

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JUAN JULIO REZA AYALA,

Petitioner,

v.

SAM OLSON, Immigration and Customs
Enforcement, in his official capacity;

KRISTI NOEM, Secretary, U.S. Department
of Homeland Security, in her official capacity;

PAMELA BONDI, U.S. Attorney General, in
her official capacity;

TODD M. LYONS, Acting Director of U.S.
Immigration and Customs Enforcement, in his
official capacity;

BRANDON CROWLEY, Jail Commander for
the Clay County Jail, in his official capacity;

Respondents.

Case No. 1:25-cv-13317

**AMENDED PETITION FOR
WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Juan Julio Reza Ayala, is in the physical custody of Respondents at the Clay County Jail in Brazil, Indiana. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) of the Department of Justice (DOJ) have erroneously concluded Petitioner is subject to mandatory detention under U.S.C. § 1225(b)(2).

2. Petitioner files this amended habeas petition as a matter of course because it is filed less than 21 days after service of a responsive pleading. *See* 28 U.S.C. § 2242; FED. R. CIV. P. 15(a)(1)(B). Petitioner learned details from the Respondents' Status Report filed on November 7, 2025, that were previously unknown to him, including the issuance and fact of Petitioner's Notice to Appear and the initiation of removal proceedings against him. Accordingly, Petitioner amends his petition to respond to the information provided in the status report and challenge his detention on those grounds.

3. Petitioner has lived continuously in the United States for 21 years and has two United States citizen daughters, ages 15 and 18. On or around 11:30 a.m. on October 29, DHS arrested Petitioner without a warrant while he was working at a landscaping site in Skokie, Illinois with two other men. At the time Petitioner filed his initial habeas petition, he was detained at the Broadview Detention Center in Broadview, Illinois (Broadview) and within the jurisdiction of the Northern District of Illinois.

4. After Petitioner's arrest, DHS initiated proceedings with a Notice to Appear dated October 29, 2025. The Notice to Appear charges Petitioner with being an alien present in the United States who has not been admitted or paroled, *see* 8 U.S.C. § 1182(a)(6)(A)(i), and as an

alien who is not in possession of a valid unexpired visa or other entry permit, *see id.* § 8 U.S.C. § 1182(a)(7)(A)(i).

5. Petitioner is severely ill. He suffers from chronic medical conditions requiring ongoing medical intervention with varied specialists. These conditions include liver cancer, severe nonproliferative diabetic retinopathy in both eyes with macular edema, insulin-dependent Type 2 diabetes, liver cirrhosis, high cholesterol, and anemia. Further lapses in treatment may result in irreversible damage to his health.

6. Petitioner is receiving surveillance imaging for liver cancer and is awaiting the results of a recent CT scan to monitor the size of his tumor. He has a follow-up appointment with an oncologist to scan for tumor growth on November 28, 2025.

7. Petitioner also receives injections in his retina approximately every two months. Missing a retinal injection could result in further loss of vision. Petitioner missed his appointment for a retina injection on October 31, 2025, because he was in ICE detention. Petitioner has been experiencing pain and pressure in his eyes since he missed his last appointment.

8. For his Type 2 Diabetes, Petitioner must take an insulin injection twice daily to control his blood sugar, as well as an oral medication. Missing a dose of his injection could cause elevated blood sugars levels, requiring hospitalization for diabetic ketoacidosis, hyperosmolar hyperglycemia, and other complications.

9. Petitioner is currently not receiving insulin at the Clay County Jail as prescribed by his physicians and noted on his prescriptions in the possession of ICE, despite his care provider's and attorney's urging.

10. While DHS placed Petitioner in removal proceedings, Petitioner is eligible and will apply for relief from removal in the form of Cancellation of Removal for Certain Non-Permanent Residents which, if approved, would result in lawful permanent residency. 8 U.S.C. § 1229b(b).

11. On July 8, 2025, DHS issued a new policy instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without having been admitted or inspected—to be an “applicant for admission” under § 1225(b)(2)(A) and therefore subject to mandatory detention. DHS has denied Petitioner release from immigration custody, consistent with this policy.

12. Petitioner’s detention on this basis violates the plain language of the Immigration and Nationality Act (INA). Section 1225(b)(2) does not apply to individuals like Petitioner, who entered the United States 21 years ago and who was apprehended hundreds of miles from any border or port of entry. Instead, such individuals are subject to discretionary detention under § 1226(a), which allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without admission or inspection.

13. Respondents’ new legal interpretation is plainly contrary to the statutory text, statutory framework, Congressional intent, decades of agency practice, and decisions of federal courts across the nation, which apply § 1226(a) to people like Petitioner. Further, Respondents’ detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process. Respondent is not a flight risk because

of his long-standing ties to his family and community, relationship with counsel, eligibility for relief from removal, and his ongoing medical treatment with specialists in the area.

14. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released, or in the alternative, that he be provided a prompt bond hearing under § 1226(a) before an immigration judge.

15. Petitioner also requests that, pursuant to its authority under the All Writs Act, 28 U.S.C. § 1651, the Court maintain its October 30, 2025, order preventing DHS from removing Petitioner to any federal judicial district other than those in the States of Illinois, Indiana, or Wisconsin. Alternatively, Petitioner asks that the Court issue a new order requiring that DHS detain Petitioner within the confines of the federal judicial districts in Illinois, Indiana, and Wisconsin.

JURISDICTION

16. Petitioner is in the physical custody of Respondents. He is detained at the Clay County Jail in Brazil, Indiana. When he filed his initial habeas petition, he was detained in Broadview, Illinois, which is in the jurisdiction of the Northern District of Illinois.

17. Jurisdiction is proper in this district because Petitioner filed his initial petition when he was detained in Broadview, Illinois, before his subsequent transfer to Brazil, Indiana. *See Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 U.S. Dist. LEXIS 204142, at *3n.3 (N.D. Ill. Oct. 16, 2025) (“Ochoa Ochoa initially filed this [amended] petition when he was detained in the district, so the court agrees that it has jurisdiction despite his subsequent transfer to a facility in Indiana.”) (citation omitted); *H.G.V.U. v. Smith*, No. 25 CV 10931, 2025 U.S. Dist. LEXIS 205993, at *4 (N.D. Ill. Oct. 20, 2025) (same). Additionally, a

respondent within the jurisdiction of the original court has the authority to comply with any order that may issue. *See In re Hall*, 988 F.3d 376, 378–79 (7th Cir. 2021).

18. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

19. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

20. Venue lies in the United States District Court for the Northern District of Illinois, the judicial district in which Petitioner was detained when he filed his initial habeas petition.

21. Venue in this district is proper despite Petitioner’s subsequent transfer to Brazil, Indiana, because he filed his initial petition when he was detained in Broadview, Illinois. *See Sanchez v. Olson*, No. 25 CV 12453, 2025 U.S. Dist. LEXIS 211062, at *2–*3 (N.D. Ill. Oct. 27, 2025) (“Sanchez filed his initial habeas petition while detained in Broadview, Illinois, so the Northern District of Illinois is a proper venue.”).

22. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Northern District of Illinois.

REQUIREMENTS OF 28 U.S.C. § 2243

23. The Court must grant the petition for writ of habeas corpus or order Respondents 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, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

24. 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) (citation omitted).

REQUIREMENTS OF 28 U.S.C. § 2242

25. This petition is properly amended under 28 U.S.C. § 2242 and Federal Rule of Civil Procedure 15(a)(1)(B), which is incorporated into the statute. *See id.* § 2242 (A petition for a writ of habeas corpus “may be amended or supplemented as provided in the rules of procedure to civil actions.”)

26. Federal Rule of Civil Procedure 15(a)(1)(B) provides that a party may amend its pleading “once as a matter of course” up to 21 days “after service of a responsive pleading.” FED. R. CIV. P. 15(a)(1)(B).

PARTIES

27. Petitioner Juan Julio Reza Ayala is a citizen of Mexico who has resided in the United States since his entry without inspection in 2004. He has been in immigration detention since October 29, 2025.

28. Respondent Sam Olson is the ICE Field Office Director for the Chicago Field Office of ICE Enforcement and Removal Operations (ERO), which includes Illinois, Indiana, Wisconsin, Missouri, Kentucky, and Kansas. As such, Sam Olson is Petitioner’s immediate

custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

29. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

30. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

31. Respondent Todd Lyons is the Acting Director of ICE. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner. He is sued in his official capacity.

32. Respondent Brandon Crowley is the County Jail Commander of Clay County Jail, where Petitioner is currently detained. He is an immediate custodian of Petitioner. He is sued in his official capacity.

FACTUAL BACKGROUND

33. Petitioner is a 50-year-old citizen and national of Mexico. He entered the United States without being admitted or inspected in 2004 and has lived here ever since. He lived in Chicago prior to his detention.

34. Petitioner has two daughters who are United States citizens. His 15-year-old daughter is disabled. She receives Social Security Disability Insurance and accommodations for

her disability in school. Petitioner's 18-year-old daughter attends college at the University of Illinois in Chicago.

35. Prior to his detention, Petitioner worked as a landscaper in the Chicagoland area.

36. On October 29, DHS arrested Petitioner without a warrant while he was working at a landscaping site in Skokie, Illinois. Petitioner is now detained at the Clay County Jail in Brazil, Indiana. Upon information and belief, Petitioner was later issued a Notice of Custody Determination, which further indicated he was detained pursuant to § 1225(b)(2)(A).

37. After arresting him, DHS placed Petitioner in removal proceedings before the Michigan Executive Office for Immigration Review's Immigration Court, pursuant to 8 U.S.C. § 1229a, by filing a Notice to Appear at that court. Ex. A, Notice to Appear. DHS charged Petitioner with, *inter alia*, having entered the United States without having been admitted or inspected, under 8 U.S.C. §§ 1182(a)(6)(A)(i), and for not possessing a valid entry document, *id.* § 1182(a)(7)(A)(i).

38. Petitioner is represented by counsel in his removal proceedings. He has an upcoming court hearing in Michigan on December 29, 2025, which, upon information and belief, was scheduled before this Court issued a stay. *See* Ex. B, I-830.

39. Pursuant to Respondents' new policy, discussed *infra*, Petitioner remains in mandatory detention. Absent relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family, community, and urgent medical treatment without ever receiving an individualized hearing justifying his detention, in violation of the INA and Due Process.

EXHAUSTION OF REMEDIES

40. No statutory requirement of administrative exhaustion applies to Petitioner's case. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), *superseded by statute on other grounds as recognized in Woodford v. Ngo*, 548 U.S. 81 (2006).

41. Specifically, DHS has taken the position that a noncitizen like Petitioner, who entered without having been admitted or inspected, is subject to mandatory detention under 8 U.S.C. § 1225, and the Executive Office for Immigration Review has affirmed that view. In a published decision, the Board of Immigration Appeals recently held that "Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission." *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under the BIA's interpretation, Petitioner is ineligible for bond as a noncitizen who entered the United States without inspection. Accordingly, there are no administrative remedies that he could exhaust before seeking habeas relief. *See Singh v. Lewis*, No. 4:25-cv-96-RGJ, 2025 U.S. Dist. LEXIS 185696 (W.D. Ky. Sept. 22, 2025), at *6 ("[t]he United States has made clear their position on Section 1225, and it is being applied at all levels within the DHS. Therefore, it is unlikely that any administrative review would lead to the United States changing its position and precluding judicial review"); *Arredondo v. Olson*, No. 25-cv-12882, 2025 U.S. Dist. LEXIS 219921, at *4-5 (N.D. Ill. Nov. 7, 2025) ("[R]equiring Petitioner to ask the BIA for a bond hearing would be futile given BIA's recent conclusion that it lacks authority to hold bond

hearings or to grant bond to aliens who are present in the United States without admission.””) (citing *Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025)).

42. Further, neither an immigration judge nor the Board of Immigration Appeals can rule on a petitioner’s constitutional claims. *See Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (B.I.A. 2020) (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C--*, 20 I. & N. Dec. 529, 532 (B.I.A. 1992) (“[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations.”); *see also Gonzalez v. O’Connell*, 355 F.3d 1010, 1017 (7th Cir. 2004) (noting that “the BIA has no jurisdiction to adjudicate constitutional issues”).

LEGAL FRAMEWORK

I. DHS Detention Authority and Respondent’s Efforts to Expand Mandatory Detention

43. 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 “already in the country.” *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Section 1226(a) “sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of a[] [noncitizen] ‘pending a decision on whether the [noncitizen] is to be removed from the United States.’” *Id.* at 288 (quoting § 1226(a)). Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention. *See Jennings*, 583 U.S. at 306 (citing § 8 C.F.R. § 236.1(d)(1) and 1236.1(d)(1); *see also Miguel v. Noem*, No. 25 C 11137, 2025 U.S. Dist. LEXIS 206990 (N.D. Ill. Oct. 21, 2025) (“In other words, if [the petitioner] is detained under § 1226(a), he is entitled to receive a bond hearing.”).

44. Section 1226(c) “carves out a statutory category” of noncitizens from § 1226(a) for whom detention is mandatory, comprised of individuals who have committed certain “enumerated ... criminal offenses [or] terrorist activities.” *Jennings*, 583 U.S. at 289 (citing § 1226(c)(1)). Among the individuals carved out and subject to mandatory detention are certain categories of “inadmissible” noncitizens. § 1226(c)(1)(A), (D), (E). Reference to such inadmissible noncitizens makes clear that, by default, people who are present without being admitted or paroled but who are encountered in the interior are afforded a bond hearing under subsection 1226(a). Courts have recently confirmed this understanding of § 1226. *See Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)) (“When Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.”); *see also, e.g., Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 U.S. Dist. LEXIS 128085, *18 (D. Mass. July 7, 2025) (“inadmissibility on one of the three grounds specified in Section 1226(c)(1)(E)(i) is not by itself sufficient to except [a noncitizen] from § 1226(a)’s discretionary detention framework”).

45. Second, the INA provides for mandatory detention of certain categories of noncitizens “seeking entry into the United States” under 8 U.S.C. § 1225(b). *Jennings*, 583 U.S. at 297; *see* § 1225(b) (“Inspection of applicants for admission”).

46. In *Jennings*, the Supreme Court explained that this mandatory scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] *seeking to enter* the country is inadmissible.” *Jennings*, 583 U.S. at 287 (emphasis added). Noncitizens subject to mandatory detention under § 1225(b) may not be released except

“for urgent humanitarian reasons or significant public benefit” under the parole authority provided by 8 U.S.C. § 1182(d)(5)(A). *See id.* at 300.

47. Section 1225 is split into two categories. Section 1225(b)(1) provides for mandatory detention of noncitizens charged with enumerated grounds of inadmissibility *and* placed in expedited removal proceedings. 8 U.S.C. § 1225(b)(1)(A)(i). Meanwhile, § 1225(b)(2) applies only to recently arrived noncitizens “seeking entry” at a border or port of entry.

48. Finally, 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).

49. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

50. Respondents have recently taken various steps seeking to expand their use of mandatory detention under § 1225(b)(2) beyond its plain language, logical extension, and historic application.

51. 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. *See* U.S. Immigration and Customs Enforcement, Interim Guidance Regarding Detention Authority for Applicants for Admission (July 8, 2025), <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

52. The new policy claims that all persons who entered the United States without inspection shall now be deemed “applicants for admission” under 8 U.S.C. § 1225 and therefore are subject to mandatory detention 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, like Petitioner, for decades.

53. On September 5, 2025, the Board of Immigration Appeals (BIA) issued a published decision adopting this same position. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision holds that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bond hearings.

II. Respondents' Policy on and Statutory Interpretation of § 1225(b)(2) is Incorrect

54. Respondents' policy, that all undocumented noncitizens who entered without inspection are considered applicants for admission and are subject to mandatory detention under § 1225(b)(2)(A), is incorrect. Instead, the statutory text, the statutory framework, Congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation – including this one – limit § 1225(b)(2)'s scope to recently arrived noncitizens seeking admission at a border or port of entry.

a. Statutory Text

55. The text of § 1225, along with its placement in the overall detention scheme of the INA, make clear that the terms “applicant for admission” and “seeking admission” in § 1225(b)(2) do not include individuals who have entered without inspection and are apprehended when already inside the United States.

56. Section 1225 is titled: “Inspection by immigration officers; expedited removal of inadmissible *arriving* aliens; referral for hearing.” (emphasis added). As courts have recognized, “[t]he added word of ‘arriving’ indicates that the statute governs ‘arriving’ noncitizens, not those present already.” *Beltran Barrera v. Tindall*, No. 3:25-cv-541-RGJ, 2025 U.S. Dist. LEXIS 184356, at *8–*9 (W.D. Ky. Sept. 19, 2025) (citing *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 U.S. Dist. LEXIS 175767, at *5 (E.D. Mich. Sept. 9, 2025)). This limitation is

particularly clear when compared to Section 1226's general title: "Apprehension and detention of aliens."

57. Further, § 1225(b)(2)'s specific subheading, "Inspection of Other Aliens," subsection 1225(b)(2)(B)'s mention of "crewm[e]n" and "stowaway[s]," and subsection 1225(b)(2)(C)'s use of the active language "arriving," reinforce the limited scope of § 1225(b)(2)'s applicability to those who have recently arrived at a border or port of entry.

58. Finally, the plain language of the term "seeking" in the text of § 1225(b)(2)(A) demonstrates that the subsection applies only to recently arrived noncitizens. Section 1225(b)(2)(A) provides that, "in the case of an alien who is an applicant for admission, if the examining immigration determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained." 8 U.S.C. § 1225(b)(2)(A) (emphasis added). The phrase *seeking admission* "implies action – something that is currently occurring, and in this instance, would most logically occur at the border upon inspection." *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 U.S. Dist. LEXIS 169423, at *16 (E.D. Mich. Aug. 29, 2025); *see also Miguel*, 2025 U.S. Dist. LEXIS 206990, at *11 ("Critically, the phrase 'seeking admission' necessarily implies some sort of present-tense action.") (citation omitted). Individuals who have been present in the country for years, therefore, cannot be actively "seeking admission." *See Ochoa Ochoa*, 2025 U.S. Dist. LEXIS 204142, at *12. This extends to Petitioner, who has been here for decades.

b. Statutory Framework and Rule Against Surplusage

59. The statutory framework and Rule Against Surplusage further support that § 1225(b)(2) does not apply to noncitizens, like Petitioner, who have lived in the United States for years and who were apprehended many years after residing within the United States.

60. The INA's entire framework is premised on § 1225 governing detention of "arriving [noncitizens]" while § 1226 "applies to [noncitizens] already present in the United States." *Jennings*, 583 U.S. at 288, 301; *see also Lopez-Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 2025 U.S. Dist. LEXIS 157214, at *24 (S.D.N.Y. Aug. 8, 2025) ("[T]he line historically drawn between sections 1225 and 1226, which makes sense of their text and the overall statutory scheme, is that section 1225 governs detention of non-citizens 'seeking admission into the country,' whereas section 1226 governs detention of non-citizens 'already in the country.'") (cleaned up) (citing *Jennings*, 583 U.S. at 288–89); *Martinez v. Hyde*, No. 25-11613-BEM, 2025 U.S. Dist. LEXIS 141724, at *22 (D. Mass. July 24, 2025) ("[T]he idea that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission into the country,' is consonant with the core logic of our immigration system.") (cleaned up) (citing *Jennings*, 583 U.S. at 289).

61. A fundamental principle of statutory construction is that courts must interpret statutes to give meaning to all provisions and avoid reading out or rendering superfluous any single provision. *Corley v. United States*, 556 U.S. 303, 314 (2009) ("one of the most basic interpretive canons . . . [a] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant[.]") (cleaned up). The government's current reading of § 1225(b)(2) violates this principle.

62. Section 1226(c) includes carve outs for certain categories of inadmissible noncitizens, who would otherwise fall under § 1226(a), and who are instead subject to mandatory detention. 8 U.S.C. § 1226(c)(1)(A), (D), (E). The inclusion of these carve outs in § 1226(c) indicates that, contrary to Respondents' interpretation, there are noncitizens who have not been admitted and that are not governed by § 1225's mandatory detention scheme. Indeed, if the

government's interpretation were correct, it would render these portions of § 1226(c) superfluous since those same individuals would already be subject to mandatory detention under § 1225(b)(2).

63. The recent amendment to § 1226(c) confirms this statutory framework. Just this year, Congress passed the Laken Riley Act, which added additional categories of § 1226(a) carve outs that are now subject to mandatory detention under § 1226(c). Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c)(1)(E). Specifically, the Laken Riley Act mandates the detention of noncitizens who are inadmissible under §§ 1182(a)(6)(A) (noncitizens “present in the United States without being admitted or paroled”), 1182(a)(6)(C) (misrepresentation), or 1182(a)(7) (lacking valid documentation) and who have been arrested for, charged with, or convicted of certain crimes. *Id.* Again, if § 1225(b)(2) were already meant to subject these groups of inadmissible noncitizens to mandatory detention, it would render this portion of the Laken Riley Act “meaningless and violate the surplusage canon.” *D.E.C.T. v. Noem*, No. 25 C 12463, 2025 U.S. Dist. LEXIS 215934, at *13 (N.D. Ill. Nov. 3, 2025); *see Patel v. Crowley*, No. 25 C 11180, 2025 U.S. Dist. LEXIS 209958, at *21 (N.D. Ill. Oct. 24, 2025).

c. Congressional Intent and Longstanding Agency Practice

64. Congressional intent and longstanding historical practice underscore Petitioner's reading of the statute. “The longstanding practice of the government—like any other interpretive aid—can inform [a court's] determination of what the law is.” *Alejandro v. Olson*, No. 1:25-cv-02027-JPH-MKK, 2025 U.S. Dist. LEXIS 201543, at *20 (S.D. Ind. Oct. 11, 2025) (quoting *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 386 (2024)) (cleaned up).

65. The current detention system and bond eligibility system has been in place since the passage 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.

66. Following the enactment of the IIRIRA, the Executive Office for Immigration Review 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) and eligible for bond and bond redetermination. *See* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

67. In the decades that followed, most people who entered without inspection and were apprehended inside the United States were detained under § 1226(a) and received bond hearings, unless their criminal history rendered them ineligible. 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 immigration judge 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)).

d. Inapplicability of the Term “Seeking Admission” under 8 U.S.C. § 1225(b)(2)(A)

68. Petitioner maintains that he is not an “applicant for admission.”

69. However, even if the Court were to consider him one, *see Diaz v. Olson*, 2025 U.S. Dist. LEXIS 213312 (N.D. Ill. Oct. 29, 2025), he would still not be subject to § 1225(b)(2) because he is not “seeking admission.”

70. Petitioner reincorporates the arguments as set out in ¶ 58. As discussed in ¶ 58, Petitioner is not “seeking admission” because at the time he was detained, he was not actively seeking lawful entry, and he had already been present in the country for 21 years. *See Lopez-Campos*, 2025 U.S. Dist. LEXIS 169423, at *18 (“There is no logical interpretation that would

find that [petitioner] was actively ‘seeking admission’ after having resided here . . . for twenty-six years.”).

71. That Petitioner is not “seeking admission” also accords with 8 C.F.R. § 235.3(c)(1)— which defines the scope of 8 U.S.C. § 1225(b)(2), *see Martinez*, 2025 U.S. Dist. LEXIS 141724, at *13—and 8 C.F.R. § 1.2—which further elaborates on § 235.3(c)(1). Section 235.3(c)(1) states that “. . . any *arriving alien* who appears to the inspecting officer to be inadmissible . . . shall be detained in accordance with [§ 1225(b)].” “Arriving alien,” in turn, refers to “an applicant for admission *coming or attempting to come into the United States*.” 8 C.F.R. § 1.2. (emphasis added). “In other words, an ‘arriving alien’ is an ‘applicant’ who is also *doing* something: ‘coming or attempting to come into the United States.’” *Martinez*, 2025 U.S. Dist. LEXIS 141724, at *16 (quoting 8 C.F.R. § 1.2.). It is not someone who has been in the country as long as Petitioner has and who was apprehended while residing here.

72. Although not binding, these regulations “can provide a useful reference point for understanding a statutory scheme,” particularly in the case here, where the regulations were “issued roughly contemporaneously with the enactment of the statute and [have remained] consistent over time.” *Martinez*, 2025 U.S. Dist. LEXIS 141724, at *13–*14 (quoting *Loper Bright Enters. V. Raimondo*, 603 U.S. 369, 385–86 (2024)).

73. Finally, Respondents’ position that “all applicants for admission” are subject to § 1225(b)(2), regardless of whether they are “seeking admission,” renders the term “seeking admission” superfluous. This violates the rule against surplusage, which states that “every clause and word of a statute should have meaning.” *See Martinez*, 2025 U.S. Dist. LEXIS 141724, at *13 (quoting *United States, ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023)).

e. Recent Federal Court Decisions Confirming Petitioner's Position

74. Regardless of whether he is not “an applicant for admission” or “seeking admission,” numerous federal courts have reached conclusions consistent with Petitioner’s position that his detention subject to § 1225(b)(2) is unlawful. For example, after immigration judges in the Tacoma, Washington, stopped providing bond hearings for persons who entered the United States without inspection, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not Section 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257.

75. Other courts, including in this district, have reached the same conclusion, rejecting Respondent’s erroneous interpretation of the INA both prior to and since ICE implemented its July 8, 2025, interim guidance. *See, e.g., Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 U.S. Dist. LEXIS 128085 (D. Mass. July 7, 2025); *Martinez v. Hyde*, No. 25-11613-BEM, 2025 U.S. Dist. LEXIS 141724, at *20 (D. Mass. July 24, 2025); *Lopez-Benitez v. Francis*, 2025 U.S. Dist. LEXIS 157214, *24 (S.D.N.Y. Aug. 8, 2025); *Maldonado v. Olson*, No. 25-cv-3142 (SRN/SGE), 2025 U.S. Dist. LEXIS 158321 (D. Minn. Aug. 15, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 U.S. Dist. LEXIS 169423 (E.D. Mich. Aug. 29, 2025); *Miguel v. Noem*, No. 25 C 11137, 2025 U.S. Dist. LEXIS 206990 (N.D. Ill. Oct. 21, 2025); *Diaz v. Olson*, No. 25 CV 12141, 2025 U.S. Dist. LEXIS 213312 (N.D. Ill. Oct 29, 2025); *Ponce v. Olson*, No. 25-cv-13037, 2025 U.S. Dist. LEXIS 215010 (N.D. Ill. Oct. 31, 2025); *D.E.C.T. v. Noem*, 24 C 12463, 2025 U.S. Dist. LEXIS 215934 (N.D. Ill. Nov. 3, 2025); *Arredondo v. Olson*, No. 25-cv-12882, 2025 U.S. Dist. LEXIS 219921 (N.D. Ill. Nov. 7, 2025).

76. The BIA's decision in *Yajure Hurtado* has not slowed the steady flow of decisions rejecting Respondents' position, particularly in this District. These courts have correctly held that *Yajure* is entitled to no deference under *Loper Bright*. See, e.g., *Ochoa Ochoa*, 2025 U.S. Dist. LEXIS 204142, at *15 (disagreeing with BIA's analysis and according no deference under *Loper Bright*); *H.G.V.U.*, 2025 U.S. Dist. LEXIS 205993, at *14 (same); *Patel v. Crowley*, No. 25 C 11180, 2025 U.S. Dist. LEXIS 209958, at *16–*17 (N.D. Ill. Oct. 24, 2025) (same); *D.E.C.T.*, 2025 U.S. Dist. LEXIS 215934, at *13–*14 (same); *Flores v. Olson*, No. 25 C 12916, 2025 U.S. Dist. LEXIS 215939, at *6 (N.D. Ill. Nov. 3, 2025) (same); *Martinez v. Noem*, No. 25-cv-12029, 2025 U.S. Dist. LEXIS 221908, at *3 (N.D. Ill. Nov. 11, 2025) (reasoning that “longstanding practice” suggests that Petitioner is more appropriately detained under 1226(a) and citing *Loper Bright*); see also *Valencia v. Noem*, No. 25-cv-12829, 2025 U.S. Dist. LEXIS 215007, at *7 (N.D. Ill. Oct. 31, 2025) (“Like other courts in this district, this Court rejects the BIA's interpretation in *Yajure Hurtado* as incorrect as a matter of law and declines to follow it.”).

III. Petitioner's Detention Violates the INA

77. Petitioner's detention is not authorized under § 1225(b)(2).

78. As discussed above, mandatory detention under § 1225(b)(2) applies only to recently arrived noncitizens seeking admission at a border or port of entry, not individuals who entered without inspection and were later detained inside the country.

79. Here, “there is nothing in the record to suggest that [Petitioner] ever attempted to gain lawful entry.” *Lopez-Campos v. Raycraft*, 2025 U.S. Dist. LEXIS 169423, at *4. Petitioner entered without being admitted or inspected and lived in the United States for 21 years prior to

being detained by ICE. As such, Petitioner is not subject to mandatory detention under § 1225(b)(2).

80. Petitioner's detention is not authorized under § 1226(a), either. As discussed above, § 1226(a)'s discretionary detention framework requires a bond hearing to make an individualized custody determination based on Petitioner's risk of flight or dangerousness. Here, Respondents have failed to provide such a hearing. Further, there is no information indicating that Petitioner is a flight risk or danger to the community. Petitioner is not a flight risk because of his longstanding ties to his community and family, relationship with attorneys, eligibility for cancellation of removal, and ongoing medical treatment.

81. Lacking any statutory basis for his detention, Respondent must release Petitioner or, in the alternative, promptly hold a bond hearing to determine whether he should remain in custody.

IV. Due Process Clause

82. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). To determine whether civil detention violates a noncitizen's Fifth Amendment due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

83. Under *Mathews*, courts weigh the following three factors: 1) "the private interest that will be affected by the official action;" 2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and 3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. at 335.

a. Private Interest

84. Regarding the first *Mathews* factor, “[t]he interest in being free from physical detention” is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 531 (2004). Petitioner has been detained for seventeen days at both Broadview and the Clay County Jail in conditions that are indistinguishable from criminal incarceration. This detention prevents him from seeing his family, going to work to support them, and most critically, obtaining urgent medical treatment for his several serious conditions.

b. Risk of Erroneous Deprivation

85. Regarding the second *Mathews* factor, courts must “assess whether the challenged procedure creates a risk of erroneous deprivation of individuals’ private rights and the degree to which alternative procedures could ameliorate these risks.” *Gunaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. 2025). The current procedures cause an erroneous deprivation of Petitioner’s liberty interest in remaining free from detention.

86. As discussed above, the statutory text, statutory framework, Congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation leave no doubt that § 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry, not noncitizens who entered without inspection and were detained inside the country.

87. Here, Petitioner was not arriving at a border or port of entry when he was detained, nor was he ever seeking admission to the country. Instead, he entered without inspection (without being admitted) and lived in the United States for 21 years before being detained. As such, Petitioner is not subject to mandatory detention under § 1225(b)(2).

88. Therefore, it is clear that the government's current procedure, subjecting Petitioner to mandatory detention under § 1225(b)(2), creates a substantial risk of erroneous deprivation of Petitioner's interest in being free from arbitrary confinement.

89. Additionally, there are reasonable alternatives available for Respondent to pursue. As discussed above, § 1226(a) applies to noncitizens facing charges of inadmissibility, including noncitizens like Petitioner who entered without inspection and were later detained while residing inside the country. As such, proper application of the INA's detention scheme allows for the possibility of detaining Petitioner under § 1226(a) but first requires a bond hearing to make an individualized determination of his risk of flight or dangerousness. Such a hearing has not happened. Without it, the risk of erroneous deprivation of Petitioner's freedom is high. *See D.E.C.T.*, 2025 U.S. Dist. LEXIS 215934, at *15 ("The risk of erroneous deprivation is also great, because without a bond hearing no judge can determine whether the petitioner should remain in custody.") (citation omitted).

c. Government Interest

90. Regarding the third *Mathews* factor, the government's interest in maintaining the current procedure is "minimal here." *See H.G.V.U.*, 2025 U.S. Dist. LEXIS 205993, at *16. The new interpretation of § 1225(b)(2) – that people like Petitioner who have resided in the United States for years are now subject to mandatory detention – flies in the face of the statutory text, statutory framework, Congressional intent, almost three decades of prior practice, and the decisions of federal courts across the nation. Any government interest in public safety or ensuring that Petitioner attends future immigration proceedings would be satisfied through proper application of § 1226(a), which requires a bond redetermination hearing where an

immigration judge will consider Petitioner's individualized facts and circumstances to determine whether he is a danger to the community or a flight risk.

CLAIMS FOR RELIEF

COUNT I **Violation of the INA**

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

92. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country without being inspected or admitted and have been residing in the United States prior to being detained and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231. But Respondents' actions here violate § 1226(a) too because Respondents have refused to consider Petitioner for release on bond or other conditions.

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

COUNT II **Violation of Due Process**

94. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

95. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the

Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

96. Petitioner has a fundamental interest in liberty and being free from official restraint.

97. Petitioner entered the country without inspection 21 years ago and has lived in Chicago during that entire 21-year period before being detained. Such an individual may only be subject to discretionary detention under 8 U.S.C. § 1226(a), which provides for consideration of release on bond. Respondents now erroneously detain Petitioner under the mandatory provision in § 1225(b)(2).

98. Respondents’ detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 5 days;
- c. Enjoin Respondents from moving Petitioner outside of Illinois, Wisconsin, and Indiana pending adjudication of this petition by either maintaining the prior order of October 30, or in the alternative, issuing a new order of the same;
- d. Declare that Petitioner’s continued detention violates the INA and the Due Process Clause of the Fifth Amendment;

- e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- f. Grant any other and further relief that this Court deems just and proper.

DATED: November 14, 2025

Respectfully submitted,

S/Lisa Palumbo

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VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Executed this 14th of November, 2025.

/s/ Lisa Palumbo

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