

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

JAIME ROJAS-RAMOS,

Petitioner,

v.

ROBERT LYNCH, Detroit Field Office
Director for U.S. Immigration and Customs
Enforcement, in his official capacity; TODD
LYONS, Acting Director of U.S. Immigration
and Customs Enforcement, in his official
capacity; and KRISTI NOEM, Secretary of the
U.S. Department of Homeland Security, in her
official capacity,

Respondents.

Case No. 25-cv-1428

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

FACTUAL BACKGROUND

1. Petitioner Jaime Rojas-Ramos, a citizen of Mexico, is unlawfully detained in the physical and legal custody of Respondents at the Calhoun County Correctional Center in Battle Creek, Michigan. The Petitioner is a small business owner, has two restaurants, has two U.S. citizen children, and has lived in the United States for more than 25 years after his initial entry on a Border Crossing Card in the year 2000 as a young child.

2. The Petitioner was unlawfully detained by Respondents without cause and without a properly issued warrant in Palatine, Illinois on or about October 5, 2025, at his place of business, in violation of a consent decree, which precludes warrantless arrests of immigrants within the jurisdiction of U.S. Immigration and Customs Enforcement (“ICE”) Chicago Field Office. ICE is an agency within the U.S. Department of Homeland Security (“DHS”).

3. As explained below, the documentation in this case demonstrates that Petitioner's detention violated the consent decree in *Castañon Nava et al. v. Dep't of Homeland Security et al.*, No. 18-cv-3757-RRP, the enforcement of which is currently ongoing in the Northern District of Illinois.

4. ICE appears to have briefly held the Petitioner in Indiana after his initial detention in Illinois.

5. On or about October 7, 2025, Petitioner was transferred by the Respondents to the Calhoun County Correctional Center in Battle Creek, Michigan, pursuant to a contract with U.S. Immigration and Customs Enforcement ("ICE"), an agency within DHS, where he is currently being denied adequate medical treatment for his high blood pressure and diabetes, and his diabetes in particular is uncontrolled due to the food provided to him in detention.

6. The Petitioner was not initially charged as an arriving alien in his removal proceedings, however, as outlined below, Respondents have amended the charges to allege that he is an "arriving alien."

7. Counsel reported the warrantless detention of the Petitioner to class counsel for *Castañon Nava* on November 10, 2025.

8. On October 31, 2025, the Petitioner's request for custody determination was denied for lack of jurisdiction by the Immigration Judge. **[Exhibit 1, Order of the Immigration Judge]** The Petitioner's next immigration court hearing has now been scheduled for November 19, 2025. **[Exhibit 2, EOIR Automated Case Status]** The reason for the Petitioner's detention by the Respondents is unclear; however, in any case, Respondents' detention of Petitioner without a bond hearing is unlawful.

9. The Department of Justice's Executive Office of Immigration Review ("EOIR") has issued precedential decisions of the Board of Immigration Appeals ("BIA") that purport to unlawfully subject the Petitioner to indefinite, mandatory detention in violation of his Due Process rights under the Constitution, and in violation of the Immigration and Nationality Act ("INA").

10. Respondents have detained the Petitioner based not on his personal circumstances or individualized facts but because of Respondents' incorrect categorical determination that, the Fifth Amendment notwithstanding, noncitizens are not entitled to due process of law.¹

11. But Respondents cannot evade the law so easily. The U.S. Constitution requires the Respondents provide Petitioner at minimum with the rights available to Petitioner when Petitioner filed an application for asylum after releasing him into the United States and instituting full proceedings in immigration court.

12. To the extent that the Respondents intend to subject the Petitioner to indefinite, mandatory detention throughout the remainder of all his proceedings in the United States based on the BIA's recent precedential decisions in *Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025) (holding that "all noncitizens who fall within the scope of 8 U.S.C. § 1225(b)(1) (arriving aliens) must be detained under that section and are "ineligible for any subsequent release on bond" under § 1226(a)" and to oppose bond before the Immigration Judge (IJ) pursuant to *Matter of Yajure Hurtado*, 29 I & N Dec. 216, 229 (BIA 2025) (holding that IJs have no jurisdiction to consider bond for persons charged as "arriving aliens" in removal proceedings), Petitioner's detention is unlawful, in violation of his Due Process rights and the INA.

¹See, e.g., NBC News, Meet the Press interview of President Donald Trump (May 4, 2025), <https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donald-trump-interviewed-meet-press-mod-rcna203514> (in response to a question whether noncitizens deserve due process under the Fifth Amendment, President Trump replied "I don't know. It seems—it might say that, but if you're talking about that, then we'd have to have a million or 2 million or 2 million trials.").

13. Any characterization of Petitioner's status as an "arriving alien" pursuant to 8 U.S.C. § 1225(b) and his detention without bond by ICE, an agency within DHS, is in violation of the plain language of 8 U.S.C. § 1225(b) and in violation of 8 U.S.C. § 1226(a).

14. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court: (a) to find that Respondents' attempts to detain and transfer Petitioner are arbitrary and capricious and in violation of the law; (b) to immediately issue an order preventing Petitioner's transfer out of this district; and (c) to order either a bond hearing before an immigration judge or to order the Respondent's immediate release from detention, or, in the alternative, to show cause in writing within three (3) days why the writ of habeas corpus and other relief requested in the petition should not be granted.

JURISDICTION AND VENUE

15. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

16. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101–1537, regulations implementing the INA, the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706, and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

17. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

18. The federal government has waived its sovereign immunity and permitted judicial review of agency action under 5 U.S.C. § 702. In addition, sovereign immunity does not bar claims

against federal officials that seek to prevent violations of federal law (rather than provide monetary relief).

19. Venue is proper because Petitioner is detained in Respondents' custody at the Calhoun County Correctional Center in Battle Creek, Michigan. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their immigration detention. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

20. Venue is further proper 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 Western District of Michigan.

21. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Western District of Michigan, the judicial district in which the Petitioner is currently detained.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

22. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

23. There is no statutory exhaustion requirement in 28 U.S.C § 2241. In the absence of a statutory exhaustion requirement, “prudential” exhaustion may be judicially required. *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 746 (6th Cir. 2019). Whether or not to require prudential exhaustion falls within this Honorable Court’s sound judicial discretion, provided that such

discretionary requirement complies with statutory schemes and the intent of Congress. *See Shearson v. Holder*, 725 F.3d 588, 593-594 (6th Cir. 2013) (internal citation/quotation omitted).

24. The United States Court of Appeals for the Sixth Circuit has not yet issued a precedential decision as to whether courts or not should impose administrative exhaustion in the context of a noncitizen's habeas petition for unlawful mandatory detention. *See, e.g., Jose O. Puerto-Hernandez v. Robert Lynch, et al.*, No. 25-1097, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025) (internal citations omitted).

25. As noted above, the precedential decisions issued by the BIA in *Matter of Q. Li* and *Matter of Yajure-Hurtado* stand for the proposition that the Petitioner is an arriving alien, and as such, is subject to indefinite, mandatory detention and is ineligible for a bond hearing before an immigration judge.

26. The BIA's precedential decisions "serve as precedents in all proceedings involving the same issue or issues." 8 C.F.R. §§ 1003.1(g)(2), (d)(1). Therefore, requiring the Petitioner to seek a bond hearing and, when denied, appeal that denial to the BIA will certainly result in a holding that anyone who is deemed "[a]n alien present in the United States without being admitted or paroled," will be subjected to mandatory detention without bond under 8 U.S.C. § 1225(b)(2).

27. Moreover, the fundamental question presented by this petition is whether 8 U.S.C. § 1225 or 8 U.S.C. § 1226 applies to the Petitioner's detention, which is a purely legal question of statutory interpretation which would not be impacted by any administrative record developed in immigration court or on appeal to the BIA.

28. This Honorable Court is not bound by and is not required to give deference to any agency interpretation of a statute. *See Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 413 (2024) (holding that federal judges are not required to, and pursuant to the Administrative Procedure Act

(the “APA”), are not to defer to an agency interpretation of the law simply because a statute is ambiguous, as that is the role of the federal courts).

29. Finally, the Petitioner’s constitutional challenge to his detention does not require exhaustion. The Sixth Circuit has noted that due process challenges, such as the one raised by Petitioner here, generally do not require exhaustion because the BIA cannot review constitutional challenges. *See Sterkaj v. Gonzalez*, 439 F.3d 273, 279 (6th Cir. 2006).

30. Thus, requiring prudential exhaustion is a futile exercise, and will only result in the extended, unlawful detention of the Petitioner.

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

32. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

33. Petitioner Jaime Rojas-Ramos is a citizen and national of Mexico. Petitioner entered the United States on a Border Crossing Card (effectively a B-2 nonimmigrant visa) in 2000 at approximately ten years old. He was granted Deferred Action for Childhood Arrivals (DACA) by the Respondents in two-year increments. On August 1, 2016, the Petitioner was issued an Advance Parole Travel Document valid for a single entry through October 30, 2016. He then traveled on Advance Parole, reentering the United States on September 24, 2016, and was paroled into the United States for a period of one day, through September 25, 2016. After his reentry, the Petitioner renewed his DACA until January 30, 2020, when his renewal was denied in the

discretion of U.S. Citizenship and Immigration Services (“USCIS”) due to a “significant misdemeanor” (a misdemeanor DUI and a reckless driving charge), however, he is fully rehabilitated and his Driver’s License has been restored by the Illinois Secretary of State’s Office. The Petitioner is eligible for and his counsel in ongoing removal proceedings is preparing an Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents. Petitioner is present within the Western District of Michigan as of the time of filing this petition, as he is currently detained at the Calhoun County Correctional Center in Battle Creek, Michigan.

34. Respondent Robert Lynch is the Director of the Detroit Field Office of ICE’s Enforcement and Removal Operations division, a component of the Department of Homeland Security. As such, he is Petitioner’s immediate custodian for purposes of habeas and is responsible for Petitioner’s detention and removal. *See Roman v. Ashcroft*, 340 F.3d 314 (6th Cir. 2003). He is sued in his official capacity.

35. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens, and a component agency of the Department of Homeland Security.

36. 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.

LEGAL FRAMEWORK

Castañon Nava Consent Decree

37. The Petitioner in this case is a *Castañon Nava* class member.

38. In May 2018, persons arrested by ICE and impacted organizations, including the Illinois Coalition for Immigrant and Refugee Rights (“ICIRR”) and Organized Communities Against Deportation (“OCAD”), challenged ICE’s widespread, indiscriminate immigration sweeps in the Chicago area, which resulted in the collateral arrest of hundreds of individuals through warrantless arrests and pretextual vehicle stops, in *Castañon Nava et al. v. Dep’t of Homeland Security et al.*, No. 18-cv-3757 (N.D. Ill.), arguing that ICE failed to comply with immigration law and the constitution in carrying out these arrests.

39. After the U.S. District Court for the Northern District of Illinois denied the government’s motion to dismiss, the parties negotiated a settlement, which was approved on February 8, 2022. The settlement took effect on May 13, 2022, and remains in effect until February 2, 2026, and may be extended given recent and ongoing violations of the settlement agreement.

40. “Class members” covered by the settlement agreement are persons who have been arrested, or are arrested in the future, without a warrant within the jurisdiction of the ICE Chicago Field Office, consisting of Illinois, Indiana, Wisconsin, Missouri, Kentucky, and Kansas, with additional terms of the agreement applying nationwide, such as training and documentation requirements.

41. If a class member is arrested in a manner that violates the settlement in the Chicago Area of Responsibility—which includes in Illinois, Indiana, Wisconsin, Kansas, Kentucky, and Missouri— they may be able to seek individual remedies—including immediate release from detention.

42. Under the settlement agreement, ICE was required to issue a nationwide policy regarding warrantless arrests and vehicle stops, share that policy with all ICE officers, and train them on its requirements.

43. Under the policy, ICE must document the facts and circumstances surrounding a warrantless arrest or vehicle stop in the individual's arresting documentation, called an I-213, including whether the individual was arrested without an administrative warrant; the location of the arrest (e.g., place of business, residence, vehicle, or a public area); if arrested at a business, whether the individual is an employee of the business; if arrested at a residence, whether the person resides at that place of residence; ties to the community, if known at the time of arrest, including family, home, or employment; the specific, particularized facts supporting the conclusion that the individual was likely to escape before a warrant could be obtained; and a statement of how the ICE officers identified themselves as ICE and "state[d] that the person is under arrest and the reason for the arrest." With respect to vehicle stops, ICE must also document specific facts that formed the basis for its reasonable suspicion that a person in the vehicle did not have legal status.

44. On what appears to have been October 7, 2025 (two days after the Petitioner's unlawful detention in violation of *Castañon Nava*), Respondents issued an undated DHS Form I-862, Notice to Appear charging the Petitioner as removable pursuant to INA § 237(a)(1)(B), codified at 8 U.S.C. § 1227(a)(1)(B) as a person admitted to the United States but no longer maintaining valid nonimmigrant status. **[Exhibit 3, Notice to EOIR: Alien Address; Notice to Appear; Warrant for Arrest of Alien, and List of Pro Bono Service Providers]** Notably, the Petitioner was not initially charged as an "arriving alien."

45. However, there are numerous errors and inconsistencies in the Respondents' purported documentation of Petitioner's arrest, including but not limited to: the date of Petitioner's

detention, the fact that the handwritten “Warrant for Arrest of Alien” is dated October 5, 2025, and is purportedly based on “the execution of a charging document to initiate removal proceedings against the subject,” while the charging document itself (the Notice to Appear) is **undated and does not give the location where it was issued**, but is addressed to the Petitioner in Michigan and lists the Detroit Immigration Court as the relevant court, when it is not disputed that he was detained in Illinois on October 5, 2025, and the Notice to EOIR: Alien Address is dated October 7, 2025, and indicates that the Petitioner was detained in Indiana on that date in the jurisdiction of the Chicago Immigration Court (not the Detroit Immigration Court, which has jurisdiction over the North Lake Processing Center in Baldwin, Michigan).

46. On the basis of the documentation, it appears that Petitioner’s arrest on October 5, 2025, was on the basis of “warrant” citing the issuance of a Notice to Appear that was not issued until at least two days later.

47. Thus, the arrest of the Petitioner without a proper warrant violates the *Castañon Nava* consent decree. On October 7, 2025, United States District Court Judge Jeffrey Cummings in his Memorandum Opinion and Order, stated, “*Plaintiffs have also presented evidence that ICE is training its officers regarding the policy of issuing I-200 warrants in the field. In particular, plaintiffs submitted as an exhibit a slide from an ICE Academy training presentation which states the following:*

Officers may also carry a blank form I-200 for the arrest of each collateral so that an individual flight risk analysis is not needed.

The I-200 may not be pre signed

A supervisor needs to be available in the field to sign the I-200

(Dckt. #185-2 at 4). ICE does not dispute the authenticity of this document. (Dckt. #97 at 59–60).” Castañon Nava, et al., v. DHS, (1:18-cv-03757, N.D. Illinois), Dkt. 214, p. 26.

48. Judge Cummings further noted that, “*Notwithstanding the recognized importance of Section 1357(a)(2) ’s likelihood of escape limitation, the expressly stated purpose of ICE’s policy of issuing I-200s in the field—per ICE’s own training materials—is to allow ICE officers to avoid making individual flight risk analyses...*” *Id.* at p. 33. Judge Cummings ultimately held that “*ICE lacked statutory and regulatory authority to engage in its policy of issuing I-200 warrants to collaterals in the field without the concurrent or prior issuance of an NTA.*” *Id.* at 35.

49. On information and belief, the Respondents’ arrest of the Petitioner violated the consent decree in *Castañon Nava*, and the Petitioner’s arrest has been reported to class counsel by the undersigned Counsel for the Petitioner. Under the terms of the settlement, in the event of a violation and arrest contrary to the terms of the agreement, a class member must be released from ICE custody as soon as practicable, without paying a bond or being subject to conditions of release.

50. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Indefinite, Mandatory Detention

51. As noted above, Respondents initially did not charge the Petitioner as an “arriving alien” in the Notice to Appear. However, on October 29, 2025, Respondents issued a DHS Form I-261, Additional Charges of Removability against the Petitioner, charging him as an “Arriving Alien” pursuant to INA § 212(a)(6)(A)(i), codified at 8 U.S.C. § 1182(a)(6)(A)(i). **[Exhibit 4, Additional Charges of Removability]** We note that while the document is dated October 17, 2025, it was not signed until October 29, 2025.

52. For unknown reasons, both the original Notice to Appear and the Additional Charges of Removability allege that the initial period of the Petitioner's approved admission on or about November 18, 2000, expired on "May 5, 2021." On information and belief, that is an error and should have been "May 5, 2001."

53. As Respondents are now charging the Petitioner as an "arriving alien," their position is that he is subject to indefinite mandatory detention under *Matter of Yajure-Hurtado*. However, whether or not Respondents are correct turns on what provision of law governs Petitioner's detention.

54. As this Honorable Court has jurisdiction over this Petition for a Writ of Habeas Corpus, it must next determine whether the Petitioner's detention is governed by the mandatory detention provisions in 8 U.S.C. § 1225(b)(2) or the discretionary detention provisions in 8 U.S.C. § 1226(a).

55. Noncitizens detained under Section 1225(b)(2) must remain in custody for the duration of their removal proceedings, while those detained under Section 1226(a) are entitled to a bond hearing before an IJ at any time before entry of a final removal order." *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1247 (W.D. Wash. 2025).

56. To the contrary, the Petitioner is detained pursuant to 8 U.S.C. § 1226(a).

57. 8 U.S.C. § 1225(a)(1) provides that a noncitizen "present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission." The statute defines an "applicant for admission" as "[a]n alien present in the United States who has not been admitted or who arrives in the United States" 8 U.S.C. § 1225(a)(1).

58. The Respondents' position is that the Petitioner is subject to § 1225(b)(2), which provides that, "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A).

59. In other words, § 1225(b)(2)(A) generally requires mandatory detention of certain "applicant[s] for admission" during their removal proceedings. Individuals subject to mandatory detention under § 1225(b)(2)(A) may, however, be "temporarily released on parole 'for urgent humanitarian reasons or significant public benefit.'" *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting § 1182(d)(5)(A)). This parole "shall not be regarded as an admission" of the noncitizen. 8 U.S.C. § 1182(d)(5)(A).

60. Respondents themselves acknowledge that "[o]n or about July 10, 2015, [the Petitioner was] granted Deferred Action by DHS under the Deferred Action for Childhood Arrivals (DACA) program," that "[o]n or about September 2, 2016, [the Petitioner] departed the United States with an advance authorization for parole into the United States," and that "[o]n or about September 25, 2016, [the Petitioner was] paroled into the United States at Chicago, Illinois." **[Exhibit 4, Additional Charges of Removability]**

61. In fact, the Petitioner was paroled into the United States on or about September 24, 2016 for a period of one day through September 25, 2016, at which time there is no question that he used his Advance Parole to enter pursuant to 8 U.S.C. § 1182(d)(5)(A), and that such parole was issued in the discretion of the Secretary of DHS. **[Exhibit 5 – Advance Parole]**

62. It is undisputed that "...when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien **shall forthwith** return or be

returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.” 8 U.S.C. § 1182(d)(5)(A) (emphasis added).

63. Because parole pursuant to 8 U.S.C. § 1182(d)(5)(A) and the determination of when the purposes of such parole have been served are committed to the discretion of the Secretary of DHS, there is no judicial review of the parole or of its revocation. 8 U.S.C. § 1252(g).

64. The Immigration and Nationality Act does not define “forthwith.” However, according to Black's Law Dictionary, the ordinary meaning of “forthwith” is: “1. Immediately; without delay. 2. Directly; promptly; within a reasonable time under the circumstances; with all convenient dispatch.” Black's Law Dictionary (10th ed. 2014). Merriam-Webster defines “forthwith” as “without any delay” or “immediately.” The Oxford English Dictionary defines “forthwith” as “Immediately, at once, without delay or interval.”

65. No reasonable person can take the position that Respondents, having paroled the Petitioner into the United States for one day (through September 25, 2016), and having taken no action **for nine years** to return the Petitioner to custody may now properly charge the Petitioner as an “arriving alien” in removal proceedings in October 2025. We note that the provision at 8 U.S.C. § 1182(d)(5)(A) is **mandatory** (denoted by the word “shall”).

66. As noted above, Petitioner’s DACA renewal was denied on January 30, 2020, for a “significant misdemeanor.” **[Exhibit 6, Denial of DACA Renewal]** The calculus may be different had the Respondents taken prompt action after the denial of Petitioner’s DACA Renewal in 2020 to return the Petitioner to custody and proceed to removal proceedings charging him as an arriving alien at that time.

67. Instead, at all times for the past nine years until October 17, 2025, Respondents have treated the Petitioner as a noncitizen subject to § 1226(a). Unlike § 1225(b)(2)(A), noncitizens who fall under § 1226(a) are not subject to mandatory detention. Pending a removal decision, the Attorney General may continue to detain an arrested noncitizen, release them on bond, or release them on conditional parole, unless they fall within certain exceptions involving criminal offenses and terrorist activities. *See* 8 U.S.C. § 1226(a) (1)-(2), (c).

68. The Respondents have taken the position in courts across the country that § 1226(a), and the possibility of release on bond, only applies to individuals who are present in the country with lawful status but are in removal proceedings. However, section 1226(a) does not contain a requirement of lawful status, and “courts are not free to read into the language [of a statute] what is not there.” *See O’Hara v. Nika Techs., Inc.*, 878 F.3d 470, 475 (4th Cir. 2017).

69. The Respondents cannot take the position that the Petitioner in this case is detained pursuant to § 1225(b)(2) because he entered this country on the basis of an Advance Parole Travel Document, making him inadmissible under 8 U.S.C. § 1182(a), when their treatment of the Petitioner since he arrived in the United States on Advance Parole more than nine years ago supports the conclusion that he is now detained pursuant to § 1226(a). To do so would violate the plain language of § 1182(d)(5)(A).

70. The Respondents’ theory also conflicts with the Supreme Court’s previous interpretation of the relationship between §§ 1225(b) and 1225(a). In *Jennings*, the Supreme Court explained that § 1225(b) governs noncitizens “seeking admission into the country,” whereas § 1226(a) governs noncitizens “already in the country” who are subject to removal proceedings. *Jennings*, 583 U.S. at 289. That interpretation is consistent with the core logic of our immigration system. “[O]ur immigration laws have long made a distinction between those aliens who have

come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.

71. In the latter instance the Court has recognized additional rights and privileges not extended to those in the former category who are merely ‘on the threshold of initial entry.’” *Leng May Ma*, 357 U.S. 185, 187 (1958) (quoting *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953)); accord *Zadvydas*, 533 U.S. 678, 693 (2001) (“The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law.”).

72. Given this precedent, it is doubtful that Congress intended § 1225(b)(2) to apply to individuals like the Petitioner who was detained after residing and being present in the U.S. for twenty-five years, more than nine years after the end of his period of admission on § 1182(d)(5)(A) parole, more than five years since the denial of the renewal of his Deferred Action for Childhood Arrivals, and who is entitled to apply for relief in the form of Cancellation of Removal for non-Lawful Permanent Residents in immigration court.

CLAIMS FOR RELIEF
COUNT ONE
Violation of Fifth Amendment Right to Due Process
Procedural Due Process

73. Petitioner restates and realleges all paragraphs as if fully set forth here.

74. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

75. To determine whether a civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852 (6th Cir. 2020) (applying the *Mathews v. Eldridge* test in the context of immigration).

76. *Mathews v. Eldridge* requires a court to consider the following three factors: "(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures entail." See *Lopez-Campos v. Raycraft, et al.*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) at *9 (citing *Mathews*, 424 U.S. at 335).

77. The Petitioner was detained without a proper warrant, based on no individualized circumstances applicable to him and in violation of the *Castañon Nava* consent decree. Further, the Petitioner was detained based upon the Administration's novel interpretation of existing law, and without notice or any opportunity to contest the redetermination of his custody. All of the foregoing violates his due process rights.

78. Subjecting the Petitioner to indefinite, mandatory detention on the basis of § 1182(d)(5)(A) as an "arriving alien" violates his due process rights.

COUNT TWO

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), the Immigration and Nationality Act – 8 U.S.C. § 1226, and Federal Regulations Not in Accordance with Law and in Excess of Statutory Authority Unlawful Detention

79. Petitioner restates and realleges all paragraphs as if fully set forth here.

80. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

81. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the

evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

82. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

83. By categorically detaining the Petitioner and transferring Petitioner away from the district in which he resides or the district in which he lives without consideration of Petitioner’s individualized facts and circumstances, Respondents have violated the INA, implementing regulations, and the APA.

84. On information and belief, Respondents have made no finding that Petitioner is a danger to the community or a flight risk.

85. By detaining and transferring the Petitioner categorically, Respondents have further abused their discretion because, since the agency made its initial determination to release the Petitioner into the United States, on information and belief, there have been no changes to Petitioner’s facts or circumstances that support detention.

86. The Petitioner is entitled to an individualized determination as to whether he is a flight risk or danger to the community in the form of a bond hearing by an immigration judge. Petitioner restates and realleges all paragraphs as if fully set forth here.

COUNT THREE

**Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)
Not in Accordance with Law and in Excess of Statutory Authority
Violation of 8 C.F.R. § 239.2(c)**

87. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction, authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

88. Petitioner does not concede that Respondents have the authority to detain him pursuant to 1225(b)(2) when they failed to return him to custody “forthwith” in either 2016 or, at the latest, in 2020 when his DACA renewal was denied. Having failed to follow the mandatory plain language of the statute for at best, more than five and a half years, instead, treating Petitioner as a conditional parolee pursuant to 1226(a), Respondents cannot now avail themselves of 1225(b)(2) to their own benefit.

89. Under the APA, an agency must provide “reasoned explanation for its action” and “may not depart from a prior policy *sub silentio* or simply disregard rules that are still on the books.” *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). *see also Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 24-33 (2020) (holding that rescission of immigration policy without considering “particular reliance interests” is arbitrary and capricious in violation of the APA).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- a) Assume jurisdiction over this matter;
- b) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

- c) Declare that Petitioner's warrantless arrest and detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- d) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody immediately, or, in the alternative, to promptly provide him with a bond hearing before an immigration judge;
- e) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
- f) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- g) Grant any further relief this Court deems just and proper.

Dated this 12th day of November, 2025,

Respectfully submitted,

s/ Amy Maldonado
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s/ Adriana Klemish
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ATTORNEYS FOR PETITIONER

VERIFICATION

On this 12th day of November, 2025, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. I make this verification in lieu of and acting on behalf of Petitioner, Jaime Rojas-Ramos because the Petitioner is currently detained and because of the urgent nature of the relief requested. I am authorized to make this verification as a member of the legal team representing the Petitioner, Jaime Rojas-Ramos.

Dated: 11/12/2025

s/ Amy Maldonado

East Lansing, MI

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