

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Selvin Wilfredo Juarez Mendez,

Petitioner,

Case No.

v.

Hon.

Kristi Noem, et al.,

Respondents.

**MOTION FOR MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
OF PETITIONER'S MOTION FOR TEMPORARY RESTRAINING ORDER**

INTRODUCTION

This case presents a grave and urgent question: may the Executive branch detain a longtime U.S. resident with deep family and community ties—who poses no flight risk or danger to the public—for months or years without so much as a bond hearing, based solely on a misreading of immigration law? The answer, under the Constitution, binding precedent, and the plain text of the Immigration and Nationality Act (“INA”), is no. The government’s attempt to classify Petitioner Selvin Wilfredo Juarez Mendez, a noncitizen who has resided in the United States since 2004 and is the father of three U.S. citizen children, as an “arriving alien” under 8 U.S.C. § 1225(b)(2)(A) in order to deny him any opportunity for release, is not only contrary to law, it is a serious affront to due process and the rule of law.

Congress drew a clear line between individuals seeking admission at the border and those, like Petitioner, who were apprehended years after entering and establishing deep roots in the United States. By its plain terms, § 1225(b)(2)(A) governs only those who are in the process

of seeking admission to the country, not those who have lived here for decades. The proper statutory authority for Petitioner's detention is § 1226(a), which provides for discretionary custody and individualized bond hearings before immigration judges. The government's reliance on the Board of Immigration Appeals' recent decision in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which expansively and unlawfully recasts long-settled agency regulations to strip such individuals of bond eligibility, is unsupported by the statute, unmoored from regulatory history, and impermissible under the Administrative Procedure Act and post-*Loper Bright* jurisprudence.

This unlawful detention regime threatens more than just Petitioner's liberty. It endangers foundational principles of separation of powers and habeas corpus. Because Petitioner has no statutory, regulatory, or administrative mechanism to challenge the legality of his confinement, this Court is the sole forum capable of vindicating his rights. As the Supreme Court noted:

The Framers viewed freedom from unlawful restraint as a fundamental precept of liberty, and they understood the writ of habeas corpus as a vital instrument to secure that freedom. Experience taught, however, that the common-law writ all too often had been insufficient to guard against the abuse of monarchical power. That history counseled the necessity for specific language in the Constitution to secure the writ and ensure its place in our legal system.

Boumediene v. Bush, 553 U.S. 723, 739-40 (2008).

Petitioner's indefinite detention—without any individualized review or opportunity to be heard—flouts the Constitution's Suspension Clause and violates both the substantive and procedural guarantees of the Fifth Amendment's Due Process Clause.

Courts across the country have rejected the government's recent attempts to expand the reach of § 1225(b)(2) to longtime residents apprehended in the interior. In *Chogllo Chafila v. Scott*, *Giron Reyes v. Lyons*, *Lopez-Campos v. Raycraft*, and a growing body of federal decisions,

district courts have declared such detentions unlawful and ordered immediate bond hearings. This case warrants the same relief. Petitioner respectfully asks this Court to grant the writ of habeas corpus, declare Respondents' application of § 1225(b)(2) unlawful, and order either his immediate release or, at a minimum, a prompt individualized custody redetermination hearing before an immigration judge under § 1226(a).

PROCEDURAL HISTORY AND FACTUAL BACKGROUND

Petitioner Selvin Wilfredo Juarez Mendez is a father, community member, and longtime resident of the United States. He has lived in this country for over two decades since 2004, building a life defined by faith, stability, and responsibility. He resides at [REDACTED] Washington, D.C., and is the devoted father of three U.S. citizen children: S [REDACTED] (8), E [REDACTED] (5), and S [REDACTED] A [REDACTED] (2). Petitioner Mendez is active in his parish, St. Mark the Evangelist Catholic Church in Hyattsville, Maryland, where his children were baptized and where he remains an engaged member of his religious and cultural community. Petitioner Mendez has no criminal history. He is not a flight risk and he is not a danger to the community.

On August 22, 2025, while leaving his home in Washington, D.C., Petitioner was arrested by immigration agents on private property without a warrant. He was transferred to ICE custody at the North Lake Processing Center in Baldwin, Michigan. Shortly thereafter, DHS issued a Notice to Appear charging Petitioner as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for being present in the United States without having been admitted or paroled. He was placed in § 1229a removal proceedings before the Immigration Court in Detroit. Despite his long residence, family ties, and noncriminal status, DHS issued a custody determination under 8 U.S.C. § 1225(b)(2)(A), designating Petitioner as a "noncitizen seeking admission" and thereby classifying him as subject to mandatory detention without bond eligibility.

On September 15, 2025, Petitioner filed a motion for custody redetermination and an accompanying motion to terminate proceedings, both of which were denied on September 25, 2025. The immigration judge held that under *Matter of Yajure-Hurtado*, the Immigration Court lacked jurisdiction to consider Petitioner's bond request because DHS had designated him as an applicant for admission under § 1225(b)(2)(A).

As a result of that designation, Petitioner has been categorically denied access to any individualized bond hearing. The IJ did not evaluate Petitioner's risk of flight or danger to the community. Nor does the BIA provide review where an IJ determines it lacks jurisdiction. Petitioner is therefore trapped in a regulatory and constitutional vacuum: detained indefinitely without recourse, despite decades of U.S. residence and an undisputedly clean record. The government has never sought a bond hearing. It has never made a showing, under any standard, that Petitioner must be confined.

On October 29, 2025, Petitioner filed the present petition for a writ of habeas corpus under 28 U.S.C. § 2241. He challenges the lawfulness of his continued detention on five independent grounds: (1) that § 1226(a)—not § 1225(b)(2)—governs his detention under the INA; (2) that DHS and EOIR have violated binding regulations and the APA by reclassifying interior noncitizens as arriving aliens; (3) that the current detention framework violates the Suspension Clause of the U.S. Constitution; (4) that his prolonged and categorical detention without a hearing violates substantive due process; and (5) that the denial of any individualized custody determination violates procedural due process under *Mathews v. Eldridge*, 424 U.S. 319 (1976).

Petitioner now seeks relief from this Court, the only forum capable of reviewing the legality of his custody and vindicating the constitutional and statutory guarantees that Congress, the courts, and the Constitution itself preserve.

STANDARD OF REVIEW

This petition is brought under 28 U.S.C. § 2241, which provides that “[t]he writ of habeas corpus shall not extend to a prisoner unless . . . [h]e is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). Federal district courts have jurisdiction under § 2241 to review the lawfulness of immigration detention. See, e.g., *Demore v. Hyung Joon Kim*, 538 U.S. 510, 517, 123 S. Ct. 1708, 1714 (2003) (“Having determined that the federal courts have jurisdiction to review a constitutional challenge to § 1226(c), we proceed to review respondent’s claim.”); *Zadvydas v. Davis*, 533 U.S. 678, 687, 121 S. Ct. 2491, 2497 (2001) (“We note at the outset that the primary federal habeas corpus statute, 28 U.S.C. § 2241, confers jurisdiction upon the federal courts to hear these cases.”).

A writ of habeas corpus is “available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art. I, § 9, cl. 2). “The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). “Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.” 28 U.S.C. § 2241(a).

Following the Supreme Court’s decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), courts no longer defer to agency interpretations under *Chevron*, and instead review legal questions in immigration cases without deference. See *id.* at 412-13 (“*Chevron* is

overruled. Courts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority, as the APA requires. Careful attention to the judgment of the Executive Branch may help inform that inquiry. And when a particular statute delegates authority to an agency consistent with constitutional limits, courts must respect the delegation, while ensuring that the agency acts within it. But courts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous.”). This principle is critical in cases, like this one, involving the misapplication of § 1225(b)(2) and resulting misclassification of detainees.

ARGUMENT

This case presents a fundamental challenge to the government’s recent attempt to expand its civil detention authority beyond the limits established by Congress and the Constitution. Petitioner is being detained without bond under 8 U.S.C. § 1225(b)(2)(A), a provision historically and textually confined to “arriving” noncitizens encountered at the border. By reclassifying interior arrests as detentions under § 1225(b)(2), the Department of Homeland Security and the Executive Office for Immigration Review have unilaterally stripped thousands of long-term residents of their statutory and constitutional right to seek release on bond, in direct contravention of decades of settled law and administrative practice.

This overreach not only conflicts with the Immigration and Nationality Act’s structure and implementing regulations, but also violates the Administrative Procedure Act, the Suspension Clause, and the Due Process Clause of the Fifth Amendment. The questions presented here strike at the core of the separation of powers: whether the Executive Branch may, without congressional authorization or formal rulemaking, transform a discretionary civil-detention system into a regime of indefinite, mandatory confinement.

ISSUES PRESENTED

1. Whether the government may detain a noncitizen who has resided in the United States for over two decades, has deep family and community ties, and is not subject to expedited removal, under 8 U.S.C. § 1225(b)(2)(A)—a statute governing arriving aliens—rather than under 8 U.S.C. § 1226(a), which provides for discretionary custody and bond review.
2. Whether DHS and EOIR have violated the Administrative Procedure Act and binding federal regulations by adopting a new policy, without formal rulemaking, that reclassifies interior arrests as detentions under § 1225(b)(2), thereby stripping long-term residents of their right to seek release on bond.
3. Whether the application of § 1225(b)(2)(A) to Petitioner, coupled with the government's refusal to provide any forum for judicial review of his confinement, violates the Suspension Clause of the United States Constitution.
4. Whether prolonged detention without an individualized determination of flight risk or danger—especially where the statutory basis for such detention is disputed—violates Petitioner's right to substantive due process under the Fifth Amendment.
5. Whether the government's categorical denial of a bond hearing, based solely on its internal classification of Petitioner's detention status, violates procedural due process under the framework set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

1. Section 8 U.S.C. §§ 1225(a) Governs Petitioner's Detention.

The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a),

1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c). Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2). Lastly, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

As to the distinctions between § 1225 and § 1226, the United States Supreme Court recently noted that:

§1226 applies to aliens already present in the United States. Section 1226(a) creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings. Section 1226(a) also permits the Attorney General to release those aliens on bond, “[e]xcept as provided in subsection (c) of this section.” Section 1226(c) in turn states that the Attorney General “shall take into custody any alien” who falls into one of the enumerated categories involving criminal offenses and terrorist activities. 8 U. S. C. §1226(c)(1). Section 1226(c) then goes on to specify that the Attorney General “may release” one of those aliens “*only if* the Attorney General decides” both that doing so is necessary for witness-protection purposes and that the alien will not pose a danger or flight risk. §1226(c)(2) (emphasis added).

Jennings v. Rodriguez, 583 U.S. 281, 303, 138 S. Ct. 830, 846 (2018) (emphasis added).

The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under §

1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected *Matter*

of *Yajure Hurtado*, which adopts the same reading of the statute as ICE. See, e.g., *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Bassirou v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051(ECT/DJF), --- F. Supp. 3d, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); see also, e.g., *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb.

Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

For example, the District of New Jersey recently held that § 1225(b)(2)(A)’s text requires an “examining immigration officer” to determine that an “alien seeking admission” is not clearly admissible; the word “seeking” is a present participle denoting present, affirmative action, not a static condition that forever attaches to anyone never admitted. Reading “seeking” out of the statute violates the rule against surplusage; § 1226 remains the default for noncitizens “once inside the United States.” *Soto v. Soto*, No. 1:25-cv-16200-CPO (D.N.J. October 22, 2025) (See Attachment).

The neighboring Eastern District of Michigan likewise read the two provisions in harmony and refused the government’s nonsensical about-face: that for decades the government itself treated interior arrests under § 1226, stating “Respondents can’t have it both ways.” *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025).

2. DHS/EOIR’s New § 1225(b)(2) Reclassification Violates The APA and Binding Regulations.

The APA provides that courts “shall . . . hold unlawful and set aside agency action” that is “without observance of procedure required by law.” 5 U.S.C. § 706(2)(D). The July 8, 2025 DHS memo abruptly recast nearly all never-admitted noncitizens (regardless of when or where they were arrested) as § 1225(b)(2) “applicants for admission,” eliminating bond hearings, and contrasts that shift with the government’s own long-standing, published understanding (1997 interim rule) that EWIs “will be eligible for bond and bond redetermination” under § 1226. That sharp departure, without rulemaking and contrary to existing regulations (e.g., 8 C.F.R. §

236.1(c)(8)'s individualized custody standard), is classic arbitrary-and-capricious/*Accardi* territory. The *Accardi* doctrine holds that “government agencies are bound to follow their own rules, even self-imposed procedural rules that limit otherwise discretionary decisions.” *See U.S. ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

For years, interior arrests like Petitioner's proceeded under § 1226(a) with bond eligibility. The government's reversal contradicts the INA's structure and undermines reliance interests. The shift lacks reasoned explanation, fails to consider alternatives or less-restrictive means (e.g., individualized bond), and conflicts with fundamental principles limiting civil detention to ensuring appearance and preventing danger. Almost every court that has examined this issue has “determined that where ICE fails to follow its own regulations in revoking release, the detention is unlawful and the petitioner's release must be ordered.” *Rokhfirooz v. LaRose et al.*, Case No.: 25-cv-2053-RSH-VET, 2025 WL 2646165 at *4 (S.D. Cal. Sept. 15, 2025) (See Attachment); see, e.g., *Rombot v. Souza*, 296 F. Supp. 3d 383, 387–88 (D. Mass. 2017) (ordering the petitioner released where, “[b]ased on ICE's violations of its own regulations, the Court concludes [the petitioner's] detention was unlawful”). Because courts no longer defer to agency views on pure questions of law, *Hurtado* cannot salvage this backpedaling.

3. The Government's Classification and Denial of Any Judicial Forum Triggers the Suspension Clause; Habeas Review is Available and Not Barred By § 1252.

This petition challenges custody, not removal; it is a classic habeas claim. The Supreme Court and numerous district courts confirm § 2241 jurisdiction to review immigration detention and to order release or bond hearings. Nor does § 1252(b)(9) funnel such claims away; challenges to the legality or constitutionality of pre-hearing detention are collateral to any final removal order and are not within § 1252(b)(9)'s channeling provision

The district court in *Santiago v. Noem*, Case 3:25-cv-00361-KC (W.D. Tex. October 1, 2025) (See Attachment) squarely held that detention-focused habeas challenges are not barred by § 1252(g), § 1252(b)(9), or § 1252(a)(5), relying on *Jennings*, *Preap*, and *Regents* to reject expansive “zipper clause” readings that would render prolonged-detention claims unreviewable. That conclusion tracks the constitutional backdrop: habeas is the vehicle for unlawful custody. See *Boumediene v. Bush*, 553 U.S. 723, 739-40 (2008). Here, Petitioner has no statutory/regulatory avenue to contest the legal basis of custody because EOIR disclaims bond jurisdiction once DHS stamps § 1225(b)(2). The Suspension Clause therefore requires an Article III forum, and § 2241 supplies it.

4. Detention Without Any Individualized Bond Hearing Violates Substantive Due Process.

The Due Process Clause of the Fifth Amendment provides that no person shall be deprived of liberty without due process of law. U.S. Const. amend. V. 61. The “Due Process Clause applies to all persons within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 690. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Id.* at 693. Confinement for non-criminal purposes is allowed only “in narrow nonpunitive circumstances, where a special justification . . . outweighs the individual’s constitutionally protected interest in avoiding physical restraint. *Id.* (internal quotations and citations omitted).

Civil immigration detention is constitutionally permissible only when reasonably related to the non-punitive purposes of ensuring appearance and protecting the community. Categorical, prolonged detention untethered from those purposes violates substantive due process, especially

where the government has never attempted to carry its burden. Ordering a bond hearing within seven days under § 1226(a) (or immediate release) cures the constitutional violation while preserving the government's legitimate interests.

5. Detention Without Any Individualized Bond Hearing Violates Procedural Due Process.

When the government interferes with a liberty interest, “the procedures attendant upon that deprivation [must be] constitutionally sufficient.” *Ky. Dep’t of Corr. v. Thompson*, 490 U.S. 454, 460 (1989). The constitutional sufficiency of procedures is determined by weighing three factors: (1) the private interest that will be affected by the official action, (2) the risk of erroneous deprivation of that interest through the available procedures, and (3) the government’s interest, including the function involved and the fiscal and administrative burdens that additional or substitute procedures would entail. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

Detention without a neutral, prompt determination is anathema to due process. Even in criminal settings, the Constitution requires neutral decisionmakers and robust procedures before continued confinement. *See Gerstein v. Pugh*, 420 U.S. 103, 114-16 (1975) (prompt, neutral probable-cause check); *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004) (neutral decisionmaker to contest detention), ICE’s failure to comply with both 8 C.F.R. § 241.4 and § 241.13 violated Petitioner’s due process rights. *See Diaz v. Wofford*, Case No. 1:25-CV-01079 JLT EPG, 2025 WL 2581575, at *7 (E.D. Cal. Sept. 5, 2025) (“DHS’s failure to follow its own procedural regulations may constitute a due process violation.”). Petitioner’s interest in freedom from physical restraint is at the pinnacle of such concern. The risk of erroneous deprivation is acute when the government imposes blanket detention with no individualized assessment of flight risk or danger. The government’s interest is adequately protected by a bond hearing; indeed, the INA

already provides that process under § 1226(a). The *Mathews* factors decisively favor a prompt bond hearing.

CONCLUSION

For the reasons set forth above, the Court should grant the petition for a writ of habeas corpus. The government's classification of Petitioner as detained under 8 U.S.C. § 1225(b)(2)(A) is contrary to the INA's text and structure, promulgated and applied in violation of the APA and agency regulations, and incompatible with the Constitution's Suspension Clause and the Fifth Amendment's guarantees of substantive and procedural due process. At minimum, the Court should order a prompt, individualized custody redetermination before a neutral immigration judge within fourteen (14) days, consistent with the constitutional safeguards outlined above, including the requirement that the Government bear the burden by clear and convincing evidence and that the least restrictive means of supervision be considered. The Court should further enjoin any transfer of Petitioner outside this District pending resolution, stay removal as necessary to preserve jurisdiction, compel production of Petitioner's A-file and custody records, and retain jurisdiction to enforce its orders. Petitioner also seeks any additional relief, costs, and fees the Court deems just and proper.

Dated: October 29, 2025

Respectfully submitted,

AVANTI LAW GROUP, PLLC

By: /s/ Robert Anthony Alvarez
Robert Anthony Alvarez (P66954)
Attorney for Petitioner

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.2(b)(i)

In accordance with W.D. Mich. LCivR. 7.2(b)(i), the undersigned counsel certifies that *Petitioner's Memorandum of Points and Authorities in Support of Petition of Writ of Habeas Corpus* contains 4,245 words, exclusive of the case caption, cover sheets, table of contents, table of authorities, the signature block, attachments, and exhibits. The brief's word count was calculated by Google Sheets, which is the word processing software that was used to create the brief.

Dated: October 29, 2025

Respectfully submitted,
AVANTI LAW GROUP, PLLC

By: /s/ Robert Anthony Alvarez
Robert Anthony Alvarez (P66954)
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2025, *Petitioner's Memorandum of Points and Authorities in Support of Petition for Writ of Habeas Corpus* was filed with the Court Clerk via ECF system e-filing system which will give notice of such filing to all parties of record.

/s/ Robert Anthony Alvarez
Robert Anthony Alvarez