UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

R.P.L.,

Petitioner,

v.

RAUL MALONADO Jr., *in his official capacity as* Warden of the Metropolitan Detention Center; **LADEON FRANCIS**, *in his official capacity as* Field Office Director of New York, Immigration and Customs Enforcement; **TODD M. LYONS**, *in his official capacity as* Acting Director, United States Immigration and Customs Enforcement; **KRISTI NOEM**, *in her official capacity as* Secretary, U.S. Department of Homeland Security; **PAMELA BONDI**, *in her official capacity as* U.S. Attorney General;

Respondents.

Case No. 25-6886

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner R.P.L. has been detained in Respondents' custody for almost three months at the Metropolitan Detention Center ("MDC"), despite having no criminal history. He faces unlawful detention because he is blocked from even seeking release on bond by erroneous and unconstitutional policies of the Department of Homeland Security ("DHS") and the Executive Office of Immigration Review ("EOIR").

2. Petitioner is charged with, *inter alia*, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

3. Based on this allegation in Petitioner's removal proceedings, DHS is detaining Petitioner in immigration custody. DHS issued a new policy on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under

§ 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. The new policy was later affirmed in a September 5, 2025, decision from the Board of Immigration Appeals ("BIA" or "Board"), binding on all immigration judges ("IJs"), holding that an IJ has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 227–28 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond. *Id.* at 229.

5. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act ("INA"). Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows for release on conditional parole or bond. Section 1226(a) expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

6. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

7. In addition, Petitioner was detained without any individualized review of the necessity of that detention, as required by § 1226(a) and due process, and there is no valid basis for his ongoing immigration detention as he does not pose a flight risk or danger. Instead, he has no criminal history whatsoever, and prior to his sudden arrest by ICE was living with his wife and minor son in Newburgh, New York, together running a successful restaurant. Due to

Respondents' unlawful actions, however, he has been separate from them and suffering at MDC, a federal jail plagued with inhumane conditions, including lack of access to medical care and rampant violence.[1]

8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

JURISDICTION

9. Petitioner is in the physical custody of Respondents. Petitioner is detained at MDC in Brooklyn, New York.

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

11. 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.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

12. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his immigration detention. *See Louisaire v. Muller*, 758 F. Supp. 2d 229, 234 (S.D.N.Y. 2010); *Abdi v. Nielsen*, 287 F. Supp. 3d 327, 341 (W.D.N.Y. 2018). No exhaustion requirement applies to the claims raised in this petition because the Immigration Court and Board of Immigration Appeals ("BIA") lack jurisdiction to entertain constitutional challenges. *See Arango-Aradondo v. INS*, 13 F.3d 610, 614 (2d Cir. 1994); *Matter*

[1] *See* Katie Rose Quandt, et al., *Lockdowns, Violence, and "Barbaric Conditions" in a Federal Jail Known for its Famous Detainees*, The Appeal (Jun. 30, 2025), https://theappeal.org/brooklyn-metropolitan-detention-center-solitary-watch/ (describing how a diabetic man lost consciousness in his cell and was unable to obtain medical help because "[t]here were no correctional officers working on the unit at the time").

of Valdovinos, 18 I&N Dec. 343, 345-46 (BIA 1982) (disclaiming jurisdiction to rule on constitutionality of immigration statute).

13. Nor is further action with the agency necessary when pursuing administrative remedies would be futile or the agency has predetermined a dispositive issue. *See, e.g., Araujo-Cortes*, 35 F. Supp. 3d at 538-39; *Monestime v. Reilly*, 704 F. Supp. 2d 453, 456-7 (S.D.N.Y. 2010); *Garcia v. Shanahan*, 615 F. Supp. 2d 175, 180 (S.D.N.Y. 2009); *see also Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873, 2025 WL 2670875, at *8 (C.D. Cal. July 28, 2025) (finding the exhaustion of remedies for then prospective class of petitioners who alleged unlawful detention pursuant to § 1225 would be futile and thus not required); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873, ECF No. 87 at 3, Pets.' Ex Parte Application for Reconsideration and Clarification (asserting the Government and IJs are disregarding the district court's "declaratory judgment requiring bond hearings for the class").

VENUE

14. Venue is proper in the Eastern District of New York because Petitioner is presently in the custody of Respondents in this District, at MDC, which is located at 80 29th St, Brooklyn, NY 11232. *See* 28 U.S.C. §§ 1391, 2241(c), 2242, 2243; *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973).

REQUIREMENTS OF 28 U.S.C. § 2243

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

16. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

17. Petitioner R.P.L. is alleged to be a citizen of Guatemala who has been in immigration detention since September 18, 2025. After arresting Petitioner in Newburgh, New York, ICE transferred him to civil immigration detention. He remains detained at MDC in Brooklyn, New York.

18. Respondent Raul Maldonado, Jr. is named in his official capacity as the Warden of MDC. He is an employee of the Federal Bureau of Prisons, which partners with ICE to accept immigrant detainees at MDC. Respondent Maldonado's office is located at 80 29th St, Brooklyn, NY 11232.

19. Respondent Ladeon Francis is named in his official capacity as the Director of the New York Field Office of ICE's Enforcement and Removal Operations division. In this capacity, he is responsible for the administration of immigration laws and execution of detention and removal determinations and, as such, is an immediate custodian of Petitioner. Respondent Francis's office is located at 26 Federal Plaza, New York, NY, 10278.

20. Respondent Todd Lyons is named in his official capacity as Acting Director of ICE. In this capacity, he is responsible for the administration of immigration laws, he routinely transacts business in the Eastern District of New York, he supervises Respondent Francis, and he

is legally responsible for the pursuit of Petitioner's detention. Respondent Lyons's office is located at the United States Immigration and Customs Enforcement, 500 12th St SW Washington, DC 20536.

21. Respondent Kristi Noem is named in her official capacity as the Secretary of DHS. In this capacity, she is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(a), she routinely transacts business in the Eastern District of New York, she supervises Respondent Francis, and she is legally responsible for the pursuit of Petitioner's detention. Respondent Noem's office is located at the United States Department of Homeland Security, 2801 Nebraska Avenue NW, Washington, D.C. 20528.

22. Respondent Pam Bondi is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for administration of the immigration laws as exercised by the Executive Office for Immigration Review, pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Eastern District of New York and is legally responsible for administering Petitioner's removal and custody redetermination proceedings and the standards used in those proceedings. Respondent Bondi's office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

LEGAL FRAMEWORK

Immigration Detention Framework and Bond Hearing Eligibility

23. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Section 1226(a) and the implementing regulations requires an individualized determination as to the noncitizen's risk of flight and

danger to the community. *See* 8 C.F.R. § 1236.1(c)(8); 8 C.F.R. § 236.1(c)(8); *Velesaca v. Decker*, 458 F. Supp. 3d 224, 235 (S.D.N.Y. 2020). Noncitizens discretionarily detained pursuant to § 1226(a) are also generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Whereas noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).

25. Second, the INA provides for mandatory detention of 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).

26. Third, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

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

28. 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).

29. 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).

30. 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 for bond 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)).

ICE Campaign to Detain Law-Abiding Noncitizens and Its Unlawful Expansion of Mandatory Detention Under § 1225(b)(2)(A)

31. Petitioner's arrest is part of a larger, aggressive effort by DHS to arrest and detain people without reasonable suspicion that they are noncitizens who lack legal immigration status, and without individualized consideration of the necessity of immigration detention.

32. In January 2025, ICE instituted a daily quota for 1,200 to 1,500 arrests of noncitizens to carry out the government's "mass deportation" plan. *See* Nick Miroff & Maria Sacchetti, *Trump officials issue quotas to ICE officers to ramp up arrests*, WASHINGTON POST (Jan. 26, 2025) https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/. ICE field offices that did not reach their target would be "held accountable." *Id.* Senior ICE officials, including White House "Border Czar" Tom Homan acknowledged that these quotas would lead to "more arrests nationwide" of individuals who do not pose public safety or national security threats. *Id.* By May 2025, that quota had doubled to a minimum of 3,000 arrests per day. *See* Hamed Aleaziz, *Under Pressure from the White House, ICE Seeks New Ways to Ramp Up Arrests*, NY TIMES (June 11, 2025), https://www.nytimes.com/2025/06/11/us/politics/ice-la-protest-arrests.html. Former ICE chief of staff during the Biden administration opined: "This isn't about public safety or national security; this is about hitting a quota number. That's it." *Id.*

33. Officers have been arresting large swaths of noncitizens without regard for the individual circumstances. *See* Julia Ainsley, et al., *Under Trump administration, ICE scraps paperwork officers once had to do before immigration arrests*, NBC News (Sept. 9, 2025) https://www.nbcnews.com/politics/national-security/trump-administration-ice-scraps-paperwork-officers-immigration-arrests-rcna229407 ("For more than 15 years, before they conducted any operation to arrest an immigrant in the United States, officers with [ICE's] Enforcement and Removal Operations division have been required to fill out a form with details about their target – name, appearance, known address and employment, immigration history, any criminal history and more – and give it to a supervisor for approval. This year, in a sign of how the agency has moved from targeted enforcement to broad street sweeps under the Trump administration, that policy has been ended, six current and former officials and agents of ICE and [DHS] told NBC News.").

34. As part of this concerted effort, on July 8, 2025, ICE, "in coordination with" the Department of Justice (DOJ), announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice.

35. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[2] 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.

[2] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

36. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (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. 29 I. & N. Dec. at 229.

37. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities.

38. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE. *See Demirel v. Federal Detention Center Philadelphia*, No. 25-5488, 2025 WL 3218243, at *1 (E.D. Pa. Nov. 18, 2025) (appending "288 district court decisions addressing this issue," 282 of which "have determined that § 1226(a) applies or likely applies").

39. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

40. 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.*, *Rodriguez-Acurio v. Almodovar*, No. 2:25-CV-6065 (NJC), 2025 WL 3314420 (E.D.N.Y. Nov. 28, 2025); *O.F.B. v. Maldonado*, No. 25-CV-6336 (HG), 2025 WL 3277677 (E.D.N.Y. Nov. 25, 2025); *Guzman Cardenas v. Almodovar*, No. 25-CV-9169 (JMF), 2025 WL 3215573 (S.D.N.Y. Nov. 18, 2025); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 499 (S.D.N.Y. 2025); *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, 792 F.Supp.3d 211 (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); *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).

41. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

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

43. 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 people charged as being inadmissible 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." 779 F. Supp. 3d at 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.

44. 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 or parole.

45. 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).

46. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended. *Campbell v. Almodovar*, 1:25-cv-09509 (JLR), Opinion & Order (S.D.N.Y. Dec. 10, 2025) (finding a noncitizen was not "seeking admission" for §1225(b)(2)(A) purposes because he "was no longer seeking to enter the country. He was already in [the country]—and had been for several years").

Due Process Constraints on Immigration Detention

47. Due process requires, at a minimum, notice and an opportunity to respond prior to the deprivation of liberty at a hearing before a neutral adjudicator. *See, e.g.*, *Torres-Jurado v. Biden*, No. 19-cv-3595 (AT), 2023 WL 7130898, at *4 (S.D.N.Y. Oct. 29, 2023) (explaining that, in parole revocation, "due process, at a minimum" requires the government to afford meaningful notice and an opportunity to be heard and that the opportunity must be meaningful) (*citing to Ying Fong v. Ashcroft*, 317 F. Supp. 2d 398, 403 (S.D.N.Y. 2004)); *Valdez v. Joyce*, No. 25-cv-4627 (GBD), 2025 WL 1707737, at *4 (S.D.N.Y. June 18, 2025) (ordering release of petitioner re-detained after an immigration court hearing and concluding "respondents ongoing detention of petitioner with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights."); *Lopez v. Sessions*, No. 18-cv-4189 (RWS), 2018 WL 2932726, at *12 (S.D.N.Y. June 12, 2018) ("Petitioner's re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment."); *Singh v. Andrews*, No. 25-cv-00801, 2025 WL 1918679, at *20 (E.D. Cal. July 11, 2025)

(ordering release of noncitizen re-detained after an immigration court hearing based on finding that "the *Mathews* factors show that petitioner is entitled to process, and that process should have been provided before petitioner was detained").

48. Where ICE detains individuals without conducting any individualized assessment as to their immigration status, let alone their flight risk, those individuals merit immediate release from custody. *See Quintero Campos v. Deleon*, No. 25-CV-10099 (LJL), 2025 WL 3514120, at *2 (S.D.N.Y. Dec. 8, 2025) (ordering immediate release of individual ICE detained without "any individualized assessment or flight risk assessment" but could not identify any basis under § 1226(a) for his continued detention); *see also Rocano Buestan v. McShane*, No. 25-CV-8544 (JGLC), 2025 WL 3496361, at *1, *6 (S.D.N.Y. Dec. 5, 2025) (same, for noncitizen who had lived in the U.S. approximately 15 years and "was driving around Newburgh with his partner when masked [ICE] officers surrounded them in unmarked vehicles"); *Morocho v. Jamison*, No. 5:25-CV-05930-JMG, 2025 WL 3296300, at *1–3 (E.D. Pa. Nov. 26, 2025) (same, for noncitizen who had lived in the U.S. for 24 years and was detained by ICE officers "did not provide a reason for the stop; instead, they told him they were looking for another individual and directed him to exit the car"); *Cuy Comes v. DeLeon*, No. 25 CIV. 9283 (AT), 2025 WL 3206491, at *1, *6 (S.D.N.Y. Nov. 14, 2025) (same, for noncitizen who had lived in the U.S. at least five years and was detained by over a half a dozen agents in front of his home); *Lliguicota v. Cabezas*, No. CV 25-17216, 2025 WL 3496300, at *1–2 (D.N.J. Dec. 5, 2025) (same, for noncitizen who had lived in the U.S. for nearly thirteen years and was stopped, questioned, and arrested by federal officers "while walking with his family near their residence"); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910, at *1 (E.D. Cal. Sept. 23,

2025) (same, for noncitizen who had lived in the U.S. for the last 32 years and was stopped and interrogated "while he was walking his dog near his home").[3]

STATEMENT OF FACTS

49. Prior to being detained, Petitioner lived in Newburgh, New York with his wife and their [redacted] son. Ex. A, Pet.'s Decl. ¶ 1.

50. On the morning of September 18, 2025, ICE arrested Petitioner as he was driving to work. *Id.* ¶ 2. Shortly after he had left his home, he was startled by the sound of sirens. *Id.* An unmarked vehicle swerved sharply in front of his car and forced him to brake, another sped toward him from behind, and several others parked nearby. *Id.* Armed ICE agents in bulletproof vests then approached Petitioner's driver-side window and started questioning him in English, which Petitioner is not fluent in. *Id.* ¶¶ 3–4.

[3] Courts have similarly ordered individuals' immediate release where ICE detained them at immigration hearings. *See Chipantiza-Sisalema v. Francis*, No. 25 CIV. 5528 (AT), 2025 WL 1927931, at *5 (S.D.N.Y. July 13, 2025) (ordering release of petitioner re-detained after immigration hearing, finding that her detention "violates her Fifth Amendment right to due process because ICE detained her without notice, an opportunity to respond, or an individualized determination that she poses a flight risk or a danger to the community"); *Kelly v. Almodovar*, No. 25-cv-6448, 2025 WL 2381591 at *3 (S.D.N.Y. Aug. 15, 2025) (ordering immediate release of Petitioner and writing that "[t]he suggestion that government agents may sweep up any person they wish and hold that person in the conditions in which Kelly was held without consideration of dangerousness or flight risk so long as the person will, at some unknown point in time, be allowed to ask some other official for his or her release offends the ordered system of liberty that is the pillar of the Fifth Amendment"); *Lopez Benitez*, 2025 WL 2371588 at *14-15 (ordering immediate release of Petitioner re-detained in immigration court and noting "[i]n practice, Respondents seem to be detaining some arbitrary portion of such individuals as they leave their regularly scheduled immigration court proceedings. But treating attendance in immigration court as a game of detention roulette is not consistent with the constitutional guarantee of due process").

51. An ICE agent told Petitioner that they were looking for someone who lived at an address, which was next door to his own home. *Id.* ¶ 4. Petitioner informed the agent that he did not live at that address. *Id.* The ICE agent proceeded to show Petitioner a photograph of a person they claimed to be looking for. *Id.* Petitioner confirmed that he did not know or recognize the individual. *Id.*

52. The agent then asked Petitioner where he was headed, to which Petitioner replied he was on his way to work. *Id.* The agent asked Petitioner whether they could take a photo of him. *Id.* Petitioner felt as though he had no choice and so acquiesced to have his photo taken. *Id.* The agent then asked Petitioner if he had any identification "from [his] country." *Id.* ¶ 5. Petitioner handed the agent his New York driver's license. *Id.* The agent took his license and walked away. *Id.* ¶ 6.

53. Shortly thereafter, the agent returned and Petitioner believed that he was free to leave. *Id.* However, moments later, agents ordered him to get out of the car, forcibly opened his door, placed his hands behind his back, and handcuffed him. *Id.* Petitioner was taken then taken to a station for further questioning. *Id.* ¶ 8. Petitioner tried to explain several times that ICE had mistakenly detained him because he was not the person from the photograph, but they refused to listen. *Id.* Petitioner then refused to answer any further questions. *Id.*

54. Later that day, Petitioner was transferred to Orange County Jail in Goshen, New York. *Id.* ¶ 9. A few days later, on September 25, Petitioner was transferred to MDC, where he remains detained.[4] *Id.*

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[4] *See* Michael R. Sisak, *Inside the Brooklyn Federal Jail Where Sean 'Diddy' Combs Is Locked Up, Described As 'Hell On Earth'*, PBS (Sept. 19, 2024), https://www.pbs.org/newshour/nation/inside-the-brooklyn-federal-jail-where-sean-diddy-combs-is-locked-up-described-as-hell-on-earth ("Detainees have long complained about rampant

55. DHS placed Petitioner in removal proceedings before the Varick immigration court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

56. Earlier this year, Petitioner was diagnosed with diabetes. Pet.'s Decl. ¶ 10. Prior to being detained, he managed his symptoms with a combination of diet and medication. *Id.* In detention, he no longer has access to his medication or control over his diet. *Id.* In fact, much of his diet consists of carbohydrates, rather than protein, which his doctor told him to prioritize. *Id.* As a result, he often feels disoriented. *Id.* He has repeatedly requested a blood glucose test to no avail. *Id.*

57. While detained, Petitioner has also been forced to lived through the well-known inhumane conditions at MDC. For example, on Thanksgiving, Petitioner was locked in his cell starting at 3:00 pm until the following morning. *Id.* ¶ 13. Throughout this time, Petitioner did not have anything to eat, placing him at an even increased risk of harm due to his diabetes. *Id.* Petitioner also fears for his physical safety, having heard from a fellow detainee that a cellmate tried to rape him as he was sleeping. *Id.*

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violence, dreadful conditions, severe staffing shortages and the widespread smuggling of drugs and other contraband, some of it facilitated by employees. At the same time, they say they've been subject to frequent lockdowns and have been barred from leaving their cells for visits, calls, showers or exercise."); John Annese, *MDC Brooklyn Federal Jail Has Just Two Doctors On Staff, Hearing Reveals*, Daily News (Jan. 19, 2025), https://www.yahoo.com/news/mdc-brooklyn-federal-jail-just-124500374.html ("[A]n inmate who needed his appendix removed didn't get his entire antibiotics regimen when he was tossed in the special housing unit — solitary confinement.").

58. Petitioner is not a danger to the community. He has no criminal history. *Id.* ¶ 11. He has never been charged with or convicted of a crime. *Id.* His sole interaction with law enforcement was on September 18, 2025, when he was detained by ICE. *Id.*

59. Petitioner is also not a flight risk. He has never fled or attempted to flee from law enforcement. *See id.* Together with his wife and their teenage son, Petitioner has built a life in New York. *Id.* ¶ 12. In 2023, after working in kitchens for over a decade, Petitioner and his wife secured a loan and invested much of their savings to run a small Italian restaurant in New Windsor, New York. *Id.* However, because Petitioner had been their only cook, his wife is now struggling to maintain the business without him. *Id.*

60. Pursuant to *Matter of Yajure Hurtado*, the IJ is unable to consider a bond request by Petitioner.

61. As a result, Petitioner will remain in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA, 8 U.S.C. § 1226(a)

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

63. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country 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), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

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

COUNT II

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution – Procedural Due Process

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

66. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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

68. The government's detention of Petitioner without a bond determination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

69. More importantly, Respondents' misclassification of which statute Petitioner is detained under fundamentally violated his due process rights. At no time did DHS conduct an individualized assessment of the need for Petitioner's detention. Instead, he was subject to an unlawful arrest by ICE.

70. ICE's failure to conduct an individualized review prior to detention violates due process and necessitates his immediate release.

COUNT III

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution – Substantive Due Process

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

72. The Fifth Amendment of the Constitution further guarantees that people in civil detention may not be subject to conditions of confinement or denial of medical care that "amount to punishment." *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). The federal government violates the substantive due process rights of a person in civil immigration detention if it "takes [that] person into custody, severely limiting his ability to care for himself, and then is deliberately indifferent to his medical needs[.]" *Charles v. Orange Cnty.*, 925 F.3d 73, 85 (2d Cir. 2019).

73. Petitioner is not a flight risk nor is he a danger to the community. Respondents' detention of Petition is therefore unlawful and unjustified. Accordingly, Petitioner's detention is punitive and he is being detained in violation of his constitutional right to Due Process under the Fifth Amendment.

74. Petitioner's serious medical issue conditions place him at a heightened risk of suffering serious medical harm, or even death, without consistent treatment and monitoring. Because Respondents are aware that failing to adequately protect Petitioners could have tragic results and yet have not taken necessary or appropriate precautions, Respondents have acted with deliberate indifference to Petitioners' serious medical needs in violation of the Due Process Clause.

75. Petitioner's detention without any individualized review of the need for his detention, a lack of consideration of any risk of flight risk or danger or medical issues that counsel against detention, and his ongoing deficient medical care which subjects him to serious

risk of adverse health effects, serious harm, or even death due to disruptions of care for his diabetes, violates substantive due process.

COUNT IV

Violation of the Fourth Amendment to the U.S. Constitution – Unlawful Arrest

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

77. ICE agents seized Petitioner in violation of his Fourth Amendment rights.

78. An immigration officer is authorized to "briefly detain [a] person for questioning" if they have "a reasonable suspicion, based on specific articulable facts, that *the person being questioned* is, or is attempting to be, engaged in an offense against the United States or is an alien illegally in the United States." 8 CFR § 287.8 (b)(2) (emphasis added); *see United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975) ("For the same reasons that the Fourth Amendment forbids stopping vehicles at random to inquire if they are carrying aliens who are illegally in the country, it also forbids stopping or detaining persons for questioning about their citizenship on less than a reasonable suspicion that they may be aliens."). However, a stop may not be "prolonged beyond 'the time needed to handle the matter for which the stop was made.'" *Millan-Hernandez v. Barr,* 965 F.3d 140, 147 (quoting *Rodriguez v. United States*, 575 U.S. 348, 350 (2015)).

79. Here, ICE ostensibly stopped Petitioner's vehicle to identify and apprehend their alleged target, not Petitioner. It is unclear whether ICE had reasonable suspicion to stop his vehicle or was simply relying on impermissible factors, such as apparent race or ethnicity, language ability, location, or work. However, even assuming, *arguendo*, that they did, ICE held Petitioner well after they realized that he was not their target and had no information about their

target. At that point, ICE could not have had reasonable suspicion about "the person being questioned" and had no authority to continue to hold Petitioner for questioning. 8 C.F.R. § 287.8(b)(2). Petitioner also did not make statements or provide documentation that could have justified extending the stop. Petitioner presented state-issued identification and never stated that he was unlawfully residing in the country or that he was born outside the country. ICE therefore had no authority under the statute or the Constitution to continue to hold or question him, rendering their actions both *ultra vires* and unconstitutional.

COUNT V

Violation of the APA, 5 U.S.C. §§ 702, 706, and the *Accardi* Doctrine

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

81. ICE arbitrarily and capriciously arrested Petitioner without a warrant, absent any probable cause to believe he was in the country illegally or that he would flee and thereby violated agency regulations and the Administrative Procedure Act (APA).

82. Absent a federal warrant, ICE agents have "have more limited authority" and may arrest a noncitizen "only where the alien 'is likely to escape before a warrant can be obtained.'" *Arizona v. United States*, 567 U.S. 387 (2012) (quoting 8 U. S. C. §1357(a)(2)).

83. In 2022, as part of a settlement, ICE issued a nationwide policy that included a set of requirements that are relevant here. *See Castanon Nava v. Dep't of Homeland Sec.*, No. 18-CV-3757, 2025 WL 2842146 (N.D. Ill. Oct. 7, 2025). The policy stated that, to assess the likelihood of escape, ICE officers are "required to consider the totality of the circumstances, including the officer's ability to determine the person's identity; knowledge of that individual's

prior escapes or evasions of immigration authorities; attempted flight from an ICE officer; and the person's ties to the community (such as a family, home, or employment)." *Id.*

84. ICE lacked probable cause that Petitioner was in the country unlawfully for the same reasons that it lacked reasonable suspicion: Petitioner had not made any statements or provided any documentation that could reasonably lead ICE to suspect that he was violating the country's immigration laws. Petitioner also has never been convicted or even charged with committing a crime. ICE also lacked probable cause that Petitioner would likely escape before a warrant could be obtained.

85. All of the relevant factors cut against Petitioner being likely to escape before a warrant could be lawfully obtained. ICE was able to determine Petitioner's identity using his state-issued driver's license. ICE also had no reason to believe that Petitioner had previously evaded or fled from immigration authorities. ICE also failed to properly consider the community-ties factors ("family, home, or employment") that weighed in Petitioner's favor. Agents knew Petitioner had a home because they observed Petitioner drive away from his residence. Agents knew that Petitioner was employed because he told them he was on his way to work. ICE knew he had a family because Petitioner had asked whether agents could wait for his wife to come pick up his car. To the extent that any individualized assessment of Petitioner's likelihood of escape was performed at all, it was clearly erroneous and thus violated the policy.

86. Similarly, Respondents' failure to comply with their nationwide policy constitutes an *Accardi* violation.

87. Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where

the Board of Immigration Appeals failed to follow procedures governing deportation proceedings); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.").

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Eastern District of New York while this habeas petition is pending;

c. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner immediately, returning to the status prior to detention without any additional restrictions on his liberty; or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

d. Declare that Petitioner's detention is unlawful;

e. Enjoin Respondents from re-detaining or denying bond to Petitioner in any subsequent proceeding on the basis that he must be detained pursuant to (1) 8 U.S.C. § 1225(b), or (2) 8 U.S.C. § 1226(c) absent a change in relevant circumstances consistent with the Court's Order;

f. If, in the alternative, a bond hearing is afforded, enjoin Respondents from invoking the automatic stay provision at 8 C.F.R. § 1003.19(i)(2);

g. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

h. Grant any other and further relief that this Court deems just and proper.

DATED this 15th of December, 2025.

/s/ Alexandra Lampert
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