

Laura Smith (ARDC 6300907)
Laura@ChildrensLegalCenterChicago.org
Children's Legal Center
1100 W Cermak Rd., Suite 422
Chicago, Illinois 60608
(312) 722-6642

Attorney for Petitioners

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

**CARLOS PEREZ RUIZ, CESAR CABRERA)
JUAREZ, LUIS NAVA NAVA, MANUEL)
GUAMAN GUAMAN, ESTEBAN)
LEON MACIEL, URIEL ALVAREZ MENESES,)
JUAN GARCIA RODRIGUEZ, NAZARIO CRUZ)
ALVAREZ, LUIS PACHECO BUSTAMANTE,)
MARIO ZACARIAS SANCHEZ, ROSALINO)
AVELINO APALE, ARGELIO MENDEZ)
FUENTES, RICARDO LOPEZ ORTIZ, KENETH)
FAJARDO LEMUS, OSCAR GARCIA)
HERNANDEZ, ALEJANDRO GARCIA)
CARRILLO, ANDRES ARREAGA ALVARADO,)
MARIO LINORES TLATENCHI, RUBICELA)
HERNANDEZ FRANCO,)**

Petitioners,)

v.)

**KEVIN RAYCRAFT, Detroit Field Office Director,)
U.S. Immigration and Customs Enforcement; KRISTI)
NOEM, Secretary of the U.S. Department of)
Homeland Security; and PAMELA BONDI, Attorney)
General of the United States, in their official capacities,)**

Respondents.)

Case No. 1:25-cv-1574

**PETITION FOR WRIT¹
OF HABEAS CORPUS**

**ORAL ARGUMENT
REQUESTED**

¹ Pursuant to Local Civil Rule 3.3.1(g) counsel provides notice that some of the parties to this action may be related to *J.A.S.H. et al v. Lynch, et al*, No. 1:25-cv-1389 (Jarbou, J.) which was dismissed November 20, 2025.

INTRODUCTION

This is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. §2241 on behalf of Petitioners, natives and citizen of countries other than the United States, by and through their attorneys, seeking relief to remedy their unlawful detention by Respondents.

At various times between 1988 and 2024, Petitioners entered the U.S. and did not encounter immigration. None of the Petitioners have a removal order issued by the Executive Office of Immigration Review (EOIR). Prior to their arrest by ICE, Petitioners were living in Illinois. At various times in between September and November 2025, ICE arrested and detained Petitioners. Upon their arrest, Petitioners were transported to the Broadview Processing Center in Broadview, Illinois and then transported to North Lake Correctional Center. Upon information and belief, all Petitioners are currently detained at North Lake Correctional Facility in Baldwin, Michigan.

CUSTODY

1. At the time of filing this action, Petitioners are in the physical custody of Respondent Kevin Raycraft, Director of Detroit Field Office, U.S. Immigration and Customs Enforcement (ICE) and the Department of Homeland Security (DHS). Upon information and belief, as of the date of filing these proceedings, Petitioners are detained at North Lake Correctional Center located in Baldwin, Michigan. Petitioners are under the direct control of Respondents and their agents.

JURISDICTION

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

3. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Fifth Amendment to the United States Constitution (Due Process Clause).

4. This Court has jurisdiction under 28 U.S.C. § 1331, as Petitioners are presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States.

5. 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.*, and the All-Writs Act, 28 U.S.C. § 1651.

VENUE

6. Venue is proper because on November 24, 2025, the date of filing this action, Petitioners are detained at North Lake Correctional Center in Baldwin, Michigan, which is within the jurisdiction of this District. If venue is proper at the time of filing, the district court will retain jurisdiction even if DHS subsequently transfers the Petitioners to another district. *See Ex Parte Endo*, 323 U.S. 283, 304-05 (1944) (rejecting mootness after transfer because “there is no suggestion that there is no one within the jurisdiction of the District Court who is responsible for the detention of appellant and who would be an appropriate respondent”); *Anariba v. Dir. Hudson Cnty. Corr. Ctr.*, 17 F.4th 434, 446 (3d Cir. 2021) (“[T]he District Court retained jurisdiction following Argueta’s transfer out of New Jersey because it already had acquired jurisdiction over Argueta’s properly filed habeas petition that named his then-immediate custodian.”).

7. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to Petitioners’ claims occurred in this District, Petitioners reside in this District, and no real property is involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

8. 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 Petitioners are not entitled to relief. 28 U.S.C. § 2243. If an order to show cause 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.* (emphasis added).

9. 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) (emphasis added).

PARTIES

10. Petitioner **Carlos Perez Ruiz** (C.P.R.), is a native and citizen of Mexico. C.P.R. entered the United States on or about 1988 and did not encounter immigration. Prior to his arrest, C.P.R. resided in Wood Dale, Illinois and has a twenty-nine (29) year old U.S. Citizen daughter. Additionally, C.P.R.’s U.S. Citizen brother petitioned for C.P.R. in 2001 and C.P.R. is waiting for his priority date to become current so that he can adjust his status to Lawful Permanent Resident. On or about September 27, 2025, C.P.R. was at the bus stop in Niles, Illinois when ICE agents arrested and detained him. Upon information and belief, ICE detained C.P.R. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. C.P.R. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

11. Petitioner **Luis Nava Nava** (L.N.N.), is a native and citizen of Mexico. C.P.R.

entered the United States on or about September 2002 and did not encounter immigration. Prior to his arrest, L.N.N. resided in Prospect Heights, Illinois where his three (3) Lawful Permanent Resident siblings also reside. On or about September 14, 2025, L.N.N. was a passenger in a car driven by his Lawful Permanent Resident brother when ICE agents pulled the car over, arrested, and detained L.N.N. Upon information and belief, ICE detained L.N.N. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. L.N.N. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

12. Petitioner **Cesar Cabrera Juarez** (C.C.J.), is a native and citizen of Guatemala. C.C.J. entered the United States on or about July 2001 and did not encounter immigration. Prior to his arrest, C.C.J. resided in Chicago, Illinois. On or about September 11, 2025, C.C.J. was arrested and detained by ICE agents in front of his house. Upon information and belief, ICE detained C.C.J. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. C.C.J. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

13. Petitioner **Manuel Guaman Guaman** (M.G.G.), is a native and citizen of Ecuador. M.G.G. entered the United States on or about 2001 and did not encounter immigration. Prior to his arrest, C.C.J. resided in Chicago, Illinois with his three (3) minor children who are all U.S. Citizens. On or about September 23, 2025, M.G.G. was driving to work when ICE pulled him over, arrested, and detained him. Upon information and belief, ICE detained M.G.G. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. M.G.G. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

14. Petitioner **Esteban Leon Maciel** (E.L.M.), is a native and citizen of Mexico.

E.L.M. entered the United States on or about January 2018 and did not encounter immigration. Prior to his arrest, E.L.M. resided in Chicago, Illinois. On or about October 3, 2025, E.L.M. was at work in Crestwood, Illinois when ICE arrested and detained him. Upon information and belief, ICE detained E.L.M. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. E.L.M. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

15. Petitioner **Uriel Alvarez Meneses** (U.A.M.), is a native and citizen of Mexico. U.A.M. entered the United States on or about May 2005 and did not encounter immigration. Prior to his arrest, U.A.M. resided in Chicago, Illinois with his wife and 3 minor children. On or about October 4, 2025, U.A.M. was walking to a bus stop to go to work in Chicago, Illinois when ICE arrested and detained him. Upon information and belief, ICE detained U.A.M. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. U.A.M. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

16. Petitioner **Juan Garcia Rodriguez** (J.G.R.), is a native and citizen of Mexico. J.G.R. entered the United States on or about February 1995 and did not encounter immigration. Prior to his arrest, J.G.R. resided in Chicago, Illinois. On or about October 3, 2025, J.G.R. was fixing his truck at his home when ICE arrested and detained him. Upon information and belief, ICE detained J.G.R. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. J.G.R. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

17. Petitioner **Nazario Cruz Alvarez** (N.C.A.), is a native and citizen of Mexico. N.C.A. entered the United States on or about September 2002 and did not encounter

immigration. Prior to his arrest, N.C.A. resided and in Chicago, Illinois. On or about October 12, 2025, N.C.A. was walking out of a grocery store when ICE arrested and detained him. Upon information and belief, ICE detained N.C.A. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. N.C.A. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

18. Petitioner **Luis Pacheco Bustamante** (L.P.B.), is a native and citizen of Mexico. L.P.B. entered the United States on or about December 2005 and did not encounter immigration. Prior to his arrest, L.P.B. resided in Chicago, Illinois. On or about October 11, 2025, L.P.B. was helping a neighbor clean his yard when ICE entered the property, arrested, and detained him. Upon information and belief, ICE detained L.P.B. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. L.P.B. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

19. Petitioner **Mario Zacarias Sanchez** (M.Z.S.), is a native and citizen of Mexico. M.Z.S. entered the United States on or about February 2001 and did not encounter immigration. Prior to his arrest, M.Z.S. resided in Chicago, Illinois. On or about October 6, 2025, M.Z.S. was at work in Niles, Illinois when ICE entered the property, arrested, and detained him. Upon information and belief, ICE detained M.Z.S. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. M.Z.S. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

20. Petitioner **Rosalino Avelinoo Apale** (R.A.A.), is a native and citizen of Mexico. R.A.A. entered the United States on or about August 2023 and did not encounter immigration. Prior to his arrest, R.A.A. resided in Morton Grove, Illinois. On or about September 27, 2025, R.A.A. was walking to in Morton Grove, Illinois when ICE arrested and detained him. Upon

information and belief, ICE detained R.A.A. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. R.A.A. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

21. Petitioner **Argelio Mendez Funes** (A.M.F.), is a native and citizen of Guatemala. A.M.F. entered the United States on or about 2024 and did not encounter immigration. Prior to his arrest, A.M.F. resided in Chicago, Illinois. On or about October 1, 2025, A.M.F. was driving into his garage in Chicago, Illinois when ICE vehicles blocked A.M.F.'s vehicle. ICE then arrested and detained A.M.F. Upon information and belief, ICE detained A.M.F. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. A.M.F. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

22. Petitioner **Ricardo Lopez Ortiz** (R.L.O.), is a native and citizen of Mexico. R.L.O. entered the United States on or about January 2017 and did not encounter immigration. Prior to his arrest, R.L.O. resided in DeKalb, Illinois. On or about November 7, 2025, R.L.O. was working driving a work vehicle in DeKalb, Illinois when ICE vehicles blocked R.L.O.'s vehicle and broke R.L.O.'s vehicle window. ICE then arrested and detained R.L.O. Upon information and belief, ICE detained R.L.O. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. R.L.O. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

23. Petitioner **Keneth Fajardo Lemus** (K.F.L.), is a native and citizen of Honduras. K.F.L. entered the United States on or about August 2021 and did not encounter immigration. Prior to his arrest, K.F.L. resided in Schaumburg, Illinois. On or about September 12, 2025, K.F.L. was in his vehicle in a parking lot in Schaumburg, Illinois when ICE forcibly removed

K.F.L. from his vehicle. ICE then arrested and detained K.F.L. Upon information and belief, ICE detained K.F.L. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. K.F.L. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

24. Petitioner **Oscar Garcia Hernandez** (O.G.H.), is a native and citizen of Mexico. O.G.H. entered the United States on or about August 2020 and did not encounter immigration. Prior to his arrest, O.G.H. resided in Cicero, Illinois. On or about October 22, 2025, O.G.H. was arrested and detained by ICE. Upon information and belief, ICE detained O.G.H. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. O.G.H. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

25. Petitioner **Alejandro Garcia Carrillo** (A.G.C.), is a native and citizen of Mexico. A.G.C. entered the United States on or about September 2020 and did not encounter immigration. Prior to his arrest, A.G.C. resided in Aurora, Illinois. On or about October 21, 2025, A.G.C. was at work when ICE arrested and detained him. Upon information and belief, ICE detained A.G.C. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. A.G.C. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

26. Petitioner **Andres Arreaga Alvarado** (A.A.A.), is a native and citizen of Mexico. A.A.A. entered the United States on or about August 2023 and did not encounter immigration. Prior to his arrest, A.A.A. resided in Chicago, Illinois with his Lawful Permanent Resident parents and U.S. Citizen sibling. On or about October 11, 2025, A.A.A. was walking out of work when ICE arrested and detained him. Upon information and belief, ICE detained A.A.A. in

Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. A.A.A. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

27. Petitioner **Mario Linores Tlatenchi** (M.L.T.), is a native and citizen of Mexico. M.L.T. entered the United States on or about February 2002 and did not encounter immigration. Prior to his arrest, M.L.T. resided in Cicero, Illinois with his U.S. Citizen spouse. On or about September 19, 2025, M.L.T. was driving a delivery truck for work when he pulled into a weigh station in Indiana. At the weigh station, ICE arrested and detained him. Upon information and belief, ICE detained M.L.T. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. M.L.T. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

28. Petitioner **Rubicela Hernandez Franco** (R.H.F.), is a native and citizen of Mexico. R.H.F. entered the United States on or about 2006 and did not encounter immigration. Prior to her arrest, R.H.F. resided in Chicago, Illinois. On or about October 7, 2025, R.H.F. was driving when ICE pulled her over, arrested and detained her. Upon information and belief, ICE detained R.H.F. in Broadview, Illinois and then transported him to the North Lake Correctional Facility in Baldwin, Michigan. R.H.F. is currently detained by ICE at the North Lake Correctional Facility in Baldwin, Michigan.

29. Respondent **Kevin Raycraft** is sued in his official capacity as the Director of the Detroit Field Office of U.S. Immigration and Customs Enforcement. Respondent Raycraft is a legal custodian of Petitioners at the time of filing this action and has authority to release them.

30. Respondent **Kristi Noem** is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is

responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioners' detention and custody. Respondent Noem is a legal custodian of Petitioners.

31. Respondent **Pamela Bondi** is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioners.

STATEMENT OF FACTS

32. Petitioners are natives and citizens of countries other than the United States.

33. At various times between 1988 and 2024, Petitioners entered the United States without encountering U.S. immigration officials.

34. None of the Petitioners have a removal order issued by the Executive Office of Immigration Review (EOIR).

35. Prior to their arrest by ICE, Petitioners were living in Illinois. At various times between September and October, 2025, ICE arrested and detained Petitioners. Upon their arrest, Petitioners were transported to the Broadview Processing Center in Broadview, Illinois and then transported to North Lake Correctional Center.

36. Upon information and belief, all Petitioners are currently detained at North Lake Correctional Facility.

37. Pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 2016 (BIA 2025), the immigration judge is unable to consider Petitioners' bond request.

38. As a result, Petitioners remain in detention. Without relief from this court, they

face the prospect of months, or even years, in immigration custody, separated from their family and/or community.

LEGAL FRAMEWORK

39. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioners are not entitled to relief. If the Court issues an order to show cause, Respondents must file a response “within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed.” 28 U.S.C. § 2243 (emphasis added).

40. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

41. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious.”). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.

42. Furthermore, the INA prescribes the basic forms of detention for the vast majority of noncitizens in removal proceedings.

43. First, 8 U.S.C. §1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226 detention are generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§

1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).

44. Second, the INA provides mandatory detention for noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under §1225(b)(2).

45. Last, 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).

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

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

48. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

49. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)

(1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

50. 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.

51. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

52. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 2016 (BIA 2025). There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

53. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA’s detention authority. Courts have likewise rejected the Board of Immigration Appeal’s decision in *Matter of Yajure Hurtado* that adopted the same reading of the statute as ICE.

54. Subsequently, court after court has adopted the same reading of the INA’s detention authorities and rejected ICE and EOIR’s new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,

2025), report and recommendation adopted, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025). *See also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same); *D.E.C.T. v. Noem et. al.*, No. 1:25-cv-12463 (ND. Ill., Nov. 3, 2025); *G.Z.T. et al v. Smith et al*, 1:25-cv-12802 (N.D. Ill., October 21, 2025), *H.G.V.U. v. Smith et al*, 1:25-cv-10931, 2025 U.S. Dist. LEXIS 205993 (N.D.

Ill., Oct. 20, 2025).

55. Courts have uniformly rejected DHS's and EOIR's new interpretation, finding that pursuant to the plain text of the statute, Section 1226(a), not Section 1225(b), applies to people like Petitioners. *See Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1256-57 (W.D. Wash. 2025).

56. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." 8 U.S.C. §1226(a). These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]." 8 U.S.C. §1229a(a)(1).

57. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d 1239, 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

58. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission.

59. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention 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 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

60. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioners, who have already entered and were residing in the United States at the time they were apprehended.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

61. The allegations in Paragraphs 1 through 67 are realleged and incorporated herein.

62. Petitioners’ detention violates their right to substantive and procedural due process guaranteed by the Fifth Amendment of the U.S. Constitution.

63. The Fifth Amendment of the U.S. Constitution guarantees that “no person shall be deprived of life, liberty, or property without due process of law.” U.S. Const. amend. V. This protection applies to both citizens and non-citizens within the United States.

64. For these reasons, Petitioners’ arrest and detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of the Immigration & Nationality Act

65. The allegations in Paragraphs 1 through 67 are realleged and incorporated herein.

66. Petitioners are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

As Petitioners have been residing in the United States prior to being apprehended by Respondents, Petitioners are therefore eligible for a bond hearing under 8 U.S.C. § 1226(a). For these reasons, Petitioners’ detention violates 8 U.S.C. § 1229a(b)(1)(B).

COUNT THREE
Violation of the Administrative Procedures Act – 5 U.S.C. § 553

67. The allegations in Paragraphs 1 through 67 are realleged and incorporated herein.

68. The APA provides that a person who is “suffering [a] legal wrong because of agency action,” or who is “adversely affected or aggrieved by agency action within the meaning of the relevant statute, is entitled to judicial review thereof.” 5 USC § 702.

69. “[A]gency action” is defined to include “the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.” 5 USC § 551(13).

70. A government agency must follow notice-and-comment rulemaking procedures for policy changes unless an exception applies. 5 USC § 553.

71. Additionally, policy changes must not be arbitrary and capricious. 5 USC § 553.

72. The July 8, 2025 policy change by DOJ did not go through notice and comment.

73. The July 8, 2025 policy change by DOJ is arbitrary and capricious.

74. Therefore, the Respondents’ action violated the APA.

PRAYER FOR RELIEF

Wherefore, Petitioners respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this
Petition should not be granted within three days.
- (3) Declare that Petitioners’ detention violates the Due Process Clause of the Fifth
Amendment, INA and the APA.
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioners on their

own recognizance or under parole, and, in the alternative, order the Immigration Court to give Petitioners a bond hearing;

(5) Declare that Petitioners' detention is unlawful;

(6) Award Petitioners 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

(7) Grant any further relief this Court deems just and proper.

Dated: November 25, 2025

Respectfully submitted,

/s/ Laura Smith
Laura Smith

Laura Smith/ARDC 6300907
Laura@childrenslegalcenterchicago.org
Children's Legal Center
1100 W Cermak Rd., Suite 422
Chicago, Illinois 60608
312-722-6642

Attorneys for Petitioners

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

I represent Petitioners and submit this verification on their behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 25th day of November, 2025.

/s/ Laura Smith
Laura Smith
ARDC 6300907
Children's Legal Center
1100 W Cermak Rd., Suite 422
Chicago, Illinois 60608