

TABLE OF CONTENTS

I.	INTRODUCTION AND BACKGROUND	7
II.	JURISDICTION AND VENUE	11
III.	REQUIREMENTS OF 28 U.S.C. § 2243	11
IV.	PARTIES	12
V.	FACTS	13
VI.	LEGAL FRAMEWORK	15
VII.	ARGUMENT	16
	A. Text, Practice, and Precedent Confirm § 1226(a) Applies to Interior Arrests.....	16
	B. Section 1226(a) governs this interior arrest. DHS's § 1225(b) theory fails on the text and in practice.....	22
	C. Remedy	24
VIII.	CLAIMS FOR RELIEF	24
IX.	RELIEF SOUGHT.....	29
	PRAYER FOR EXPEDITED CONSIDERATION.....	30
	VERIFICATION PURSUANT TO 28 U.S.C. § 2242	31

TABLE OF AUTHORITIES

Cases

<i>Alvarez-Chavez v. Kaiser</i> , No. 25-cv-06984-LB, 2025 WL 2909526 (N.D. Cal. Oct. 9, 2025).....	18
<i>Alvarez Martinez v. Noem</i> , No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025).....	18
<i>Becerra Vargas v. Bondi</i> , No. 5:25-CV-01023-FB-HJB (W.D. Tex. Nov. 26, 2025).....	20
<i>Belsai v. Bondi</i> , No. 25-cv-3862 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025)	17
<i>Buenrostro-Mendez v. Bondi</i> , No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025).....	18
<i>Cardin-Alvarez v. Rivas</i> , No. CV 25-02943-PHX-GMS (CDB), 2025 WL 2898389 (D. Ariz. Oct. 7, 2025).....	18
<i>Cerritos-Echevarria v. Bondi</i> , No. CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282 (D. Ariz. Oct. 3, 2025)	18
<i>Chávez v. Noem</i> , No. 3:25-cv-02325-CAB-SBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025)	18
<i>Chanaguano Caiza v. Scott</i> , No. 25-cv-00500, 2025 WL 2806416 (D. Me. Oct. 2, 2025)	17
<i>Demore v. Kim</i> , 538 U.S. 510 (2003)	15, 22, 25
<i>Dep't of Homeland Sec. v. Thuraissigiam</i> , 591 U.S. 121, 130 n.2 (2020).....	24
<i>Dominguez Vega v. Thompson</i> , No. 5:25-cv-01439-XR (W.D. Tex. Nov. 19, 2025).....	19
<i>Erazo Rojas v. Noem</i> , No. 3:25-cv-443-KC (W.D. Tex. Oct. 30, 2025).....	19
<i>Fay v. Noia</i> , 372 U.S. 391 (1963)	12
<i>Giron Reyes v. Lyons</i> , No. C25-4048-LTS-MAR, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025)	17, 18
<i>Gomes v. Hyde</i> , No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025)	21, 23
<i>Gonzalez Guerrero v. Noem</i> , No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025).....	18
<i>Hernandez-Fernandez v. Lyons</i> , No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025).....	19
<i>Hernandez-Hervert v. Bondi</i> , No. 1:25-cv-01763-RP (W.D. Tex. Nov. 14, 2025).....	19
<i>Hernandez-Lucero v. Bondi</i> , No. 4:25-cv-03981 (S.D. Tex. Oct. 23, 2025)	16
<i>Hernandez-Ramiro v. Bondi</i> ,	

No. 5:25-cv-01207-XR (W.D. Tex. Oct. 15, 2025)	18
<i>J.U. v. Maldonado</i> ,	
No. 25-cv-04836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025)	18
<i>Jennings v. Rodriguez</i> ,	
583 U.S. 281 (2018)	passim
<i>Lepe v. Andrews</i> ,	
No. 1:25-cv-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025)	17
<i>Loper Bright Enters. v. Raimondo</i> ,	
144 S. Ct. 2244 (2024)	22
<i>Lopez-Arevelo v. Ripa</i> ,	
No. EP-25-cv-337-KC, 2025 WL 2691828 (W.D. Tex. Aug. 26, 2025)...	18
<i>Lopez Benitez v. Francis</i> ,	
No. 25-cv-5937 (S.D.N.Y. Aug. 13, 2025)	23
<i>Lopez v. Hardin</i> ,	
No. 25-cv-830, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025)	18
<i>Luna Quispe v. Crawford</i> ,	
No. 1:25-cv-1471-AJT-LRV, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025)	17
<i>Maldonado Bautista v. Santacruz</i> , No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners)	10, 20, 23
<i>Maldonado Bautista v. Santacruz</i> , No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).....	10, 20
<i>Martinez v. Noem</i> ,	
No. 3:25-cv-430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025).....	19
<i>Mathews v. Eldridge</i> ,	
424 U.S. 319 (1976)	19, 22, 25, 26
<i>Monsalvo v. Bondi</i> ,	
604 U.S. ___, 145 S. Ct. 1232 (2025)	23
<i>Ortiz-Ortiz v. Bondi</i> ,	
No. 5:25-cv-00132 (W.D. Tex. Oct. 15, 2025)	18
<i>Padron-Covarrubias v. Vergara</i> ,	
No. 5:25-cv-00112 (S.D. Tex. Oct. 8, 2025)	18
<i>Palma Perez v. Berg</i> ,	
No. 8:25-cv-494 (D. Neb. Sept. 3, 2025)	18
<i>Pablo Sequen v. Kaiser</i> ,	
No. 25-cv-06487, 2025 WL 2650637 (N.D. Cal. Sept. 16, 2025)	18
<i>Pereira-Verdi v. Lyons</i> ,	
No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025)	18
<i>Pizarro Reyes v. Raycraft</i> ,	
No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025)	17
<i>Ramirez Clavijo v. Kaiser</i> ,	
No. 25-cv-06248-BLF (N.D. Cal. Aug. 21, 2025).....	17
<i>Rivera Zumba v. Bondi</i> ,	

No. 25-cv-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025)	18
<i>Rodriguez Vazquez v. Bostock</i> , 779 F. Supp. 3d 1239 (W.D. Wash. 2025)	18, 23
<i>Rojas Vargas v. Bondi</i> , No. 1:25-cv-01699-DAE, 2025 WL 3251728 (W.D. Tex. Nov. 5, 2025).....	19
<i>Salazar v. Dedos</i> , No. 1:25-cv-00835-DHU-JMR, 2025 WL 2676729 (D.N.M. Sept. 17, 2025)	17
<i>Santiago-Santiago v. Bondi</i> , No. EP-25-cv-361-KC, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025)	18
<i>Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.</i> , 559 U.S. 393 (2010)	21
<i>Singh v. Lewis</i> , No. 25-cv-96, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025)	18
<i>Souza Vieira v. De-Anda Ybarra</i> , No. 3:25-cv-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025).....	19
<i>Vargas-Lopez v. Trump</i> , No. 8:25-cv-526, 2025 WL 2780351 (D. Neb. Sept. 29, 2025)	18
<i>Van Buren v. United States</i> , 593 U.S. 374 (2021)	23
<i>Vazquez v. Bostock</i> , No. 25-cv-05240, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025)	18
<i>Zadvydas v. Davis</i> , 533 U.S. 678 (2001)	passim

Administrative & Immigration Decisions

<i>Matter of Yajure-Hurtado</i> , 29 I. & N. Dec. 216 (B.I.A. 2025)	passim
<i>Matter of Mariscal-Hernandez</i> , 28 I. & N. Dec. 666 (B.I.A. 2022).....	24

Statutes

8 U.S.C. § 1225(b)(1)	14
8 U.S.C. § 1225(b)(2)(A)	passim
8 U.S.C. § 1226(a)	passim
8 U.S.C. § 1226(c)	passim
8 U.S.C. § 1229a.....	passim
8 U.S.C. § 1229b.....	14, 16, 20, 21
8 U.S.C. § 1231	16
28 U.S.C. § 1331	11
28 U.S.C. § 1651	11
28 U.S.C. § 2201 et seq.	11
28 U.S.C. § 2241.....	10, 11
Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025)	16, 23

Constitutional Provisions

U.S. Const. art. I, § 9, cl. 2 (Suspension Clause)	11, 27
U.S. Const. amend. V	passim

Regulations

8 C.F.R. § 1003.19(a)	15
8 C.F.R. § 1236.1(d)	15

Other Authorities

Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997)	16
H.R. Rep. No. 104-469, pt. 1, at 229 (1996)	16

I. INTRODUCTION

1. This petition challenges the unlawful detention of Petitioner, Leon Rios Altamirano (“Mr. Rios Altamirano”), a 55-year-old native and citizen of Mexico. Mr. Rios Altamirano entered the United States without inspection on or about 2001. He has resided continuously in the United States for more than two decades, during which time he has established long-standing family relationships and maintained steady employment. He is currently confined at the T. Don Hutto Detention Center in Taylor, TX, without a meaningful opportunity to seek release. *See* Exh. 1 (ICE Locator Results).
2. On or about October 31, 2005, Mr. Rios Altamirano was detained as part of a coordinated early-morning immigration enforcement operation in the Club Creek neighborhood in Houston, Texas. At approximately 5:20 a.m., shortly after arriving at his place of employment—Westwood Golf Course, where he has worked continuously since August 2003—he was approached by immigration enforcement officers.
3. Mr. Rios Altamirano was asked to produce identification, which he did not have in his possession at that moment. He was subsequently arrested and transferred into the custody of Immigration and Customs Enforcement (“ICE”) as part of the same Club Creek enforcement operation that resulted in the detention of multiple individuals in the surrounding community.¹
4. Mr. Rios Altamirano is presently detained at the T. Don Hutto Detention Center pending removal proceedings before the Immigration Court. *See* Exh.2 (Notice to Appear). He is

¹ <https://www.khou.com/article/news/local/southwest-houston-ice-raid/285-bb44380c-cb9f-4300-843b-f7b01cbd2ae9>

scheduled for a final individual hearing on the merits of his application before the Immigration Judge on February 3, 2026. *See* Exh. 3 (Notice of final individual hearing).

5. Mr. Rios Altamirano has resided at [REDACTED] since December 23, 2015. He is in a long-term common-law marriage with Reyna Rios, a native and citizen of Mexico. Together, they are raising two United States citizen daughters: [REDACTED], born [REDACTED] and [REDACTED] born [REDACTED], both born in Galveston, TX.
6. Mr. Rios Altamirano's daughters are deeply dependent on him for both emotional and financial support. In addition, his youngest daughter, [REDACTED] Rios, is a minor with documented medical concerns. She has been under the continuous care of medical specialists since early childhood. She has a documented history of [REDACTED] [REDACTED] for which she has been evaluated and monitored by [REDACTED] Stability, access to care and parental presence are essential to managing her conditions.
7. Mr. Rios Altamirano's eldest daughter [REDACTED] also depends on his support. Through significant effort and academic achievement, she has secured tuition assistance for her education, but continues to rely on her father to meet basic living expenses while pursuing her studies. Mr. Rios Altamirano's detention places her education and financial stability at serious risk.
8. Mr. Rios Altamirano has been steadily employed at the Westwood Golf course since August 2003. For more than twenty years, he has supported his household through consistent employment and has been the primary provider for his family. His detention has

abruptly deprived his family of their sole source of financial support at a time of acute vulnerability.

9. The hardship faced by Mr. Rios Altamirano's family has been compounded by a recent tragedy that occurred during the period of his detention. On the night of [REDACTED] and into the early morning hours of [REDACTED] a fire broke out at the family's apartment complex located at [REDACTED]. The fire, which has been preliminarily identified as having been caused by fireworks, spread rapidly throughout the structure and resulted in the total loss of the building, forcing Mr. Rios Altamirano's family, along with approximately 60 other individuals, to flee with only a few personal belongings. *See* Exh. 6 (Houston Fire Department Fire Report).
10. 10. The Department of Homeland Security presently contends that 8 U.S.C. § 1225(b) mandates the detention of Mr. Rios Altamirano. Congress, however, established a separate detention framework in 8 U.S.C. § 1226(a) to govern interior arrests and to provide for discretionary release on bond and review by an Immigration Judge ("IJ"). That framework applies in the present case. DHS's position—only recently endorsed in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 2020 (B.I.A. 2005)—contradicts the text and structure of the Immigration and Nationality Act and violates Due Process. DHS' newfound interpretation eliminates Congress's dual detention framework and imposes categorical detention on long-time residents who present neither a danger to the community nor a risk of flight.
11. In a parallel nationwide challenge, the United States District Court for the Central District of California has already held that long-time resident noncitizens apprehended in the interior of the United States are entitled to custody determinations under 8 U.S.C. § 1226(a), not § 1225(b). In *Maldonado Bautista v. Santacruz*, the court granted partial summary

judgment to the named plaintiffs, declaring that DHS's practice of treating such individuals as arriving aliens subject to mandatory detention under § 1225(b) is unlawful. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, ___ F. Supp. 3d ___ 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025). Days later, the court certified a nationwide "Bond Eligible Class" and extended that declaratory relief to all class members, confirming that they are entitled to bond hearings under § 1226(a). *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, F. Supp. 3d, 2025 WL 3289861, at *9 (C.D. Cal. Nov. 20, 2025). Despite the fact that Petitioner is a member of that Bond Eligible Class, immigration judges have declined to apply *Maldonado Bautista*'s, asserting that no declaratory judgment or injunction is currently "in effect" and that *Matter of Yajure-Hurtado* has not been expressly overturned, and have refused to provide bond hearings under § 1226(a).²

12. The human consequences of Mr. Rios Altamirano's detention are immediate and severe. His continued unlawful detention has upended his family's finances, separated two United States citizen children from their father, and left his family to navigate displacement, medical needs and financial hardship alone. The Constitution, the INA, and basic principles of fairness do not permit detention under these circumstances.
13. Petitioner respectfully request this Court grant the instant petition for a writ of habeas corpus under 28 U.S.C. § 2241, order his release or, at a minimum, order a bond hearing under § 1226. In the alternative, Petitioner respectfully request the Court order

² Undersigned counsel is informed and believes that, in a separate case heard on December 3, 2025, the same Immigration Judge again declined to apply the *Maldonado Bautista* class certification to a similarly situated noncitizen on the ground that no class-wide declaratory judgment or injunction is yet in effect, indicating that this is the IJ's current practice.

Respondents to show cause why this Petition should not be granted within three days. *See* 28 U.S.C. § 2243.

II. JURISDICTION AND VENUE

14. Petitioner is detained in civil immigration custody in Williamson County, Texas at the T. Don Hutto Detention Center in Taylor, Texas. *See* Exh. 1 (ICE Locator Results). He has been detained in Immigration custody since October 31, 2025.
15. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et seq.
16. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal questions) and where applicable Article I § 9, cl. 2 of the United States Constitution (Suspension Clause). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgement Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.
17. Venue is proper in the Western District of Texas under 28 U.S.C. § 1391, because at least one Respondent is in the District, Petitioner is detained in this District, and a substantial part of the events giving rise to the claim in this action took place in this District. Venue is also proper under 28 U.S.C. § 2243 because the immediate custodians of Petitioner reside in this District.

III. REQUIREMENTS OF 28 U.S.C. § 2243, WRIT OF HABEAS CORPUS, ISSUANCE, RETURN, HEARING, AND DECISION

18. 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.

19. 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). 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. *Rheuark v. Wade*, 540 F.2d 1282, 1283 (5th Cir. 1976); *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978). Due to the nature of this proceeding, Petitioner asks this Court to expedite proceedings in this case as necessary and practicable for justice.

IV. PARTIES

20. Petitioner Leon Rios Altamirano is a 55-year-old citizen of Mexico. He last entered the United States on or about 2001 without inspection and has resided in the United States continuously for over two decades.
21. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States. She is responsible for the administration of the Executive Office for Immigration Review (“EOIR”), including policies that bear on immigration judges’ jurisdiction over custody.
22. Respondent Kristi Noem is named in her official capacity as Secretary of the U.S. Department of Homeland Security (“DHS”). DHS is the department charged with administering and enforcing federal immigration laws. Secretary Noem is ultimately responsible for the actions of U.S. Immigration and Customs Enforcement (“ICE”) and is a legal custodian of Petitioner.

23. Respondent Todd M. Lyons is named in his official capacity as Acting Director of ICE. He oversees ICE operations, including detention and removal, and is a legal custodian of Petitioner.
24. Respondent Sylvester Ortega is named in his official capacity as Field Office Director of the San Antonio ICE Field Office. He is responsible for ICE enforcement in this District and is a legal custodian of Petitioner.
25. Respondent Charlotte Collins is named in her official capacity as Warden of the T. Don Hutto Detention Center in Taylor, Texas. She has immediate physical custody of Petitioner pursuant to an agreement with ICE to detain non-citizens.
26. Each Respondent is sued in his or her official capacity as a custodian and/or policymaker responsible for Petitioner's continued detention.

V. FACTS

27. Petitioner Leon Rios Altamirano ("Mr. Rios Altamirano") is a 55-year-old native and citizen of Mexico.
28. Mr. Rios Altamirano was born in [REDACTED] Mexico and last entered the United States without inspection on or about 2001. He has remained in the United States continuously since that time.
29. Petitioner has an exceedingly minimal criminal history. He has a single arrest from April 6, 2008, for a Class C misdemeanor offense of Liquor Consumed During Prohibited Hours. He pled guilty, paid a \$200 fine, and has had no further arrests in nearly the two decades since.
30. Petitioner has resided continuously in the Houston, Texas area for more than twenty years, and has lived at [REDACTED] since 2015.

31. Petitioner is in a long-term common-law marriage with Reyna Rios, a native and citizen of Mexico. Together, they are the parents of two United States citizen daughters, both born in Galveston, Texas: [REDACTED] born [REDACTED] and [REDACTED], born [REDACTED].
32. Petitioner has been steadily employed at the Westwood Gold Course since August 2003.
33. On or about October 31, 2025, Mr. Rios Altamirano was detained during an early-morning immigration enforcement operation in the Club Creek area of Houston, Texas. At approximately 5:20 a.m., Mr. Rios Altamirano had just arrived at his place of employment at the Westwood Golf Course when he was approached by ICE agents.
34. ICE transferred Mr. Rios Altamirano into immigration custody, and he is currently detained at the T. Don Hutto Detention Center in Taylor, Texas. He has remained detained there since October 31, 2025.
35. Petitioner is currently in removal proceedings and is scheduled for a final individual hearing on the merits of his application for relief before the immigration court on February 3, 2026.
36. Petitioner's continued detention has caused immediate hardship to his U.S. citizen family, financially, emotionally, and medically. It has impaired his ability to prepare for the February 3, 2026 hearing, including coordinating with counsel to produce evidence and in support of his relief.
37. Petitioner is eligible to seek cancellation of removal for certain nonpermanent residents under 8 U.S.C. § 1229(b)(1). He has been physically present in the United States for more than ten years, has maintained good moral character, has no disqualifying criminal history, and can show that his U.S. citizen wife and U.S. citizen minor child will suffer exceptional and extremely unusual hardship if he is removed to Mexico.

38. Despite these equities, DHS has classified Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b) and, on that basis, the immigration judge has refused to provide a custody hearing under 8 U.S.C. § 1226(a). As a result, since his arrest on October 31, 2025, Petitioner has twice been denied the opportunity to receive an individualized determination of whether continued detention is necessary to prevent flight or protect the community. *See* Exh. 4 (Bond denial 12/16/2025) and Exh. 5 (Bond denial 12/22/2025).

VI. LEGAL FRAMEWORK

a. Due Process

39. The Fifth Amendment's Due Process Clause applies to "all persons" within United States, including noncitizens *Zadvydas v. Davis*, 533 U.S. 658, 693 (2001). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Id.* at 690. In the immigration context, detention is constitutionally justified only to prevent flight or protect the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

b. Statutory Scheme

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

41. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) 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).

42. 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).
43. 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).

VII. ARGUMENT

a. Text, Practice, and Precedent Confirm § 1226(a) Applies to Interior Arrests

44. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2).
45. Congress enacted §§ 1226(a) and 1225(b)(2) in the Illegal Immigration Reform and Immigrant Responsibility Act IIRAIRA of 1996. Pub. L. No. 104–208, div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Congress most recently amended § 1226 in the Laken Riley Act. Pub. L. No. 119–1, 139 Stat. 3 (2025).
46. After IIRAIRA, the EOIR promulgated regulations clarifying that, in general, people who entered without inspection and were placed in § 240 (8 U.S.C. § 1229a) proceedings are detained under § 1226(a), not § 1225. *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997).
47. For decades thereafter, noncitizens who entered without inspection and were placed in standard removal proceedings received bond hearings under by § 1226(a), unless otherwise governed by § 1226(c). That practice aligned with earlier law in which non-arriving noncitizens were entitled to a custody hearing before an immigration judge or other officer. *See* 8 U.S.C. § 1252(a) (1994), H.R. Rep. No. 104–469, pt. 1, at 229 (1996) (noting § 1226(a) “restates” prior detention authority).

48. In *Jennings v. Rodriguez*, DHS acknowledged that individuals already in the United States who are not apprehended near the border or immediately after entry fall under § 1226(a), not § 1225(b). See Transcript of Oral Argument at 7-8, *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (No. 15-1204) (Solicitor General confirming that those not detained within 100 miles or within 14 days are held under § 1226(a) and receive bond hearings). Having prevailed while advancing that position, DHS's new litigation stance to the contrary lacks persuasive force.
49. On July 8, 2025, ICE, announced new "Interim Guidance Regarding Detention Authority for Applicant for Admission,"³ reversing longstanding understanding and practice.
50. That guidance asserts that all persons who entered without inspection are subject to § 1225(b)(2)(A) mandatory detention regardless of when or where apprehended and even after years of residence. See Todd M. Lyons, Interim Guidance Regarding Detention Authority for Applicants for Admission (July 8, 2025).
51. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. 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. 216 (B.I.A. 2025).
52. A "tsunami" of federal courts have rejected this new interpretation and have declined to follow *Yajure-Hurtado* where it conflicts with the INA's text and structure.⁴

³ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

⁴ See, e.g., *Belsai v. Bondi, et al.*, No. 25-cv-3862 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, --- F.Supp.3d ---, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025); *Salazar v. Dedos*, No. 1:25-cv-00835-DHU-JMR, 2025 WL 2676729 (D. N.M. Sept. 17, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sept. 9, 2025); *Chanaguano Caiza v. Scott*, 25-cv-00500, 2025 WL 2806416, at *3 (D. Me. Oct. 2, 2025); *Luna Quispe v. Crawford, et al.*, No. 1:25-CV-1471-AJT-LRV, 2025 WL

53. In this District, courts have repeatedly ordered relief. *See, e.g., Gonzalez Guerrero v. Noem*, No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025) (granting preliminary injunction, vacating the BIA's decision applying *Matter of Yajure Hurtado*, and reinstating the IJ's § 1226(a) bond order for a long-resident noncitizen arrested in the interior); *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025) (issuing a TRO requiring custody to be governed by § 1226(a) and enjoining re-detention without notice and a pre-deprivation hearing); *Hernandez-Ramiro v. Bondi*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025) (granting a TRO and requiring a prompt § 1226(a) bond hearing with the Government bearing the burden of showing danger or flight risk, or release if no hearing is provided); *Santiago v. Noem*, No. 3:25-cv-00361-KC, 2025 WL 2606118 (W.D. Tex. Sept. 9, 2025) (granting TRO and habeas relief to a DACA receipt misclassified under § 1225(b) and directing that custody be governed by § 1226(a)); *Alvarez Martinez v. Noem*, No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025) (granting habeas, holding that the automatic stay of an IJ's bond order violates due process, and ordering compliance with the IJ's bond decision); *Lopez-Arevalo v. Ripa*, No. EP-25-cv-337-KC,

2783799, at *6 (E.D. Va. Sept. 29, 2025); *Vazquez v. Bostock*, No. 25-cv-05240, 2025 WL 2782499, at *27 (W.D. Wash. Sept. 30, 2025); *J.U. v. Maldonado*, 25-CV-04836, 2025 WL 2772765, at *5 (E.D.N.Y. Sept. 29, 2025); *Rivera Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *7 (D.N.J. Sept. 26, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 WL 2732717, at *2 (M.D. Fla. Sept. 25, 2025); *Giron Reyes v. Lyons*, No. C25-4048, 2025 WL 2712427, at *5 (N.D. Iowa, Sept. 23, 2025); *Singh v. Lewis*, No. 25-cv-96, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 WL 2650637, at *7-8 (N.D. Cal. Sept. 16, 2025); *Alvarez-Chavez v. Kaiser*, 25-cv-06984-LB 2025 WL 2909526 (N.D. Cal., Oct. 9, 2025); *Cerritos-Echevarria v. Bondi*, No. CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); *Padron-Covarrubias v. Vergara*, 5:25-cv-00112, (S.D. Tex. Oct. 8, 2025); *Santiago-Santiago v. Bondi*, EP-25-CV-361-KC, 2025 WL 2792588, (W.D. Tex. Oct. 2, 2025); *Cardin-Alvarez v. Rivas*, CV 25-02943 PHX GMS (CDB), 2025 WL 2898389 (D. Ariz. Oct. 7, 2025); *Buenrostro-Mendez v. Bondi, et al.*, No. CV H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025); *Rodriguez Lucero v. Bondi*, No. 4:25-cv-03981 (S.D. Tex. Oct. 23, 2025); *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (W.D. Tex. Oct. 15, 2025). *But see Chavez v. Noem*, 3:25-cv-02325-CAB-SBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (“by the plain language of § 1225(a)(1) the petitioners are “applicants for admission” and thus subject to the mandatory detention provisions of “applicants for admission” under § 1225(b)(2)[.]”); *Vargas-Lopez v. Trump, et al.*, 8:25CV526 2025 WL 2780351 (D. Neb. Sept. 29, 2025) (the petitioner is an alien within the “catchall” scope of § 1225(b)(2) subject to detention without possibility of release on bond through a proceeding on removal under § 1229a, per 8 U.S.C. § 1225(b)(2)).

2025 WL 2691828 (W.D. Tex. Aug. 26, 2025) (granting a TRO under § 2243 and all the All Writs Act, enjoining removal and transfer to preserve the court's jurisdiction over a habeas challenge to detention under § 1225(b)); *Martinez v. Noem*, No. 3:25-cv-00430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025) (even assuming § 1225(b) applies, holding under *Matthews v. Eldridge* that due process requires an individualized bond hearing with the Government bearing the burden); *Souza Vieira v. De-Anda Ybarra*, No. 3:25-cv-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025) (following *Lopez-Arevelo*'s jurisdictional analysis, rejecting §§ 1252(g) and 152(b)(9) as bars, and granting habeas relief); *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025) (granting habeas relief and holding that custody of a long-resident interior arrestee must be governed by § 1226 rather than § 1225(b)); *Erazo Rojas v. Noem*, No. 3:25-cv-00443-KC (W.D. Tex. Oct. 30, 2025) (granting habeas in part and requiring the Government to provide a prompt § 1226(a) bond hearing at which it bears a clear-and-convincing burden or else release Petitioner under reasonable supervision); *Dominguez Vega v. Thompson*, No. 5:25-cv-01439-XR (W.D. Tex. Nov. 19, 2025) (granting a TRO and directing a prompt individualized § 1226(a) bond hearing consistent with these precedents); *Hernandez-Hervert v. Bondi*, No. 1:25-cv-01763-RP (W.D. Tex. Nov. 14, 2025) (granting habeas relief, rejecting Respondents' reliance on *Matter of Yajure Hurtado*, and requiring § 1226(a) custody process); *Rojas Vargas v. Bondi*, No. 1:25-cv-01699-DAE, 2025 WL 3251728 (W.D. Tex. Nov. 5, 2025) (granting a TRO, holding that § 1226(a) governs detention of long-resident noncitizens, and requiring a prompt bond hearing with a clear-and-convincing Government burden or release); *Melendez Hernandez v. Bondi*, No. 1:25-cv-01811-DAE (W.D. Tex. Nov. 26, 2025) (granting a TRO and ordering a § 1226(a)

bond hearing with the Government bearing the clear-and-convincing burden of flight risk or danger, or release if no timely hearing is provided); *Becerra Vargas v. Bondi*, No. 5:25-CV-01023-FB-HJB (W.D. Tex. Nov. 26, 2025) (granting habeas in part and ordering release of petitioner from custody) and *Navarrete Perdomo v. Bondi*, No. 5:25-cv-01398 (W.D. Tex. Nov. 25, 2025) (granting habeas relief for Petitioner with SIJ status and ordering release).

54. The nationwide relief in *Maldonado Bautista* squarely confirms Petitioner's position that his custody must be governed by § 1226(a). In granting partial summary judgment, the court held that DHS violated the INA when it classifies long-resident noncitizens arrested in the interior as arriving aliens subject to § 1225(b) and mandatory detention, rather than as individual entitled to discretionary bond process under § 1225(b) and mandatory detention, rather than as individuals entitled to discretionary bond process under § 1226(a). *Maldonado Bautista v. Santacruz*, 2025 WL 3289861, at *11. The subsequent class-certification order incorporated that declaratory judgment and certified a nationwide "Bond Eligible Class," holding that all class members are presumptively entitled to § 1226(a) bond eligibility and individualized hearings. *Id.* *Maldonado Bautista v. Santacruz*, 2025 WL 3288403, at *9, Petitioner is a member of that Bond Eligible Class, but immigration judges in the Pearsall Immigration Court have rejected *Maldonado Bautista's* application.⁵ This refusal to honor binding class-wide relief underscores the need for this Court's intervention: DHS's continued reliance on § 1225(b) to detain Petitioner is unlawful, and this Court

⁵ Undersigned counsel is informed and has personal knowledge and belief that IJs in the San Antonio jurisdiction, under which the Respondent is subject, have declined to apply the *Maldonado Bautista* class certification to a similarly situated noncitizen on the ground that no class-wide declaratory judgment or injunction is yet in effect, indicating that this is the IJ's current practice.

should order that his custody be governed by § 1226(a) and require an individualized bond hearing consistent with *Maldonado Bautista*.

55. Even before the nationwide shift, the Tacoma immigration court had ceased providing bond hearings to long-resident noncitizens who had entered without inspection (EWI). The Western District of Washington found that reading likely unlawful and held that § 1226(a), not § 1225(b), applies to noncitizens not apprehended upon arrival. *Rodriguez Vasquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

56. These decisions reflect a clear judicial consensus that the government's reliance on § 1225(b)(2) is misplaced where § 1226(a) applies..

57. The plain text confirms that outcome. Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed.” Hearings to decide inadmissibility or deportability occur under § 1229a.

58. Section 1226 also expressly addresses persons charged as inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Specific mandatory carve-outs confirm that, absent those exceptions, § 1226(a) governs and bond is available. *See Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins.*, 559 U.S. 393, 400 (2010); *Gomes*, 2025 WL 1869299, at *7.

59. Section 1226 therefore applies to people charged as inadmissible who are already in the interior, including those present without admission or parole.

60. By contrast § 1225(b) addresses inspection at the border and recent arrivals who are “seeking admission.” 8 U.S.C. § 1226(b)(2)(A). The Supreme Court has described that mandatory detention scheme as operating “at the Nation’s borders and ports of entry.” *Jennings v. Rodriguez*, 583 U.S. 281, 287, 846 (2018). That is not this case.

61. Section 1225(b)(2)(A) uses present-tense inspection language. It applies when an officer determines a person “is seeking admission” and “is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). *Jennings* confirms this scheme operates at the border. 583 U.S. at 287, 846.
62. Defense does not salvage Respondents’ reading. After *Lopez Bright*, courts do not defer to agency interpretations simply because a statute is complex. They apply the best reading. *Loper Bright Enters v. Raimondo*, 144 S. Ct. 2244, 2262-63 (2024). *Yajure-Hurtado* is unpersuasive because it treats anyone never “admitted” as forger “seeking admission,” contrary to § 1225’s present-tense text and § 1226’s structure. 29 I. & N. Dec.. at 221.
63. The constitutional backdrop points the same direction Civil immigration detention is constrained by the Fifth Amendment. Persons facing significant restraints on liberty retain a protected interest and are entitled to meaningful process. At minimum, detention under § 1226 requires a prompt, individualized bond hearing with the Government bearing a clear and convincing burden. *See Zadvydas v. Davis*, 533 U.S. 678, 690-96 (2001); *Demore v. Kim*, 538 U.S. 510, 528-31 (2003); *Mathews v. Eldridge*, 424 U.S. 319, 333-35, 343-49 (1976).
64. The Court should hold that § 1226(a) governs Petitioner’s custody and order his immediate release, or at minimum require a prompt § 1226(a) bond hearing with the Government bearing the clear-and-convincing burden. *See* U.S.C. § 1226(a); *Jennings*, 583 U.S. at 291, 302-03; *Zadvydas*, 533 U.S. at 690-96.
- b. Section 1226(a) governs this interior arrest. DHS’s § 1225(b) theory fails on the text and in practice.**

65. Mr. Rios Altamirano was arrested in the interior and is in regular removal proceedings under 8 U.S.C. § 1229a. He was taken into ICE custody in Houston, Texas in the early morning, while arriving to his job site. He was not apprehended at or near the border, and he was not processed under expedited removal. Section 1226(a) therefore controls, and supplies bond jurisdiction. *See Jennings*, 583 U.S. at 297, 302-03.
66. Federal courts confronting DHS's new theory have rejected it and ordered relief, concluding that § 1226(a) governs noncitizens already in the country. *See, e.g., Rodriguez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 1193850, at *11-16 (W.D. Wash. Apr. 24, 2025); *Gomes*, 2025 WL 1869299, at *4-7; *Lopez Benitez*, 2025 WL 2267803, at *4-7.
67. The Laken Riley Act confirms that Congress preserved § 1226(a)'s discretionary bond regime for most inadmissible entrants arrested in the interior by adding a narrow new mandatory category under § 1226(c)(1)(E). If § 1225(b) already mandated detention for all inadmissible entrants, § 1226(c)(1)(E) would be redundant. *See Corley v. United States*, 556 U.S. 303, 314 (2009). *Van Buren v. United States*, 593 U.S. 374, 393 (2021). Congress legislated against decades of practice applying § 1226(a) to interior arrests, and courts presume amendments harmonize with that practice. *Monsalvo v. Bondi*, 604 U.S.____, 145 S. Ct. 1232, 1242 (2025).
68. *Yajure-Hurtado* does not compel a different result. *Jennings* construed statutory text and left open constitutional claims. 583 U.S. at 303. Post-*Loper Bright*, courts interpret the INA de novo. *Loper Bright*, 144 S. Ct. at 2262-63.
69. Longstanding agency materials confirm that interior encounters without admission were treated under § 1226(a)'s predecessor, INA § 236(a), and were "eligible for bond and bond redetermination." 62 Fed. Reg. at 10, 323. DHS historically limited "applicant for

admission” to encounters within a short time and distance from the border. *See Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 121, 130 n.2 (2020) (describing the 14-day/100-mile policy).

70. Arrest authority reinforces the divide. Warrantless arrests are narrowly permitted under 8 U.S.C. § 1357(a). Otherwise, interior arrests proceed on warrant (Form I-200) and fall under § 1226(a). *See Matter of Mariscal-Hernandez*, 28 I. & N. Dec. 666, 668-71 (B.I.A. 2022). Petitioner’s interior arrest should have been, and on information and belief was, effectuated under an I-200 warrant, which places him within § 1226(a).
71. Statutes must be read in context and given affect to every clause and word. *Gurd v. United States*, 588 U.S. 128, 141 (2019); *United States ex rel. Polansky v Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023). Respondents’ view collapses §§ 1225 and 1226, nullifies § 1226(c), and contradicts the statute’s structure.

c. Remedy

72. For the reasons set out above, the Court should: (1) declare that 8 U.S.C. § 1226(a) (INA § 236(a)), not 8 U.S.C. § 1225(b)(2) (INA § 235 (b)(2)), governs Petitioner’s custody; (2) order Respondents to immediately release Petitioner from civil immigration detention in light of his long residence, and substantial community and family ties; or, in the alternative (3) required Respondent to provide Petitioner with a prompt, recorded bond hearing under § 1226(a) before an immigration judge by a date certain, at which DHS bears the burden of providing by clear and convincing evidence that continues detention is necessary to prevent flight or danger.

VIII. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

Violation of the Due Process Clause (Fifth Amendment)

73. Petitioner incorporates all allegations above.
74. Civil immigration detention is permissible only to ensure appearance or protect the community, and due process requires meaningful procedures commensurate with the liberty at stake. *See Zadvydas v. Davis*, 533 U.S. 678, 690-96 (2001); *Demore v. Kim*, 538 U.S. 510, 528-31 (2003).
75. Detaining Petitioner without a prompt, individualized bond hearing where the Government bears a clear-and-convincing burden violates substantive and procedural due process. *See Zadvydas*, 533 U.S. at 690-96; *Mathews v. Eldridge*, 424 U.S. 319, 333-35, 343-49 (1976).
76. The Fifth Amendment protects “all persons” in the United States, including long-resident noncitizens. *Zadvydas*, 533 U.S. at 693. Continued detention since October 31, 2025, without the required process or justification violates that protection.

SECOND CAUSE OF ACTION
Violation of the Immigration and Nationality Act (INA)

77. Petitioner incorporates all allegations above.
78. Petitioner’s interior arrest places his custody under 8 U.S.C. § 1226(a), not § 1225(b)(2). *See Jennings v. Rodriguez*, 583 U.S. 281, 297, 302-02 (2018) (distinguishing detention of persons “already in the country” under § 1226 from border inspection under § 1225).
79. Section 1226(a) authorizes discretionary detention with bond; Congress created narrow mandatory carve-outs in § 1226(c). Applying § 1225(b)(2) here would render § 1226(a) and § 1226(c) superfluous, which the Court must avoid. *See Jennings*, 583 U.S. at 297, 302-03.
80. DHS’s application of § 1225(b)(2) to Petitioner contracts the INA’s text, structure, and long-standing practice reflected in post- IIRIRA regulations recognizing bond eligibility

for interior EWI respondents. *See* Inspection & Expedited Removal of Aliens, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1977).

THIRD CAUSE OF ACTION

Procedural Due Process – Denial of Opportunity to Contest Misclassification

81. Petitioner incorporates all allegations above.
82. By foreclosing IJ bond jurisdiction through a blanket § 1225(b)(2) designation, Respondents denied Petitioner a meaningful opportunity to contest mandatory detention and to receive the individualized bond process Congress preserved in § 1226(a). *See Mathews*, 424 U.S. at 333-35; *Jennings*, 583 U.S. at 303 (constitutional challenges preserved).
83. This denial of meaningful process violates the Fifth Amendment.

FOURTH CAUSE OF ACTION

ADMINISTRATIVE PROCEDURE ACT

84. Petitioner re-alleges and incorporates by reference the paragraph above.
85. Respondents' continued efforts to deny him bond violate the INA, Administrative Procedures Act (APA), and the U.S. Constitution.
86. As set forth in Count Two and Three, federal regulations and case law provide the procedure for a respondent in removal proceedings like him to seek a bond redetermination by an immigration judge and be given a meaningful opportunity to present his claim.
87. In being denied the opportunity to return to his family, and pursue Cancellation of Removal in a non-detained court setting where he is free to gather the necessary hardship and good moral character evidence, Petitioner would be deprived of the right to freedom to lawfully pursue his rights in this civil matter. The Government's "no-review" provisions are a violation of his procedural and substantive due process and without any statutory authority. There is no time-frame or procedure for requesting DHS to itself review its custody

decision, and removal proceedings in this case will proceed during that time while Petitioner remains in custody.

88. The actions by Respondents would improperly alter the substantive rules concerning mandatory custody status without the required notice-and-comment period and would be in violation of the INA and its regulations. These actions by Respondents violate the APA. Under the APA, this Court may hold unlawful and set aside an agency action which is “contrary to constitutional right, power, privilege or immunity.” 5 U.S.C. § 706(2)(B). The regulations at 8 C.F.R. §§ 1003.19(h)(1)(B) and 1003.19(h)(2)(B) providing no review of DHS custody decision for arriving aliens in removal proceedings are in violation of substantive and procedural due process as guaranteed by the Fifth Amendment to the United States Constitution. It is ultra vires because it exceeds the authority granted ICE by Congress at 8 U.S.C. § 1226(a). For these reasons, this Honorable Court should hold that Petitioner is detained under § 1226(a) not § 1225(b), and order his immediate release or, in the alternative, direct the Immigration Court to conduct a custody redetermination hearing under § 1226(a) in which Petitioner has a meaningful opportunity to show that he is not a danger or flight risk. Any contrary reliance on *Matter of Yajure-Hurtado* would unlawfully misapply the statute and deprive Petitioner of his rights under the INA, the APA, and the Due Process Clause.

FIFTH CAUSE OF ACTION
SUSPENSION CLAUSE CLAIM

89. Petitioner re-alleges and incorporates by reference the paragraphs above.

90. If 8 U.S.C. § 1252 stripped the Court jurisdiction from this matter, it would be unconstitutional as applied because it would deny Petitioner the opportunity for meaningful review of the unlawfulness of his detention and removal.

91. To invoke the Suspension Clause, a petitioner must satisfy a three-factor test: “(1) the citizenship and status of the detainee and the adequacy of the process through which that status determination was made; (2) the nature of the sites where apprehension and then detention took place; and (3) the practical obstacles inherent in resolving the prisoner’s entitlement to the writ.” *Boumediene v. Bush*, 553 U.S. 723, 766 (2008). Petitioner satisfies these three requirements and may invoke the Suspension Clause.
92. First, although Petitioner is not a U.S. citizen or resident, he has lived here for over 19 years, and he qualifies under the INA to seek Cancellation of Removal, because he has no disqualifying criminal history, because he has lived here longer than ten continuous years, because he can show ten years’ good moral character, and because he can show his U.S. wife and minor daughter will suffer exceptional and extremely unusual hardship if he were removed to Guatemala. Petitioner has significant family connections in the United States, including his U.S. citizen children and wife. All of which establishes a substantial legal relationship with the United States.
93. Petitioner satisfies the second factor because he was apprehended by DHS and remains detained in the United States.
94. Finally, there are no serious, practical obstacles to resolving this present matter. This Court is equipped to deciding whether Petitioner is entitled to the writ.
95. There is no adequate alternative to a habeas petition. The refusal of the immigration court to grant Petitioner the right to show he is mis-classified and that he is not subject to mandatory detention, such that he may return to his family and pursue cancellation, without proper notice or due process, deprives him of his constitutional rights. The BIA cannot adequately and expeditiously review these issues.

IX. RELIEF SOUGHT

WHEREFORE, Petitioner respectfully requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Declare that ICE's October 31, 2025, apprehension and detention of Mr. Rios Altamirano was an unlawful exercise of authority because the ICE officer provided no reason that he presents a danger to the community or is flight risk;
- (3) Issue an order directing Respondents to show cause why the writ should not be granted;
- (4) Order Respondents to file with the Court a complete copy of the administrative file from the Department of Justice and the Department of Homeland Security;
- (5) Retain jurisdiction over this petition notwithstanding any change in Petitioner's place of detention or immediate custodian and, pending final resolution of this case, direct Respondents to refrain from transferring Petitioner outside the Western District of Texas without prior leave of Court to ensure that the Court can effectuate any relief ultimately granted, including by returning Petitioner to this District if necessary;
- (6) Grant the writ and order Petitioner's immediate release on recognizance, parole, or reasonable supervision; or, in the alternative, order a prompt custody redetermination under § 1226(a) before an Immigration judge within three days, with the Government bearing a clear-and-convincing burden of flight risk or danger on the record and with findings consistent with *Matter of Guerra* and *Matter of Siniauskas*; and, if Respondents continue to assert mandatory detention, order a Joseph-type hearing to test the legal and factual predicates, with release if such hearing is not held by the deadline;
- (7) Award costs and, if permissible attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, preserving Petitioner's position that EAJA may apply in habeas

notwithstanding *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023), and noting contrary authority, including *Vacchio v. Ashcroft*, 404 F.3d 663, 670-72 (2d Cir. 2005); *In re Petition of Hill*, 775 F.2d 1037, 1040-41 (9th Cir. 1985); *Daley v. Ceja*, No. 24-1191, — F.4th —, 2025 WL 3058588 (10th Cir. Nov. 3, 2025) (holding that habeas actions challenging immigration detention are unambiguously “civil actions” within EAJA’s “any civil action” language and affirming an EAJA award where the habeas petition materially altered the parties’ legal relationship by securing a bond hearing and release); *Abioye v. Oddo*, 2024 U.S. Dist. LEXIS 174205 (W.D. Pa. 2024); and *Arias v. Choate*, 2023 U.S. Dist. LEXIS 119907 (D. Colo. 2023);

(8) Grant such other and further relief as the Court deems just and proper.

X. PRAYER FOR EXPEDITED CONSIDERATION

Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests expedited consideration. Each day of the Petitioner’s unlawful detention inflicts irreparable harm on Petitioner and his family, depriving them of his care, stability, and support, especially now in light of the family’s total loss of their home and possessions in a fire over the New Year holiday. Prompt judicial intervention is necessary to protect Petitioner’s constitutional rights and his family’s well-being.

Respectfully submitted on January 7, 2026,

/s/ **Stephen O’Connor**
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Leon Rios Altamirano, and submit this verification on his 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 7th of January 2026

s/ Stephen O'Connor
Stephen O'Connor