UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DORVIS JESUS RODRIGUEZ MARTINEZ,

Petitioner,

v.

KEVIN RAYCRAFT, Acting 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. 1:25-cv-1504

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

INTRODUCTION

1. Petitioner Dorvis Jesus Rodriguez Martinez, a citizen and national of Venezuela, is unlawfully detained in the physical and legal custody of Respondents at the North Lake Processing Center in Baldwin, Michigan. The Petitioner has been in the U.S. with his wife and two children, aged four and fourteen, for almost two years.

2. On information and belief, Petitioner was unlawfully detained by Respondents without cause and without a warrant in Chicago, Illinois on or about October 16, 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. 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").

4. Subsequent to his detention in Illinois on October 16, 2025, Petitioner was transferred by the Respondents to the North Lake Processing Center, which ICE operates through a contract with The GEO Group, Inc., a company which operates private, for-profit prisons.

5. Petitioner has complied with everything required of him by the Government since his initial entry and humanitarian parole into the United States. It is unclear at the moment why Respondents have subjected the Petitioner to detention; however, in any case, Respondents' detention of Petitioner is unlawful.

6. At the time of his detention on October 16, 2025, on information and belief, Respondents detained the Petitioner in violation of the consent decree in *Castañon Nava et al. v. Dep't of Homeland Security et al.*, No. 18-cv-3757-RRP in the Northern District of Illinois.

7. Counsel reported the warrantless detention of the Petitioner to class counsel for *Castañon Nava* on November 6, 2025.

8. 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]

9. 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

---

[1] *See, 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.").

filed an application for asylum after releasing him into the United States and instituting full proceedings in immigration court.

10. 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.

11. 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 8 U.S.C. § 1226(a).

12. 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

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

14. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), the 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).

15. 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).

16. 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).

17. Venue is proper because Petitioner is detained in Respondents' custody at the North Lake Processing Center in Baldwin, 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).

18. 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.

19. 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

20. 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).

21. 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).

22. 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).

23. 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 subject to indefinite, mandatory detention and is ineligible for a bond hearing before an immigration judge.

24. 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).

25. 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.

26. 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 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).

27. 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).

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

29. 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.*

30. Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

31. Petitioner Rodriguez Martinez is a 41-year-old citizen of Venezuela who has been in immigration detention since October 16, 2025. Petitioner initially entered the United States on December 7, 2023 after appearing for an appointment at a port of entry made via the CBP One App, and was released on humanitarian parole. **[Exhibit 1 – I-94 Arrival/Departure Record, showing "DT" as the Class of Admission (release pursuant to 8 U.S.C. § 1182(d)(5)]** At the time of his initial parole, the Respondent was admitted through December 6, 2025. However, when the Respondents issued a blanket termination of parole in the first half of 2025, they terminated the Petitioner's parole effective April 18, 2025, and his I-94 Arrival/Departure Record "Admit Until Date" was accordingly shortened to April 18, 2025. *Id.*

32. ICE did not set bond and Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Petitioner is present within the Western District of Michigan as of the time of filing this petition, as he is currently detained at the North Lake Processing Center in Baldwin, Michigan.

33. Respondent Kevin Raycraft is the Acting 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.

34. 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.

35. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the 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

Asylum and Refugee Law

36. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to apply for asylum to individuals seeking safe haven in the United States. The purpose of the Refugee Act is to enforce the "historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands." Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

37. The "motivation for the enactment of the Refugee Act" was the United Nations Protocol Relating to the Status of Refugees, "to which the United States had been bound since 1968." *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a legislative purpose "to give 'statutory meaning to our national commitment to human rights and humanitarian concerns.'" *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

38. The Refugee Act established the right to apply for asylum in the United States and defines the standards for granting asylum. It is codified in various sections of the INA.

39. The INA gives the Attorney General or the Secretary of Homeland Security discretion to grant asylum to noncitizens who satisfy the definition of "refugee." Under that definition, individuals generally are eligible for asylum if they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion and if they are unable or unwilling to return to and avail themselves of the protection of their homeland because of that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).

40. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen "who is physically present in the United States or who arrives in the United States[.]" 8 U.S.C. § 1158(a)(1).

41. Because of the life-or-death stakes, the statutory right to apply for asylum is robust. The right necessarily includes the right to counsel, at no expense to the government, *see* 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the right to counsel, *see* 8 U.S.C. § 1158(d)(4), and the right to access information in support of an application, *see* § 1158(b)(1)(B) (placing the burden on the applicant to present evidence to establish eligibility).

42. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

43. Noncitizens who are applicants for asylum are entitled to a full hearing in immigration court before they can be removed from the United States. 8 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative appellate review before the BIA of removal orders entered against them and judicial review in federal court upon a petition for review. 8 U.S.C. § 1252(a) *et seq*.

***Castañon Nava* Consent Decree**

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

45. 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.

46. 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.

47. "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.

48. 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.

49. 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.

50. 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.

51. On information and belief, the Respondents' arrest of the Petitioner violated the settlement agreement in *Castañon Nava*, and the Petitioner's arrest has been reported to class counsel. 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.

52. 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).

Release and Indefinite, Mandatory Detention

53. 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).

54. 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).

55. At the time of the Petitioner's initial parole into the United States on December 7, 2023, there is no question that he was paroled in pursuant 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 1]**

56. 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).

57. 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).

58. 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."

59. It is undisputed that from the termination of Petitioner's humanitarian parole on April 18, 2025, through his collateral arrest without a warrant in violation of the *Castañon Nava* consent decree on October 16, 2025, the Petitioner was not in custody.

60. Thus, the Respondents failed to properly return the Petitioner to custody "forthwith" as required in order to subject him to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2). Having failed to properly return the Petitioner to custody "forthwith" as required by the statute, Respondents cannot now claim that he is detained pursuant to that same statute.

61. For that reason, the Petitioner is subject to detention currently pursuant to 8 U.S.C. § 1225(a)(1), which 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).

62. 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).

63. Once the purposes of parole have been served, the noncitizen "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." *Id.*

64. By contrast, § 1226(a) sets forth "the default rule" for detaining noncitizens "already present in the United States." *Jennings*, 583 U.S. at 303. Section 1226(a) provides that, "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a).

65. 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).

66. 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).

67. Presumably, the Respondents will take the position that the Petitioner in this case is detained pursuant to § 1225(b)(2) because he entered this country as a parolee pursuant to 8 U.S.C. § 1182(d)(5). This argument fails.

68. First, the Respondents' treatment of the Petitioner since his parole was terminated by the Secretary of DHS on April 18, 2025 supports the conclusion that he is detained pursuant to

§ 1226(a). The Petitioner entered the country on December 7, 2023 with his family as humanitarian parolees. The Respondents could have, but did not, choose to return the Petitioner and his family to custody "forthwith" when they terminated parole. However, Respondents failed to do so, and thus failed to comply with the "mandatory" detention requirement of 8 U.S.C. § 1225(b)(2).

69. Rather, from April 18, 2025 through October 16, 2025, a period of six months, the Respondents have consistently treated the Petitioner as subject to § 1226(a) up to this point. Moreover, they did not go looking for the Respondent with a warrant on the basis of his terminated parole. Rather, they ran across him collaterally during ICE sweeps of Chicago, demonstrating an utter lack of intent to return the Petitioner to mandatory detention based upon the revocation of his parole.

70. Functionally, the Respondents released the Petitioner and his family on his own recognizance for a period of six (6) months, from April 18, 2025. By contrast, individuals detained under § 1225(b) may not be released on recognizance; they may only be paroled into the country under § 1182(d)(5)(A) (release on recognizance is a form of "conditional parole" from detention under § 1226 that is distinct from parole under § 1182(d)(5)(A)). *See Martinez v. Hyde*, No. 25-cv-11613, 2025 WL 2084238, at *3 (D. Mass. July 24, 2025))). That distinction is significant.

71. The INA allows an individual paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A) to physically enter the country subject to a reservation of rights by the Government that it may continue to treat the non-citizen "as if stopped at the border." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020).

72. Individuals paroled into the country are thus in a fundamentally different and less protected position than "those who are within the United States after an entry, irrespective of its legality." *See Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958)). However, as noted above, the

termination of parole is accompanied by a mandatory requirement ("shall") that Respondents return the noncitizen to custody "forthwith."

73. Further, applying § 1225 to all persons who have not been admitted into the United States would conflict with the statute's broader structure, the Supreme Court's traditional understanding of the relationship between §§ 1225(b) and 1226(a), and decades of immigration practice. "[O]ne of the most basic . . . . canons" of statutory interpretation is that "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." *Corley v. United States*, 556 U.S. 303, 314 (2009) (quoting *Hibbs v. Winn*, 542 U.S. 88, 101 (2004)) (internal brackets omitted).

74. By contrast, the Respondents' position that § 1225(b) applies to all persons who have not been admitted into the United States would render multiple provisions of § 1226 superfluous. For instance, § 1226(c)(1)(A), (D), and (E) already require mandatory detention of certain categories of inadmissible noncitizens. Indeed, Congress added § 1226(c)(1)(E)—which requires detention for certain inadmissible noncitizens charged with crimes including burglary, theft, and larceny—just this year through the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

75. If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these provisions would be meaningless.

76. 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.

77. 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. at 187 (*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."). Having been present subsequent to the termination of parole for a period of six months, the Petitioner is no longer "on the threshold of initial entry." Rather, he was constructively released into the United States subsequent to the termination of his 1182(d)(5) parole, and then rearrested in violation of the *Castañon Nava* consent decree and detained pursuant to § 1226(a).

78. Given this precedent, it is doubtful that Congress intended § 1225(b)(2) to apply to individuals like the Petitioner who were detained after being present in the U.S. for an extended period of time, who had not committed any crimes, and who were fully compliant with all requirements to attend ICE check-ins and immigration court hearings.

79. DHS's historic practice reinforces § 1226(a)'s application to noncitizens in the Petitioner's position who are arrested (in this case, re-arrested) well after arriving to this country.

FACTUAL BACKGROUND

80. Petitioner Rodriguez Martinez fled Venezuela with his family after suffering violent physical and verbal persecution due to his opposition to the current government. Petitioner

initially entered the United States with his wife and two kids on December 07, 2023 after receiving a CBP One appointment.

81. After entering the United States, petitioner and his family were given a notice to appear and released as humanitarian parolees. Petitioner relocated to Chicago where he has been living and legally working until his unlawful detention on October 16, 2025.

82. At the time of his warrantless arrest and detention, Petitioner had a notice to appear for a Master Hearing at the Chicago Immigration Court on May 19, 2027 **[Exhibit 2, Notice to Appear]**, a pending asylum application **[Exhibit 3, Evidence of Pending Asylum Application],** and a valid and current employment authorization document. **[Exhibit 4, Employment Authorization Document]**

83. Petitioner has no criminal history in the United States or anywhere else in the world and has participated fully and actively in pursing relief under the laws of this country. Petitioner has complied with everything required of him by the Government since his initial entry and humanitarian parole into the United States.

84. Petitioner remains in detention and without relief from this court, faces the prospect of months, or even years, in immigration custody, separated from his family and community.

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

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

86. 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.

87. 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 *Matthews v. Eldridge* test in the context of immigration).

88. *Matthews 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).

89. The Petitioner was detained without a 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.

90. Subjecting the Petitioner to indefinite, mandatory detention 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

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

92. 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).

93. 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)).

94. 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).

95. 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.

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

97. 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.

98. Respondents have already considered Petitioner's facts and circumstances and determined that Petitioner was not a flight risk or danger to the community when they initially paroled him into the United States, and then again, when they terminated his parole without

returning him to custody "forthwith." On information and belief, there have been no changes to the facts that justify his detention.

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)

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

100. 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).

101. Petitioner does not concede that DHS has the authority to purport to redetain him pursuant to 1225(b)(2) more than six months after the termination of his 1182(d)(5) parole based in its failure to return him to custody "forthwith."

102. 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 20th day of November, 2025,

Respectfully submitted,

s/ Amy Maldonado
Amy Maldonado (IL ARDC # 6256961)
Managing Attorney
Law Office of Amy Maldonado LLC
333 Albert Ave., Suite 390
East Lansing, MI 48823-4351
Tel. (517) 803-2870
Fax: (888) 299-3780
Email: amy@amaldonadolaw.com

s/ Adriana Klemish
Adriana Klemish (MI Bar No. P86742)
Associate Attorney
Law Office of Amy Maldonado LLC
333 Albert Ave., Suite 390
East Lansing, MI 48823-4351
Tel. (517) 803-2870
Fax: (888) 299-3780
Email: adriana@amaldonadolaw.com

ATTORNEYS FOR PETITIONER

VERIFICATION

On this 20th 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 the Petitioner, Dorvis Jesus Rodriguez Martinez, 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, Dorvis Jesus Rodriguez Martinez.

Dated: 11/20/2025

s/ Amy Maldonado

East Lansing, MI

Amy Maldonado
Law Office of Amy Maldonado LLC
333 Albert Ave. Ste. 390
East Lansing, MI 48823
Telephone: (517) 803-2870
Fax: (888) 299-3780