioner's case.

THE *MATHEWS V. ELDRIDGE* FACTORS REQUIRE ADDITIONAL PROCESS

113. Courts determine what process is constitutionally due by considering: (1) the private interest affected; (2) the risk of erroneous deprivation under the procedures employed and the probable value of additional safeguards; and (3) the Government's interest, including

the administrative burden associated with additional procedures. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

114. Each factor favors the Petitioner.

1. Petitioner's Private Interest Is Profound

115. The private interest at stake is freedom from physical imprisonment.

116. The Supreme Court has repeatedly described that interest as lying at the heart of the liberty protected by due process. *Zadvydas*, 533 U.S. at 690.

117. Detention also separates Petitioner from his United States citizen wife and child, prevents him from supporting his household, jeopardizes his employment status, threatens the family's ability to meet its financial obligations, and materially impairs his ability to participate in his immigration proceedings.

118. These collateral consequences magnify an already fundamental deprivation.

2. Existing Procedures Create an Acute Risk of Erroneous Confinement

119. The procedures employed by Respondents create an intolerably high risk that a person who could safely and reliably be released will instead remain unnecessarily incarcerated.

120. Petitioner has not received a hearing at which Respondents must establish that continued incarceration is necessary.

121. Petitioner has not received a written custody decision explaining the individualized evidence supporting detention. Petitioner has not received an individualized assessment of danger. Petitioner has not received an individualized assessment of flight risk.

122. Petitioner has not received meaningful consideration of less restrictive alternatives.

123. Petitioner has not received a decision accounting for his lack of criminal history, longstanding residence, United States citizen wife, employment status, tax compliance, family-based immigration process, previous DACA status, and willingness to comply with reasonable conditions.
124. The risk of error is heightened by the opacity of Respondents' decisionmaking.
125. ICE has not articulated in writing why Petitioner must remain physically confined.
126. Without a written explanation, Petitioner cannot meaningfully identify, challenge, or correct factual errors.
127. A reviewing court likewise lacks a developed custody record against which to test whether continued confinement is individualized and supported by evidence.
128. The failure to provide basic notice of the factual grounds for incarceration undermines the meaningful opportunity to be heard required by due process. See *Armstrong v. Manzo*, 380 U.S. 545, 550–52 (1965).
129. Petitioner's detention also arose from an encounter that did not result in any charges.
130. That unusual circumstance further increases the need for deliberate individualized review rather than categorical incarceration.
131. A neutral hearing, a Government burden of proof, meaningful consideration of alternatives, and a reasoned written decision would materially reduce the risk of erroneous confinement.

The Government's Legitimate Interests Can Be Protected Through Less Restrictive Means

132. The Government has legitimate interests in ensuring Petitioner's appearance and protecting the public. Those interests do not require physical incarceration where reasonable conditions can adequately mitigate any individualized concern.
133. Petitioner has no criminal history and presents no evidence of danger.

134. Petitioner has a United States citizen wife, a fixed residence, a long term employment, an immigration route, professional obligations, tax records, and substantial community ties.
135. Those ties materially reduce any rational concern regarding flight.
136. Petitioner is willing to report regularly, maintain an updated address, participate in electronic monitoring or ISAP if individually demonstrated to be necessary, comply with geographic restrictions, and attend every immigration proceeding.
137. Respondents could therefore employ the concrete alternatives identified above rather than continuing physical incarceration.
138. Although the Petitioner recognizes that immigration bond hearings most of the times do not result in freedom, individualized custody determinations are already familiar features of federal immigration administration. Requiring Respondents to justify physical incarceration before a neutral decisionmaker does not impose an extraordinary administrative burden.
139. It requires procedures proportionate to the gravity of the liberty deprivation imposed.
140. The burden of conducting individualized review is minimal when compared with the profound cost of erroneously imprisoning a person who could safely be released.
141. The *Mathews* balance therefore strongly favors additional procedural safeguards.

A Neutral Decisionmaker Must Possess Actual Authority to Order Release

142. A hearing is not meaningful if the adjudicator lacks authority to grant effective relief.
143. Respondents' asserted classification of Petitioner under § 1225(b)(2)(A), together with the administrative interpretation reflected in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 218–22 (B.I.A. 2025), deprives immigration judges of ordinary bond jurisdiction over persons falling within Petitioner's asserted category.

144. As a result, Petitioner cannot obtain meaningful review merely by requesting an immigration-court bond hearing that the immigration judge believes he or she lacks jurisdiction to conduct.
145. Due process requires review by a neutral decisionmaker who possesses actual authority to order release.
146. Any hearing ordered by this Court must therefore require an adjudicator possessing authority to release Petitioner if Respondents fail to satisfy their constitutional burden.
147. By analogy to *Addington*, the severity of the deprivation requires a heightened standard that meaningfully minimizes the risk of erroneous incarceration.
148. Requiring Petitioner to prove a negative—that he is not dangerous and will not flee—would improperly allocate that risk to the person whose liberty has already been taken.
149. Respondents should therefore be required to establish by clear and convincing evidence that Petitioner presents a danger to the community or a flight risk that cannot reasonably be mitigated through conditions of release.

**THE PURPORTED ADMINISTRATIVE REMEDIES ARE INADEQUATE
(BOND HEARINGS ARE OFTEN ILLUSORY)**

150. The Petitioner is barred from seeking relief through administrative custody procedures. Respondents' asserted legal position is that Petitioner is subject to mandatory detention under § 1225(b)(2)(A) and is not eligible for an ordinary immigration-judge bond determination.
151. A process that the agency considers legally unavailable is not an adequate remedy.
152. Even if some form of custody review were theoretically available, that process would not resolve Petitioner's constitutional injury unless the adjudicator possessed authority to

release him, Respondents bore an appropriate burden, less restrictive alternatives were meaningfully considered, Petitioner received adequate notice and preparation time, and the adjudicator provided a reasoned written decision.

153. If release is administratively denied, appeal to the Board of Immigration Appeals may leave Petitioner detained for a substantial period while the appeal remains pending. During that period, Petitioner would continue suffering the precise deprivation challenged in this action.

154. Delayed review incapable of timely remedying ongoing physical confinement is not an adequate substitute for habeas relief.

155. Habeas corpus exists to address unlawful detention where administrative remedies are unavailable, ineffective, inadequate, or incapable of providing timely relief. 28 U.S.C. § 2241(c)(3); *Boumediene v. Bush*, 553 U.S. 723, 779 (2008).

A later hearing also does not erase constitutional harm caused by prior detention imposed without adequate procedures.

156. The constitutional deprivation continues for so long as unsupported physical confinement persists.

157. Moreover, a constitutionally meaningful alternative hearing must afford counsel sufficient advance notice and preparation time to assemble supporting documentation, secure witnesses where appropriate, obtain relevant records, and prepare Petitioner and his family.

158. If this Court orders an alternative hearing instead of immediate release, the order should therefore require reasonable advance notice to counsel, adequate preparation time, a neutral adjudicator with release authority, a clear-and-convincing Government burden, consideration of alternatives, and a written ruling.

159. A subsequent bond hearing does not cure ICE's failure to engage in a reasoned, individualized assessment before—or at the time of—the initial decision to deprive a person of liberty. *Cruz-Reyes*, 2026 WL 332315, at *5. Due process does not permit government agents to detain individuals without first considering dangerousness or flight risk merely because those individuals may, **at some uncertain future date**, request release from another official. *Gonzalez v. Joyce*, No. 25 Civ. 8250 (AT), 2025 WL 2961626, at *5 (S.D.N.Y. Oct. 19, 2025).
160. This principle is particularly important in cases involving unconstitutional re-detention because a post-deprivation bond hearing before either DHS or an immigration judge **cannot** undo the constitutional injury caused by detention imposed without adequate pre-deprivation procedures. *Rodriguez-Acurio v. Almodovar*, ___ F. Supp. 3d ___, ___, No. 2:25-CV-6065 (NJC), 2025 WL 3314420, at *31 (E.D.N.Y. Nov. 28, 2025).
161. Accordingly, immediate release nevertheless remains the remedy that most directly redresses the present constitutional injury.

CLAIMS FOR RELIEF
COUNT ONE - VIOLATION OF THE FIFTH AMENDMENT – SUBSTANTIVE AND
PROCEDURAL DUE PROCESS

162. Petitioner realleges and incorporates by reference paragraphs above of this Petition as though fully set forth herein.
163. Petitioner's continued civil detention violates his rights to substantive and procedural due process guaranteed by the Fifth Amendment to the United States Constitution.
164. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law. U.S. Const. amend. V.

Those protections extend to noncitizens physically present in the United States, including those in pending removal proceedings.

165. Petitioner entered the United States as an infant and has continuously resided in this country for nearly twenty-eight years. Throughout his adult life, Petitioner has maintained lawful employment, paid taxes, complied with the conditions of his prior DACA grants, and established substantial family and community ties. He is married to a United States citizen and is the father of a United States citizen child.
166. Petitioner has no criminal convictions reflected in the information available to counsel and presents neither a danger to the community nor a meaningful risk of flight. Prior to his detention, Petitioner resided openly in Texas, maintained steady employment, and supported his family.
167. Respondents have not explained why reporting, supervision, electronic monitoring, ISAP, or other release conditions would be inadequate.
168. Under these circumstances, categorical incarceration is excessive in relation to the legitimate regulatory interests traditionally associated with immigration detention.
169. Respondents may possess an interest in ensuring Petitioner's appearance, but incarceration is not reasonably necessary where less restrictive measures can adequately accomplish that purpose.
170. Respondents may possess an interest in protecting the public, but they have identified no conduct suggesting that Petitioner threatens public safety.
171. Continued physical confinement without an individualized relationship to danger or flight risk therefore operates punitively rather than merely regulatorily.
172. Punishment may not be imposed through civil immigration detention without the protections accompanying criminal prosecution. *Zadvydas*, 533 U.S. at 690–91.

173. Petitioner has remained in ICE custody since approximately July 31, 2026. Although removal proceedings are pending, the Executive Office for Immigration Review reflects that no future hearing has been scheduled, and Petitioner continues to be deprived of his liberty while awaiting further proceedings.
174. Under these circumstances, Petitioner's continued detention has become arbitrary and unreasonable. Civil immigration detention must remain reasonably related to its legitimate regulatory purposes, including ensuring a noncitizen's appearance at future proceedings and protecting the community. Continued detention without a meaningful opportunity to challenge its necessity violates the Due Process Clause of the Fifth Amendment.
175. Petitioner's substantial equities—including his nearly lifelong residence in the United States, prior grants of deferred action by DHS, lawful employment history, United States citizen spouse and child, and lack of criminal convictions reflected in the record—demonstrate that less restrictive alternatives to detention are available and that continued detention is not reasonably necessary to accomplish the purposes of the immigration laws.
176. This Count also presents an as-applied constitutional challenge to the procedures Respondents have afforded this Petitioner in connection with his present physical detention.
177. Petitioner possesses a fundamental liberty interest in freedom from physical restraint.
178. Respondents have deprived and continue to deprive Petitioner of that liberty.
179. Respondents have not provided Petitioner with a meaningful individualized custody determination before a neutral decisionmaker possessing authority to order release.

180. Respondents have not been required to prove by clear and convincing evidence that Petitioner presents a danger or flight risk that cannot reasonably be mitigated through release conditions.
181. Respondents have not provided a written decision stating individualized reasons for continued confinement.
182. No adjudicator has meaningfully considered less restrictive alternatives.
183. The procedures accompanying Petitioner's detention create an acute risk of erroneous deprivation.
184. Petitioner's private interest is fundamental, the risk of error is substantial, the value of additional safeguards is significant, and the Government's administrative burden is modest.
185. Under *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976), the procedures afforded Petitioner are constitutionally insufficient.
186. In this individual case, due process requires at minimum meaningful notice of the grounds asserted for confinement, a neutral decisionmaker possessing authority to release Petitioner, a Government burden commensurate with the severity of physical incarceration, meaningful consideration of alternatives, and a reasoned written decision if confinement continues.
187. Respondents' detention of Petitioner without those basic procedural safeguards violates the procedural component of the Fifth Amendment as applied to Petitioner.
188. Accordingly, Petitioner's continued detention violates the substantive and procedural protections guaranteed by the Fifth Amendment to the United States Constitution, and he is entitled to appropriate habeas and declaratory relief.

COUNT TWO

**STATUTORY CLAIM – VIOLATION OF THE IMMIGRATION
AND NATIONALITY ACT**

189. Petitioner realleges and incorporates by reference paragraphs above of this Petition as though fully set forth herein.
190. The Immigration and Nationality Act authorizes immigration detention only for legitimate civil and regulatory purposes authorized by Congress. That authority is limited by the Constitution and does not permit arbitrary, punitive, or indefinite civil detention that bears no reasonable relationship to its lawful objectives.
191. Petitioner's removal proceedings remain pending before the Immigration Court. Although the Executive Office for Immigration Review has docketed Petitioner's case, no hearing has been scheduled, and Petitioner continues to remain in ICE custody without a prompt and meaningful opportunity to obtain review of the necessity of his continued detention.
192. Petitioner has substantial equities demonstrating that continued detention is unnecessary, including his nearly twenty-eight years of residence in the United States, his prior grants of Deferred Action for Childhood Arrivals (DACA), his lawful employment history, his United States citizen spouse and child, and the absence of criminal convictions reflected in the information available to counsel.
193. Under these circumstances, Respondents' continued detention of Petitioner exceeds the lawful purposes of civil immigration detention and is contrary to the Immigration and Nationality Act as applied in a manner consistent with the Due Process Clause of the Fifth Amendment.
194. Petitioner maintains that 8 U.S.C. § 1226(a), rather than § 1225(b)(2)(A), is the detention provision most naturally applicable to a long-term interior resident apprehended

approximately twenty-eight years after entry and placed in ordinary removal proceedings under INA § 240.

195. Petitioner was not apprehended while seeking admission, was not encountered at or near the border, and was not processed as a recent entrant.
196. Petitioner recognizes that *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 502–08 (5th Cir. 2026), presently permits DHS to apply § 1225(b)(2)(A) to an unadmitted person apprehended in the interior.
197. Petitioner preserves his contrary statutory position for *en banc*, Supreme Court, or other further review and in light of any subsequent controlling authority.
198. Regardless of the disposition of that preserved statutory claim, Petitioner's independent constitutional claims remain properly before this Court.
199. *Buenrostro-Mendez* did not decide whether detention authorized under § 1225(b)(2)(A), as applied to a long-term interior resident, may continue categorically without constitutionally adequate individualized process.
200. Respondents' reliance upon statutory detention authority therefore does not defeat the other Counts raised here.
201. Petitioner is therefore entitled to habeas relief under 28 U.S.C. § 2241, together with such declaratory and injunctive relief as this Court deems just and proper.

COUNT THREE - ATTORNEYS' FEES AND COSTS

202. If he prevails, Petitioner requests attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412. The undersigned counsel recognizes the Fifth Circuit's decision in *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023) ruling that fees are not available to be awarded in 28 U.S.C. § 2241. Nonetheless, the issue is ripe for redetermination at the Fifth Circuit. At least two Circuit Courts and two district courts have disagreed with *Barco*. See *Vacchio v. Ashcroft*, 404 F.3d 663, 670-72

(2d Cir. 2005); *In re Petition of Hill*, 775 F.2d 1037, 1040-41 (9th Cir. 1985); *Abioye v. Oddo*, 2024 U.S. Dist. LEXIS 174205 (W. D. Penn. 2024); *Arias v. Choate*, 2023 U.S. Dist. LEXIS 119907 (Dist. Colo. 2023). Given ICE's recent actions in detaining individuals without substantial justification, EAJA fees are needed to ensure attorneys can confront detention that is unconstitutional.

SUSPENSION CLAUSE — PRESERVATION OF MEANINGFUL HABEAS REVIEW

203. Petitioner incorporates by reference Paragraphs above as though fully set forth herein.

204. The Suspension Clause protects the availability of habeas corpus to test the legality of executive detention. U.S. Const. art. I, § 9, cl. 2.

205. The writ has historically provided a mechanism for obtaining release from unlawful physical custody. *Boumediene v. Bush*, 553 U.S. 723, 739–52 (2008).

206. Petitioner does not ask this Court to facially invalidate 8 U.S.C. § 1226(e), § 1252, or any other jurisdictional provision of the INA.

207. Petitioner instead seeks an interpretation of those provisions that preserves constitutionally adequate habeas review of his present physical confinement.

208. If any provision of the INA were construed to prevent this Court from reviewing Petitioner's legal and constitutional challenge to present physical confinement altogether, such a construction would raise grave Suspension Clause concerns.

209. No adequate substitute exists where the immigration court is asserted to lack bond jurisdiction and no alternative administrative procedure provides sufficiently timely, neutral, constitutionally adequate review capable of ordering Petitioner's release.

210. Petitioner must therefore retain a meaningful opportunity to test the legality of his detention through habeas corpus. See *INS v. St. Cyr*, 533 U.S. 289, 300–14 (2001).

211. This Court should construe the relevant jurisdictional provisions consistently with the Suspension Clause and exercise jurisdiction over Petitioner's claims.

212. This Court possesses authority to grant effective relief from unlawful physical detention.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Assume jurisdiction over this action;
- B. Immediately issue an Order to Show Cause directing Respondents to show cause within three days, or within another brief period established by the Court consistent with 28 U.S.C. § 2243, why the writ should not be granted;
- C. Declare that Respondents' continued detention of Petitioner without constitutionally adequate individualized process violates the Due Process Clause of the Fifth Amendment;
- D. Issue a writ of habeas corpus under 28 U.S.C. § 2241 ordering Respondents to immediately release Petitioner from immigration custody under such reasonable conditions of supervision and reporting as this Court deems appropriate;
- E. Only in the alternative to immediate release, order Respondents to provide Petitioner, within a short and definite time established by this Court, a constitutionally adequate individualized custody hearing before a neutral decisionmaker possessing actual authority to order release;
- F. Require at any alternative custody hearing that Respondents bear the burden of proving by clear and convincing evidence that continued physical detention is necessary because Petitioner presents a danger to the community or a flight risk that cannot reasonably be mitigated through conditions of release;

G. Require the neutral decisionmaker to meaningfully consider less restrictive alternatives to detention, including reporting requirements, supervision, electronic monitoring where individually demonstrated to be necessary, ISAP participation, reasonable geographic restrictions, and other appropriately tailored conditions;

H. Require the neutral decisionmaker to order Petitioner's release if Respondents fail to satisfy their burden;

I. Require the neutral decisionmaker to issue a contemporaneous written decision stating the individualized factual and legal reasons for any continued detention and explaining why less restrictive alternatives would be inadequate;

J. Require Respondents to provide undersigned counsel with reasonable advance notice of the exact date and time of any Court-ordered custody hearing and sufficient time to prepare evidence, witnesses, and a complete release package;

K. Enjoin Respondents, absent further order of this Court, from transferring Petitioner outside the Western District of Texas during the pendency of this habeas action without reasonable advance notice to Petitioner's counsel and this Court, provided that nothing in such order need prohibit an emergency or medically necessary transfer that does not frustrate this Court's habeas jurisdiction and for which counsel receives notice as soon as reasonably practicable;

L. Enjoin Respondents, absent further order of this Court, from removing Petitioner from the United States during the pendency of this habeas proceeding without reasonable prior notice to counsel and leave of Court sufficient to preserve this Court's jurisdiction and ability to grant effective habeas relief;

M. Retain jurisdiction to ensure Respondents' prompt and complete compliance with any order granting relief;

N. Award Petitioner reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, or any other applicable authority, to the extent Petitioner ultimately qualifies for such an award; and

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

Respectfully submitted on August 12, 2026.

/s/ Georgia Santos Laurent

Georgia Santos Laurent

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Counsel for Petitioner

Admitted into the Western & Southern Districts of Texas

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

I represent Petitioner and submit this verification on his behalf.

I verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief are true and correct to the best of my knowledge, information, and belief, based upon consultation notes, communications with Petitioner and his family, immigration records, and other records available to undersigned counsel.

Dated: August 12, 2026.

/s/ Georgia Santos Laurent
Georgia Santos Laurent
Counsel for Petitioner
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CERTIFICATE OF SERVICE

I certify that on August 12, 2026, I filed the foregoing through the Court's CM/ECF system, which will provide electronic notice to all registered counsel of record.

To the extent required by Federal Rule of Civil Procedure 4(i), Petitioner will additionally effect service upon the United States Attorney for the Western District of Texas, the Attorney General of the United States, and the appropriate federal officers or agencies in accordance with the applicable Federal Rules of Civil Procedure.

/s/ Georgia Santos Laurent

Georgia Santos Laurent

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