UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY

JORGE GARCIA ORTIZ,

Plaintiff-Petitioner,

v.

DONALD J. TRUMP, in his official capacity as President of the United States;
KRISTI NOEM, in her official capacity as Secretary of the United States Department of Homeland Security;
PAMELA BONDI, in her official capacity as Attorney General of the United States;
TODD M. LYONS, in his official capacity as Acting Director of the United States Immigration and Customs Enforcement; and
BRIAN ENGLISH, in his official capacity as the Warden of the Miami Correctional Facility, Official of the Miami Correctional Facility;

Defendant-Respondents.

Case No. 25-1009

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF; PETITION FOR HABEAS CORPUS

INTRODUCTION

1. This lawsuit seeks the immediate release or in the alternative a bond hearing held on the merits to determine the appropriateness of release of Plaintiff-Petitioner Jorge Garcia Ortiz ("Petitioner") from unlawful detention in violation of his constitutional and statutory rights.

2. Petitioner was detained in or around Chicago Illinois on November 5, 2025. He should be viewed as being held under 8 U.S.C. §1226(a). This is because he has been in the United States for 25 years and lived in the interior of the United States as opposed to those held under §1225(b) which focuses on people physically arriving in the United States. Though Petitioner has a criminal record, a burglary from over 10 years ago, his record does not subject him to mandatory detention under §1226(c). As a result, Petitioner is eligible for a bond hearing during which he can make his case in front of an Immigration Judge ("IJ") for release.

3. Furthermore, Petitioner is not a danger to the community, has deep ties to the community, making him not a flight risk, and has a sponsor. Despite these things, the Board of Immigration Appeals's ("BIA") recent change in position as to whether IJ's have jurisdiction to hear detention redeterminations has denied him the opportunity to have a bond hearing on the merits. As a result, he remains in civil detention in the custody of the Department of Homeland Security's ("DHS") Immigration and Customs Enforcement ("ICE") at the Miami Correctional Facility in Indiana.

4. Petitioner is a native of Mexico. ***See*** **Exh. 1 - Petitioner's Notice**

to Appear. He has been in the United States for 25 years. Before being detained, Petitioner lives in Rockford, Illinois with his United States Citizen daughter, aged three, and partner. He owns his own roofing business which is how he supports his family. This detention is a substantial deprivation and burden for Petitioner and his family. Petitioner only seeks to work and support his family as he has done since he arrived in the United States.

5. Petitioner has been arrested and convicted of one felony in his 25 years in the United States. ***See*** **Exh. 2 - Petitioner's Court Disposition**. Petitioner's conviction was a felony but was not violent nor was it a crime involving moral turpitude ("CIMT"), so it does not make him subject to the mandatory detention provisions outlined in 8 U.S.C. § 1226(c). Furthermore, he has never failed to appear in any criminal or immigration proceedings.

6. Petitioner's detention became unlawful on November 5, 2025, when he was arrested by ICE officers without cause after they collided with his car and forced him out of the vehicle. Petitioner has been denied the ability to have a bond hearing on the merits held by an IJ as a result of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In the recent BIA decision, the Board held that Immigration Judges lack jurisdiction to hear most bond hearings. As a result, Petitioner's continued detention is an unlawful violation of due process and incorrect interpretation of immigration law.

7. After being detained in Illinois, he was processed by ICE at the Broadview Processing Facility. Once processed, he was brought to the Miami Correctional Facility in Indiana on November 7, 2025 where he remains

detained.

8. Petitioner is represented by counsel in immigration removal proceedings in addition to representing him in the filing of his EOIR-42B, Cancellation of Removal.

9. Petitioner respectfully requests this Court grant the instant petition for a writ of habeas corpus under 28 U.S.C. § 2241 and enjoin Respondent's continued detention of Petitioner or in the alternative order that the Executive Office of Immigration Review ("EOIR") hold a bond hearing on the merits to ensure his due process rights. In the alternative, he respectfully requests the Court order Respondents to show cause why this Petition should not be granted within three days. *See* 28 U.S.C. § 2243.

JURISDICTION AND VENUE

10. Petitioner is detained in civil immigration custody at the Miami Correctional Facility in Indiana. He has been detained since November 5, 2025. He is currently in removal proceedings.

11. This action arises under the Constitution of the United States.

12. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), and 28 U.S.C. § 1331 (federal question). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

13. Venue is proper in the Northern District of Indiana under 28 U.S.C. § 1391, because at least one Defendant is in this District, and Petitioner is detained in this District. Venue is also proper under 28 U.S.C. §2243 because

the immediate custodians of Petitioner reside in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

Writ Of Habeas Corpus Issuance, Return, Hearing, and Decision

14. The Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response "within three days" unless this Court permits additional time for good cause, which is not to exceed twenty days. 28 U.S.C. § 2243.

15. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The writ of habeas corpus, challenging illegality of detention, is reduced to a sham if the trial courts do not act within a reasonable time." *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978).

16. Due to the nature of this proceeding, Petitioner asks this Court to expedite proceedings in this case as necessary and practicable for justice.

PARTIES

17. Petitioner is 38 years old. ***See* Exh. 1.** He was born in Mexico and came to the United States in 2000. ***See* Exh. 2.** Prior to his detention, he was living and working in Rockford, Illinois. Petitioner has five United States citizen children. Petitioner pays child support for his children from his previous partner and actively provides for his youngest child with his current partner. Petitioner has one, long past and resolved, state conviction from over 10 years ago. He poses no threat to the community and is not a flight risk. He has been in civil immigration detention

since November 5, 2025.

18. Respondent Donald J. Trump is named in his official capacity as President of the United States. In this capacity, he is responsible for the policies and actions of the executive branch, including the Department of State and Department of Homeland Security.

19. Respondent Kristi Noem is named in her official capacity as the Secretary of U.S. Department of Homeland Security. DHS is a department of the executive branch of the U.S. government that is tasked with, among other things, administering and enforcing the federal immigration laws. Secretary Noem is ultimately responsible for the actions of ICE; specifically, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a). Secretary Noem is legally responsible for any effort to detain and remove the Petitioner and as such is a legal custodian of Petitioner.

20. Respondent Pamela Bondi is named in her official capacity as the U.S. Attorney General. Attorney General Bondi is responsible for continuing a custody case against a noncitizen under 8 C.F.R. § 1003.6(d).

21. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. ICE is the agency within DHS that is specifically responsible for managing all aspects of the immigration enforcement process, including immigration detention. ICE is responsible for apprehension, incarceration, and removal of noncitizens from the United States and as such Acting Director Lyons is a legal custodian of Petitioner.

22. Respondent Brian English is named in his official capacity as the Warden

of the Miami Correctional Facility, Official of the Miami Correctional Facility. He has immediate physical custody of Petitioner pursuant to an agreement with ICE to detain noncitizens and is a legal custodian of Petitioner.

FACTUAL ALLEGATIONS

23. On November 5, 2025, Petitioner was driving in or around Rockford Illinois when his vehicle was struck by ICE officers. Once his vehicle was forced to the side of the road, Petitioner attempted to open his door. ICE officers pulled their weapons and forcibly detained him by breaking his window.

24. After being detained, Petitioner was processed at Broadview Illinois before being moved to the Miami Correctional Facility in Indiana.

25. Despite Petitioner having extensive ties to the community, including long-term employment, friends, and family; and despite the fact that he poses no threat to the community, he is unable to have a bond hearing on the merits. Furthermore, Petitioner has identified a sponsor for the sake of bond. As a result, Petitioner's continued detention violates his Fifth Amendment, Due Process rights.

26. The BIA has recently changed their longstanding position on which noncitizens are eligible for release on bond; specifically, the BIA's position is now that only those already admitted to the U.S. (typically requiring lengthy legal efforts with representation of counsel, such as adjusting status to a legal permanent resident or refugee) are eligible to be released from custody during their removal proceedings, and that all others are subject to mandatory detention under 8 U.S.C.

§1225, instead of 8 U.S.C. § 1226, and will remain detained with only extremely limited parole options *at ICE's discretion. See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). This is a reversal of the established practice of releasing from custody the majority of noncitizens in removal proceedings, who are found not to pose a flight risk or a danger to the community, on bond.

27. This novel interpretation means that potentially millions of noncitizens who entered the United States without inspection (who have not already been formally admitted or paroled) that are contacted by ICE in the interior of the U.S. will be treated as if they were an "arriving alien" at the border and subject to mandatory detention, regardless of how long they have been present in the United States or other equities (such as complete lack of criminal history or U.S. citizen family members including dependent children). The BIA's position is now that all noncitizens are not entitled to a bond hearing by an IJ on the issue of release from custody during the pendency of removal proceedings.

28. Even though Petitioner has deep family ties to the community and is not a danger to the community, he remains in detention and separated from his family and community. Petitioner is experiencing significant and deep emotional and mental trauma from this separation from all those he loves. His minor child is struggling to carry on with her day to day routine without her father's care and support.

29. In addition, Petitioner is unable to support and provide for his family because he is detained and unable to continue as their breadwinner. His partner is only able to communicate with Petitioner via pre-paid phone calls.

30. Petitioner's continued detention separates him from his family, prohibits him from being able to provide important support for his family, and is a complete deprivation of his rights by denying him a bond hearing on the merits.

31. Despite these facts, Petitioner remains detained over three hours from his family, counsel, and support system and continues to be subjected to the aforementioned harms.

LEGAL FRAMEWORK

Due Process Clause

32. "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).

33. Due Process requires that there be "adequate procedural protections" to ensure that the government's asserted justification for a noncitizen's physical confinement "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)).

34. "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). To determine what process Petitioner is due, this Court should consider (1) the private interest affected by the government action; (2) the risk that

current procedures will cause an erroneous deprivation of that private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures, including the governmental function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Id.* at 335.

35. Petitioner has been denied a bond hearing on the merits as a result of the BIA's position that despite being in the United States for 25 years, working for that entire time, owning a business, and having five U.S. citizen children, including minors for whom he still actively provides, that he is somehow still presently arriving in the United States.

Immigration and Nationality Act

36. Title 8 of the United States Code, Section 1221 *et seq.*, controls the United States Government's authority to detain noncitizens during their removal proceedings.

37. The INA authorizes detention for noncitizens under four distinct provisions:

1) **Discretionary Detention. 8 U.S.C. § 1226(a)** generally allows for the detention of noncitizens who are in regular, non-expedited removal proceedings; however, permits those noncitizens who are not subject to mandatory detention to be released on bond or on their own recognizance.

2) **Mandatory Detention of "Criminal" Noncitizens. 8 U.S.C. § 1226(c)** generally requires the mandatory detention of noncitizens

who are removable because of certain criminal or terrorist-related activity after they have been released from criminal incarceration.

3) **Mandatory Detention of "Applicants for Admission." 8 U.S.C. § 1225(b)** generally requires detention for certain noncitizen applicants for admission, such as those noncitizens arriving in the U.S. at a port of entry or other noncitizens who have not been admitted or paroled into the U.S. and are apprehended soon after crossing the border.

4) **Detention Following Completion of Removal Proceedings. 8 U.S.C. § 1231(a)** generally requires the detention of certain noncitizens who are subject to a final removal order during the 90-day period after the completion of removal proceedings and permits the detention of certain noncitizens beyond that period. *Id.* at § 1231(a)(2), (6).

38. The instant case concerns the detention provisions at §§ 1226(a), 1226(c), and 1225(b).

39. To start, the detention provisions, §§ 1226(a) and 1225(b), 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).

40. Following enactment of the IIRIRA, the Executive Office for Immigration Review drafted new regulations explaining that, in general, people who entered the

country without inspection were not considered detained under § 1225(b) and that they were instead detained under § 1226(a) after an arrest warrant was issued by the Attorney General. *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) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) *will be eligible for bond and bond redetermination*") (emphasis added).

41. For nearly thirty years, the practice of the government, specifically ICE and the EOIR, which operate under DHS, was that most individual noncitizens that were apprehended in the interior of the United States after they had been living in the U.S. for more than two years (as opposed to "arriving" at a point of entry, border crossing, or being apprehended near the border and soon after entering without inspection) received a bond hearing. If determined to not be a danger to the community or a flight risk and, as a result, granted a change in custody status, the individuals were released from detention either on their own recognizance or after paying the bond amount set by the IJ in full. 8 U.S.C. § 1226(a)(2)(A).

42. Recently, BIA has reversed course and adopted a policy of attempting to treat all individual noncitizens that were not previously admitted to the U.S. that are contacted in the interior of the U.S. at any time after their entry as "arriving" and ineligible for bond regardless of the particularities of their case. As a result, IJs are now barred from considering particularities that have historically been highly relevant to determining whether a noncitizen remains in custody or is

released—such as: "1) family ties in the United States, 2) employment history, 3) community roots and ties in the United States, 4) length of time in the United States, 5) availability of relief from deportation, 6) length of time for completion of deportation proceedings, 7) criminal record within or without the United States, 8) prior history of immigration violations and 9) manner of entry into the United States and 10) record of appearance at court proceedings." *O'Rourke v. Warden*, 539 F. Supp. 1131, 1136 (S.D.N.Y. 1982).

43. As a result of the BIA's interpretation and practice change, individual noncitizens, including long-time U.S. community members, continue to be detained by ICE without being afforded a bond hearing on the merits. To be clear, Petitioner and other noncitizens are being held in continued ICE detention without any way for them to challenge continued detention in a clear violation of the Fifth Amendment due process clause.

44. "The idea that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission into the country,' is consonant with the core logic of our immigration system." *Martinez v. Hyde*, CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018)); *see also Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025) ("the Court need not reach the outer limits of the scope of the phrase 'seeking admission' in § 1225(b)—it is sufficient here to conclude that it does not reach someone who has been residing in this country for more than two years, and that as someone 'already in the country,' *Jennings*, 583 U.S. at 289, [Petitioner] may be subject to detention ***only*** as a matter

of discretion under § 1226(a)") (emphasis added).

45. The government's assertion that Petitioner is detained under § 1225 is meritless. For decades, § 1225 has applied only to noncitizens "seeking admission into the country"—i.e., new arrivals. *Jennings*, 583 U.S. at 289. This contrasts with § 1226, which applies to noncitizens "already in the country." *Id.* at 289. Petitioner has been in the United States for 25 years.

46. This new interpretation is now advanced by the government after decades of consistent use to the contrary. The government's position has been consistently rejected by courts. *See*, e.g., *Martinez*, 2025 WL 2084238; *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Rodriguez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025). *See also* Inspection and Expedited Removal of Aliens, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (explaining that "[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

47. This new interpretation is inconsistent with the plain language of the INA. First, the government disregards a key phrase in § 1225. "[I]n 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[.]" 8 U.S.C. § 1225(b)(2)(A) (emphasis added). In other words, mandatory detention applies when "the individual is: (1) an 'applicant for admission'; (2) 'seeking admission'; and (3) 'not clearly and beyond a doubt entitled to be

admitted.'" *Martinez*, 2025 WL 2084238, at *2.

48. The "seeking admission" language, "necessarily implies some sort of present tense action." *See Matter of M- D-C-V-*, 28 I. & N. Dec. 18, 23 (B.I.A. 2020) ("The use of the present progressive tense 'arriving,' rather than the past tense 'arrived,' implies some temporal or geographic limit . . . ."); *U.S. v. Wilson*, 503 U.S. 329, 333 (1992) ("Congress' use of verb tense is significant in construing statutes.").

49. In other words, the plain language of § 1225 applies to immigrants currently seeking admission into the United States at the nation's border or another point of entry. It does not apply to noncitizens "already present in the United States"—only § 1226 applies in those cases. *See Jennings*, 583 U.S. at 303. It certainly does not apply to Petitioner who has been in the United States for 25 years and has five US citizen children.

50. When interpreting a statute, "every clause and word . . . should have meaning." *United States ex rel. Polansky, M.D. v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023) (internal quotation marks and citation omitted). And "the words of the statute must be read in their context and with a view to their place in the overall statutory scheme." *Gundy v. United States*, 588 U.S. 128, 141 (2019) (quotation omitted). The government's position requires the Court to ignore critical provisions of the INA.

51. Continually, the government's interpretation would render newly enacted portions of the INA superfluous. "When Congress amends legislation, courts must presume it intends its amendment to have real and substantial effect." *Van Buren v. United States*, 593 U.S. 374, 393 (2021). Congress passed the Laken Riley Act (the

"Act") in January 2025. The Act amended several provisions of the INA, including §§ 1225 and 1226. Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). Relevant here, the Act added a new category of noncitizens subject to mandatory detention under § 1226(c)—those already present in the United States who have also been arrested, charged with, or convicted of certain crimes. 8 U.S.C. § 1226(c)(1)(E); 8 U.S.C. § 1182(a)(6)(A). Of course, under the government's position, these individuals are already subject to mandatory detention under § 1225—rendering the amendment redundant. Likewise, mandatory-detention exceptions under § 1226(c) are meaningful only if there is a default of discretionary detention—and there is, under § 1226(a). *See Nielsen v. Preap*, 586 U.S. 392, 397 (2019) (explaining that "§1226(a), applies to most . . . aliens, . . . [who can] seek review of [their] detention . . . by an immigration judge.").

52. The BIA's reasoning ignores these inconsistencies created by its new interpretation by instead pointing to what § 1226 does not do. They argue that because § 1226 does not purport to modify § 1225 that it does not matter if their interpretation of § 1225 makes § 1226 completely redundant. However, "[w]hen Congress adopts a new law against the backdrop of a longstanding administrative construction, the court generally presumes that the new provision works in harmony with what came before." *Velázquez v. Bondi*, 604 U.S. 712, 713 (2025). Congress adopted the Act against the backdrop of decades of agency practice applying § 1226(a) to immigrants like Petitioner, who are present in the United States but have not been admitted or paroled. *Rodriguez*, 2025 WL 1193850, at *15; *Martinez*, 2025 WL 2084238, at *4; 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997)

("Despite being applicants for admission, aliens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination.").

53. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." Removal hearings for noncitizens under § 1226(a) are held under § 1229a, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

54. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States.

55. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to Petitioner.

56. Furthermore, 8 U.S.C. § 1226(c) was also enacted as a part of the IIRIRA. Its function in the INA is to define a certain class of individuals for whom detention is mandatory as a result of certain convictions and terrorist activities.

57. Amongst other things, § 1226(c) mandates detention of any undocumented person for: (1) any single conviction for a crime of moral turpitude which carries with it a maximum penalty of more than one year of imprisonment and for which the alien was sentenced to more than 6 months of imprisonment; (2) a conviction of an aggravated felony; (3) or for being charged with, arrested for, or convicted of any crime that results in serious bodily injury of another person. *See* 8 U.S.C. §§ 1226(c)(1)(A), 1226(c)(1)(B), 1226(c)(1)(E)(ii).

58. The BIA defines "crimes involving moral turpitude" ("CIMT") as being "conduct that shocks the public conscience as being 'inherently base, vile, or

depraved, and contrary to the accepted rules of morality and the duties owed between persons or to society in general.'" *In re Solon*, 24 I&N Dec. 239, 240 (BIA 2007) *(citing Matter of Ajami*, 22 I&N Dec. 949, 950 (BIA 1999)). The BIA has also held that "an offense must have two essential elements to constitute a crime involving moral turpitude: a culpable mental state and reprehensible conduct." *Matter of Medina*, 26 I&N Dec. 79, 82 (BIA 2013).

59. Petitioner has one felony conviction over the 25 years he has been in the United States. ***See* Exh. 2.** His felony was under Illinois Statute 7720 ILCS 5/19-1 did not involve serious bodily injury. ***See* Exh. 2.** Furthermore, Petitioner's conviction is not categorically a CIMT subjecting Petitioner to mandatory detention. *See Parzych v. Garland*, 2 F.4th 1013, 1017 (7th Cir 2021) (Examining 720 ILCS 5/19-1 and explaining why it is not divisible and thus not categorically a CIMT).

60. As a result, Petitioner is not subject to mandatory detention under § 1226(c). *See* 8 U.S.C. §§ 1226(c)(1)(A), 1226(c)(1)(B), 1226(c)(1)(E)(ii).

CLAIMS FOR RELIEF

Violation of the Due Process Clause of the Fifth Amendment of the United States Constitution

61. Petitioner repeats and incorporates by reference all allegations above as though set forth fully herein.

62. The Due Process Clause asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived Petitioner of his liberty.

63. The government's detention of Petitioner is unjustified. Respondents have

not demonstrated that Petitioner needs to be detained for any legal purpose. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community). There is no credible argument that Petitioner should continue to be detained absent a bond hearing on the merits.

64. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

SECOND CAUSE OF ACTION

Violation of Immigration and Nationality Act

65. Petitioner repeats and incorporates by reference all allegations in paragraphs 1-60 as though set forth fully herein.

66. Petitioner should be viewed as being held under § 236 of the INA; section 236 is codified at 8 U.S.C. § 1226. Despite this, DHS argues that he is detained subject to 8 U.S.C. § 1225(b)(2), removing Petitioner's request for bond from the Immigration Judge.

67. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. Mandatory detention does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

68. Respondents have wrongfully adopted a policy and practice of arguing all noncitizens, such as Petitioner, are subject to mandatory detention under §

1225(b)(2).

69. The unlawful application of § 1225(b)(2) to Petitioner violates the INA.

PRAYER FOR RELIEF

70. Wherefore, Petitioner respectfully requests this Court to grant the following:

1) Assume jurisdiction over this matter;
2) Order the immediate release of Petitioner pending these proceedings or in the alternative order a bond hearing be held on the merits;
3) Order Respondents not to transfer Petitioner out of the Northern District of Indiana during the pendency of these proceedings to preserve jurisdiction and access to counsel;
4) Declare that Respondents' actions to detain Petitioner violate the Due Process Clause of the Fifth Amendment and violate the Immigration and Nationality Act;
5) Issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and order Respondents to immediately release Petitioner, or in the alternative, order Respondents to show cause why this Petition should not be granted within three days;
6) Award reasonable attorneys' fees and costs for this action; and
7) Grant such further relief as the Court deems just and proper.

Dated: December 8, 2025
Respectfully submitted,

Constance M. Doyle

Constance M. Doyle, Attorney at Law

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VERIFICATION

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

Executed this) 9th day of December, 2025.

Constance M Doyle

Constance M. Doyle