IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

RAMIRO U. SERPAS-PORTILLO, *Petitioner*, v. **JEFFREY CRAWFORD**, Warden, Abyon-Farmville Detention Center; **RUSSELL HOTT**, Director, Washington Field Office, Enforcement and Removal Operations-U.S. Immigration and Customs Enforcement; **KRISTI NOEM**, Secretary U.S. Department of Homeland Security; and **PAMELA BONDI**, Attorney General U.S. Department of Justice *Respondents.*	Civil Action No._____ Agency No.: A[redacted] **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Ramiro Ulises Serpas-Portillo ("Mr. Serpas"), is a 21-year-old native and citizen of El Salvador, unlawfully detained by U.S. Immigration and Customs Enforcement ("ICE") under a detention statute that does not apply to him. Mr. Serpas's continued detention rests entirely on an erroneous legal conclusion adopted by an immigration judge ("IJ") invoking *Matter of Q. Li*, and *Matter of M-D-C-V-*, to classify him—not as an "arriving alien"—but as an "applicant for admission" who is "arriving," subject to mandatory detention under 8 U.S.C. § 1225(b)(2) (2024), notwithstanding that he entered the U.S. as a child, has lived in the U.S. for over seven years, had prior removal proceedings dismissed in their entirety, and was later placed

into newly commenced removal proceedings. 29 I&N Dec. 66, 68 (BIA 2025); 28 I&N Dec. 18, 23 (BIA 2020). Because 8 U.S.C. § 1225(b) governs only individuals presently seeking admission, and because dismissal of prior proceedings extinguishes any continuing "arriving alien" fiction, Petitioner's detention is ultra vires, violates the Immigration and Nationality Act ("INA"), and deprives him of liberty without due process of law. *See, e.g.*, *Yamataya v. Fisher*, 189 U.S. 86, 100–01 (1903) ("[T]his court has never held, nor must we now be understood as holding, that administrative officers, when executing the provisions of a statute involving the liberty of persons, may disregard the fundamental principles that inhere in 'due process of law.'").

2. This case presents a pure question of law suitable for immediate habeas relief. Federal district courts across the country, including within this District, have overwhelmingly rejected the government's attempt to reclassify long-term residents as applicants for admission through retrospective reliance on decades-old border encounters. *See, e.g.*, *Luna Quispe v. Crawford*, No. 1:25-cv-1471-AJT-LRV, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025); *Rodriguez v. Perry*, 747 F. Supp. 3d 911 (E.D. Va. 2024). *Matter of Q. Li* does not alter that conclusion, and its application here exceeds both statutory text and constitutional limits.

3. For the reasons stated below, this Court should grant the instant petition for a Writ of Habeas Corpus, find Petitioner's detention unconstitutional, and order his immediate release from Respondents' custody.

JURISDICTION AND VENUE

4. This Court has jurisdiction under 28 U.S.C. §§ 2241, 1331, and Article I, § 9, cl. 2 of the United States Constitution. The writ of habeas corpus has long been available to test the legality

of executive detention, including immigration custody. *INS v. St. Cyr*, 533 U.S. 289, 314 (2001); *Waffi v. Loiselle*, 527 F. Supp. 2d 480, 483-85 (E.D. Va. 2007).

5. Venue lies in this District because Mr. Serpas is detained within the jurisdiction of the Eastern District of Virginia and Respondents exercise legal control here as his immediate custodian. *See Rumsfeld v. Padilla*, 542 U.S. 426, 442–43 (2004).

REQUIREMENTS OF 28 U.S.C. § 2243

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

EXHAUSTION

7. Mr. Serpas filed an administrative appeal with the BIA, on December 23, 2025, of the custody determination made by the immigration court, on December 18, 2025. Petitioner's Exhibit ("PEX") 1, BIA Filing Receipt for Appeal or Motion, dated January 8, 2025. Although exhaustion is not required where the challenge raises a purely a legal question or where the agency lacks authority to grant relief, *see Aguilar v. Lewis*, 50 F. Supp. 2d 539, 542–43 (E.D. Va. 1999), Petitioner has exhausted administrative remedies in an abundance of caution. No further administrative process can cure the statutory defect at issue.

PARTIES

8. Petitioner, Ramiro Ulises Serpas-Portillo, is a native and citizen of El Salvador. He has resided in the United States since entering the country in September 2018, as a 14-year-old child.

Mr. Serpas is presently detained at the Abyon–Farmville Detention Center. He is in the custody, and under the direct control, of Respondents and their agents.

9. Respondent Jeffrey Crawford is sued in his official capacity as the Warden of the Abyon–Farmville Detention Center. Respondent Crawford is the immediate physical custodian of Mr. Serpas pursuant to the facility's contract with ICE to detain noncitizens.

10. Respondent Russell Hott is sued in his official capacity as the Director of the Washington Field Office of ICE. Respondent Hott is a legal custodian of Mr. Serpas and has authority to release him.

11. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the INA, and oversees ICE, the component agency responsible for Mr. Serpas's detention. Respondent Noem is a legal custodian of Mr. Serpas.

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

STATEMENT OF FACTS

13. Petitioner entered the Unted States as a minor in September 2018, accompanied by his mother. He lived in the United States for years following his childhood entry, during which time the government initiated removal proceedings shortly following his entry relying on a contemporaneous Form I-213. PEX 2, Form I-213, Record of Deportable/Inadmissible Alien,

dated September 27, 2018. Those proceedings were later dismissed on April 8, 2024, pursuant to a favorable exercise of prosecutorial discretion. PEX 3, Order of the Immigration Court Dismissing Proceedings, dated April 8, 2024.

14. The dismissal was unconditional. Notably, the immigration court did not administratively close proceedings,[1] retain jurisdiction, or otherwise hold proceedings in abeyance. The legal effect of dismissal was termination. *See Matter of S-O-G- & F-D-B-*, 27 I&N Dec. 462, 465 (A.G. 2018). Only after that dismissal did DHS initiate new removal proceedings, relying not on current conduct or a present attempt to seek admission but on a resurrected factual narrative drawn from the prior, extinguished case. PEX 5, Form I-213, dated October 26, 2025.

15. Following his re-arrest, Petitioner sought a custody redetermination hearing under 8 U.S.C. § 1226(a). *See also* 8 C.F.R. § 1236 (2025). IJ Choi denied jurisdiction, expressly relying on *Matter of Q. Li* and the government's belated submission of the original I-213 to conclude that Petitioner remained an applicant for admission subject to § 1225(b)(2). PEX 6, Order of the Immigration Court in Custody Proceedings, dated December 18, 2025. The IJ did not rely on *Matter of Yajure Hurtado* 29 I&N Dec. 216 (BIA 2025), instead searching for an alternative doctrinal basis to deny bond.

LEGAL FRAMEWORK

16. The INA establishes two distinct detention regimes. Section 1225 governs inspection and detention of noncitizens "seeking admission," while § 1226 governs arrest and detention of noncitizens already present in the United States pending removal proceedings. *Jennings v.*

[1] Administrative closure was previously the means by which the government would dispose of a case upon a favorable exercise of prosecutorial discretion. *See generally* PEX 4, Collection of Unpublished BIA Decisions on Administrative Closure Used for Favorable Exercises of Prosecutorial Discretion.

Rodriguez, 583 U.S. 281, 288–89 (2018). Section 1226(a) is the default rule. *Id.* Section 1225(b)(2) applies only to individuals currently attempting to enter the United States and not clearly entitled to admission.

17. The Supreme Court has consistently rejected efforts to extend § 1225 beyond its textual scope. Once a noncitizen has effected an entry and lives in the interior, § 1226 governs. *Id.*; *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020). District courts nationwide have applied this principle to reject DHS's recent reclassification policy. *See, e.g.*, *Pu Sacvin v. De Anda-Ybarra*, No. 2:25-cv-01031, 2025 WL 3187432 (D.N.M. Nov. 14, 2025); *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025).

ARGUMENT

I. Section 1225(b)(2) Does Not Apply to Petitioner as a Matter of Law

18. The IJ's conclusion that Petitioner is mandatorily detained under 8 U.S.C. § 1225(b)(2) rests entirely on an overreading of *Matter of Q. Li*, 29 I&N Dec. at 66, and its antecedent, *Matter of M-D-C-V-*, 28 I&N Dec. at 18. Properly read, neither decision authorizes the categorical and perpetual detention rule applied here.

19. *Matter of Q. Li* addressed a narrow and continuous detention sequence involving a noncitizen apprehended within yards of the border, arrested without a warrant while "arriving," briefly released on parole under 8 U.S.C. § 1182(d)(5)(A), and then returned to custody upon termination of that same parole. 29 I&N Dec. at 67–70. The BIA's holding was expressly tethered to that uninterrupted statutory framework. It emphasized that parole merely "temporarily release[d]" the respondent from § 1225(b) custody and that, once parole was

terminated, the respondent was required to "forthwith return or be returned to the custody from which [she] was paroled." *Id.* at 69–70 (quoting 8 U.S.C. § 1182(d)(5)(A)).

20. Nothing in *Q. Li* purports to resolve whether § 1225(b) continues to govern detention after prior removal proceedings have been dismissed, the noncitizen has resided at liberty in the interior, and DHS later initiates newly constituted proceedings. To the contrary, the BIA expressly declined to announce broader rules when it acknowledged in a footnote that because the respondent qualified as an alien "who arrives in the United States" under 8 U.S.C. § 1225(a)(1), it "need not decide whether she is an 'arriving alien' as defined by 8 C.F.R. § 1001.1(q)." 29 I&N Dec. at 68 n.2. This disclaimer confirms that *Q. Li* did not purport to resolve the duration or persistence of "arrival" status across materially different procedural postures.

21. Yet the IJ here nonetheless treated *Q. Li* as dispositive over the question of his jurisdiction to redetermine Mr. Serpas's custody status, effectively converting a fact-bound holding into a categorical rule that once a noncitizen is deemed an applicant for admission, detention is forever governed by § 1225(b), regardless of dismissal of proceedings or subsequent re-arrest. *Q. Li* does not say that, and its reasoning does not support it.

22. That overreach is underscored by *Q. Li's* reliance on *Matter of M-D-C-V-*, which itself articulated clear temporal and geographic limits. In *M-D-C-V-*, the BIA construed Congress's use of the present progressive tense "arriving," rather than the past tense "arrived," to denote an ongoing process rather than a permanent condition. 28 I&N Dec. at 23. The BIA explained that this linguistic choice "implies some temporal or geographic limit," such that only aliens encountered near the border during the entry process fall within the scope of "arriving." *Id.*

23. Most importantly, *M-D-C-V-* expressly reserved the very question the IJ purported to answer here. The BIA stated that it "need not address the question whether section [1225(b)(2)(C)] of the Act could be applied to aliens apprehended well within the interior of the United States or long after crossing the border." *Id.* at 23 n.7. That reservation forecloses the categorical extension adopted in this case. The IJ's reading ignores the BIA's own limiting language and treats a context-dependent interpretation as a timeless status rule.

24. The government's additional reliance on an earlier Form I-213 from extinguished proceedings does not cure this defect. Dismissal of removal proceedings is not administrative closure, and it does not preserve a continuous statutory detention framework. *Matter of Avetisyan*, 25 I&N Dec. 688 (BIA 2012), is therefore inapposite. Once proceedings are dismissed, the legal fiction of uninterrupted applicant-for-admission status ends. Nothing in *Q. Li* or *M-D-C-V-* authorizes DHS to retroactively bootstrap dismissed proceedings to justify mandatory detention in newly constituted cases.

25. Read faithfully, *Q. Li* and *M-D-C-V-* stand only for the proposition that § 1225(b) governs detention during the immediate arrival process and its direct procedural aftermath. They do not authorize DHS or IJs to transform that moment into a perpetual jurisdictional disability immune from subsequent procedural developments. The IJ's contrary conclusion cannot be squared with the text of those decisions or with the statute they purport to interpret.

II. Continued Detention Without Bond Violates Due Process

26. Because § 1226 governs, Petitioner is entitled to an individualized bond hearing. Detention without such a hearing violates both substantive and procedural due process. *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001); *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). At a

minimum, due process requires a prompt bond hearing at which the government bears the burden of justifying continued detention by clear and convincing evidence. *See Lopez-Arevalo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *12 (W.D. Tex. Sept. 22, 2025).

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Substantive Due Process

27. The allegations in the above paragraphs are realleged and incorporated herein.

28. As a person in the United States, Mr. Serpas is protected by the Due Process Clause of the Fifth Amendment. "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process clause from arbitrary government action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). This vital liberty interest is at stake when an individual is subject to detention by ICE. *See Zadvydas*, 533 U.S. at 690 ("A statute permitting indefinite detention of an alien would raise a serious constitutional problem.").

29. Mr. Serpas's continued detention without bond violates substantive due process by depriving him of his fundamental liberty interest in remaining free from detention. Government detention violates an individual's fundamental liberty interest unless the detention is "narrowly tailored to serve a compelling government interest." *Reno v. Flores*, 507 U.S. 292, 302 (1993). Non-punitive detention must present a "special justification" that "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690.

30. Mr. Serpas's continued detention by ICE, which is based on an erroneous interpretation of the INA, serves no compelling governmental interest. Additionally, the BIA's decision in *Q. Li* is contrary to the plain language of the INA, violates congressional intent, and purports to overturn nearly a century of well-settled BIA and federal court jurisprudence.

31. But for the fact that Respondents have wrongfully interpreted the statute, a bond amount would be established, and Mr. Serpas released from ICE detention and allowed to return home to his family.

32. Mr. Serpas is not a flight risk or a danger to the community, and his appearance at any future court hearings can be ensured through imposition of a reasonable bond. The absence of any individualized determination of his eligibility to be released on bond is a violation of his substantive due process rights.

COUNT TWO
Violation of Fifth Amendment Right to Procedural Due Process

33. The allegations in the above paragraphs are realleged and incorporated herein.

34. Under the Due Process Clause, a foreign national is entitled to be heard at a meaningful time and in a meaningful manner before a deprivation of liberty occurs. *Matthews*, 424 U.S. at 334. The process that is due depends on the private interest affected by the official action, the risk of erroneous deprivation of that interest, the value of additional or substitute procedural safeguards, and the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements would impose. *Id.* at 335.

35. In Mr. Serpas's case, procedural due process requires a custody redetermination hearing before an independent and impartial adjudicator. *See Morrisey v. Brewer*, 408 U.S. 471, 486–87 (1972). ICE officials refused to set a bond based on the erroneous determination that because Mr. Serpas is an "arriving" "applicant for admission," though not an "arriving alien" such that his detention nonetheless remains mandatory under 8 U.S.C. § 1225(b)(2) instead of discretionary under 8 U.S.C. § 1226(a). And the IJ readily accepted DHS's reasoning and refused to conduct a bond hearing on the grounds that he lacked jurisdiction pursuant to *Matter of Q. Li*, 29 I&N Dec.

at 68. where the irreparable harm is the deprivation of liberty–without recourse–of those like Petitioner who have been living within the interior of our borders for years.

36. At bottom, the agencies' position in this case, as well as countless others like it, has not only become increasingly isolated over the months, but it has also descended into a *reductio ad absurdum*. And the private interest affected by the Respondents' erroneous interpretation of the law is of the highest importance, namely, a fundamental liberty interest in being free from physical restraint.

37. Respondents' refusal to set a bond for Mr. Serpas's release from detention or to provide a bond hearing before a neutral judge is arbitrary and capricious, is based on an erroneous interpretation of the law, and constitutes an abuse of discretion. In refusing to establish a bond amount and refusing to provide for a bond hearing before a neutral judge, Respondents have acted in violation of the INA and have violated Mr. Serpas's procedural due process rights.

COUNT THREE
Ultra Vires Detention Under 8 U.S.C. § 1225(b)(2)

38. The allegations in the foregoing paragraphs are realleged and incorporated herein.

39. Respondents are detaining Mr. Serpas under 8 U.S.C. § 1225(b)(2) on the theory that he is an "applicant for admission" who is "arriving," even though he entered the United States without inspection in September 2018, had his removal proceedings dismissed, was apprehended in the interior years later, and lived at liberty prior to his arrest. Section 1225(b)(2) governs inspection and detention of noncitizens who are seeking admission at or near the border and does not authorize detention of long-term interior residents such as Petitioner. *See Jennings*, 583 U.S. at 283, 297, 303 (explaining that § 1225 applies primarily to arriving noncitizens, while § 1226 governs detention of noncitizens already present in the United States). Because § 1225(b)(2)

does not apply to Petitioner's circumstances, Respondents' continued detention of him under that provision exceeds their statutory authority and violates the INA. Where the government detains a noncitizen pursuant to an inapplicable detention statute habeas relief is warranted, and immediate release is the appropriate remedy. *See Zadvydas*, 533 U.S. at 688–90.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing, Petitioner prays this Honorable Court to grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondent to show cause why this Petition should not be granted within three days;

(3) Declare that Mr. Serpas's detention violates the Due Process Clause of the Fifth Amendment and that the DHS's and EOIR's interpretation of the INA is arbitrary and capricious, and rests wholly on an erroneous interpretation of law;

(4) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Mr. Serpas from custody or, in the alternative, direct that a bond hearing be conducted immediately before an IJ within two days in which the government bears the burden of showing that Petitioner is a flight risk or a danger to the community; where detention is found unlawful under 8 U.S.C. § 1225(b), immediate release is the appropriate habeas remedy because immigration courts lack authority to cure the statutory defect through discretionary bond determination. *See Zadvydas*, 533 U.S. at 688–90. This relief is independently warranted; and

(5) Grant such other relief as the Court may deem just and proper.

Respectfully submitted this 8th day of January 2026,

_____/s/_____

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Verification Pursuant to 28 U.S.C. § 2242

The undersigned Counsel submits this verification on behalf of the Petitioner. Undersigned Counsel has discussed with Petitioner the events described in this Petition for a Writ of Habeas Corpus and Complaint and, on the basis of those discussions, verify that the statements in the Petition and Complaint are true and correct to the best of my knowledge.

/s/ Heain Lee

Heain Lee, Esq.
Counsel for Petitioner

CERTIFICATE OF SERVICE
SERPAS PORTILLO v. CRAWFORD, et. al.
Case No. _____
Agency No.: A[redacted]

I hereby certify that on January 8, 2026, I have mailed by United States Postal Service, certified mail, return receipt requested, the Petition for Writ of Habeas Corpus and all Exhibits, to the following:

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The above respondents were also named in the CM/ECF habeas corpus filing with the Eastern District of Virginia court.

/s/ Heain Lee