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THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

CARLOS AMAYA-VELIS,

Petitioner-Plaintiff,

v.

KEVIN RAYCRAFT, Director of the Detroit Field Office for U.S. Immigration and Customs Enforcement, in his official capacity; **TODD LYONS**, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; **KRISTI NOEM,** Secretary of the U.S. Department of Homeland Security, in her official capacity; **PAMELA BONDI**, Attorney General of the United States, in her official capacity, **ED VOORHIES**, Warden of Northeast Ohio Correctional Center

Respondents–Defendants.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. This petition arises from the U.S. government's new policy, which contradicts both the plain language of the Immigration and Nationality Act (INA) and decades of agency practice, of erroneously interpreting the INA to mandate detention without the possibility of bond for noncitizens who entered the United States without inspection, even if they have been residing here for years. Petitioner also brings this petition for a writ of habeas corpus to seek enforcement of their rights as members of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.)
2. On August 6, 2025, Petitioner Carlos Rene Amaya-Velis was suddenly arrested by agents of the Department of Homeland Security ("DHS"), Immigration Customs Enforcement ("ICE") during a worksite raid of [redacted] in Canton, Ohio.
3. Petitioner Carlos Rene Amaya-Velis Ramos has been approved for Special Immigrant Juvenile Status ("SIJS") and is awaiting the availability of a visa so he may submit his application for lawful permanent residency. Petitioner was lawfully employed by [redacted] and was working with a valid work authorization document at the time of his arrest. He has no criminal history in the United States or in his home country of El Salvador.
4. Since his arrest, he has been confined at the Northeast Ohio Correctional Center ("NEOCC") in Youngstown, Ohio. He now faces unlawful detention because DHS and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.
5. 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).
6. Based on this allegation in Petitioner's removal proceedings, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025,

instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under Section 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. Section 1225(b)(2)(A) and therefore ineligible to be released on bond.

7. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge 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 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. Section 1225(b)(2)(A) and therefore ineligible to be released on bond.
8. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. 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, Section 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.
9. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying Section 1226(a) to people like Petitioner.
10. The United States District Court for the Eastern District of Michigan—like this Court, within the Sixth Circuit—recently addressed this precise issue and forcefully rejected the government's interpretation, holding that the "recent shift to use the mandatory detention framework under Section 1225(b)(2)(A) is not only wrong but also

fundamentally unfair." *Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *25 (E.D. Mich. Aug. 29, 2025).

11. Petitioner is further entitled to the relief sought as a member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *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) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, 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).

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

JURISDICTION

13. This Court has jurisdiction over all Respondents because Petitioner is detained at their direction, and is in their immediate custody. *See Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003). Petitioner is detained in Respondents' custody at NEOCC in Youngstown, Ohio.

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

15. This Court may grant relief pursuant to pursuant to its habeas corpus authority 28 U.S.C. Section 2241 and may enter declaratory and injunctive relief as appropriate.

VENUE

16. Venue is properly before this Court pursuant to 28 U.S.C. Section 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims and relevant facts occurred in the Northern District of Ohio. Petitioner was arrested in Canton, Ohio, which is in the jurisdiction of the Northern District of Ohio and is currently detained in Youngstown Ohio, also in the Northern District of Ohio.

REQUIREMENTS OF 28 U.S.C. § 2243

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

18. 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). Even when courts face a burgeoning number of habeas cases, the remedy "imposes a specific duty on the court to summarily hear and dispose of habeas corpus petitions.: *See McClellan v. Young*, 421 F.2d 690, 691 (6th Cir. 1970).

PARTIES

19. Petitioner Carlos Rene Amaya Velis was born on [redacted] and is a native and citizen of El Salvador. Exhibit J. He is a resident of Canton, Ohio. He came to the United States from

El Salvador on or about February 19, 2022 as an unaccompanied minor, and has lived and worked here ever since. Exhibits A, B, and E.

20. Petitioner has been in immigration detention at the NEOCC in Youngstown, Ohio, since on or about August 6, 2025. Exhibits B. After taking custody of Petitioner on the most recent occasion, ICE did not set bond. Petitioner requested review of his custody by an immigration judge. Exhibit E. On January 8, 2026, Petitioner was denied bond by an immigration judge at the Cleveland Immigration Court because he was deemed subject to mandatory detention under 8 U.S.C. Section 1225(b)(2). Exhibit I.

21. Respondent Kevin Raycraft is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Acting Director Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

22. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). In this capacity, Acting Director Lyons oversees the administration, management, and enforcement of immigration detention and removal operations nationwide. He has ultimate supervisory authority over ICE Field Office Directors, including Respondent Raycraft, and is responsible for the policies and practices governing Petitioner's detention. He is sued in his official capacity.

23. Respondent Kristi Noem is the Secretary of DHS. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

24. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the

immigration court system it operates is a component agency. She is sued in her official capacity.

25. Respondent Ed Voorhies, the Warden of Northeast Ohio Correctional Center, has immediate physical custody of Petitioner. He is sued in his official capacity.

STATEMENT OF FACTS

26. Petitioner entered the United States on February 19, 2022, and DHS determined that he was an unaccompanied alien child pursuant to the Trafficking Victims Protection Reauthorization Act (TVPRA), 8 U.S.C. Section 1232. Pursuant to the TVPRA, Petitioner was transferred to the custody of the Office of Refugee Resettlement within the Department of Health and Human Services and later released to a sponsor in New York.

27. Upon Petitioner's entry into the United States in 2022, DHS issued a Notice to Appear ("NTA"), but it was never filed with the immigration court, and as such, Petitioner was not in active removal proceedings.

28. On February 29, 2024, Petitioner was granted SIJS by U.S. Citizenship and Immigration Services ("USCIS"). Exhibit D. SIJS is a special protected status for immigrant youth who have been abused, neglected or abandoned by one or both parents. As part of the SIJS approval process, USCIS considered and granted Petitioner deferred action, which allows him to obtain work authorization and temporarily delays his removal until 2028. *Id.*

29. Petitioner attended [redacted] in Plainfield, New Jersey and graduated in 2024. While at [redacted] Petitioner balanced his studies with significant responsibilities and personal challenges. In addition to completing multiple levels of ESL, he became a student leader in the school's volunteer program, serving as an ambassador to the community and to new students. Exhibit E.

30. Outside of school, Petitioner worked toward obtaining his driver's license, learned to navigate the NJ Transit system so he could travel independently, and secured part-time employment with his work permit to begin supporting himself. Despite having to fend for himself during his last two years of high school, paying rent, cooking his own meals, and covering all basic necessities, he remained committed to his education, maintained steady attendance, and ultimately graduated on time in 2024. Teachers and staff describe him as a positive, hardworking young man who consistently helped others without being prompted, sought guidance about his future, and persevered through exhaustion and instability. During his senior year, when he lacked family support in New Jersey, his former girlfriend's family provided him a temporary home, where he contributed to household tasks and built strong relationships. After graduating, Petitioner had the opportunity to move to Ohio to reconnect with family. Exhibit E. He has no criminal history.
31. On or about August 6, 2025, Petitioner was detained during a workplace raid by ICE, despite having valid work authorization and a grant of deferred action due to an approved SIJS application. Exhibits D and F. The Petitioner presented his work authorization document to officers during the raid, but he was arrested and detained anyway. The official I-213 narrative of his arrest states that the petitioner told officers he had "no papers/status to be in the United States establishing probable cause to arrest" him. Exhibit G. Petitioner has been detained at the Northeast Ohio Correctional Center in Youngstown, Ohio ever since. Petitioner has now been in continuous detention for over five months.
32. Following Petitioner's arrest and transfer to NEOCC, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

33. DHS placed Petitioner in removal proceedings before the Cleveland Immigration Court pursuant to 8 U.S.C. Section 1229a. ICE has charged Petitioner with, inter alia, being inadmissible under 8 U.S.C. Section 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

34. On November 13, 2025, while in immigration detention, Petitioner filed an application for asylum and withholding of removal pursuant to 8 U.S.C. § 1158 and 8 U.S.C. § 1231(b)(3). Exhibit K. The filing of this application placed Petitioner in removal proceedings under 8 U.S.C. § 1229a and does not alter the statutory framework governing his detention or his eligibility for a bond hearing under 8 U.S.C. § 1226(a).

35. On December 11, 2025, Petitioner sought a bond redetermination hearing before an immigration judge. At a bond hearing held on December 19, 2025, the Immigration Judge heard argument and received evidence and orally stated on the record that he would not find Petitioner to be a danger to the community or a flight risk. However, on January 8, 2026, the Immigration Judge issued a written order concluding that the court lacked jurisdiction to conduct a bond hearing because Petitioner was deemed an applicant for admission subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Exhibit I. As a result, although a hearing was convened, the Immigration Judge declined to exercise authority to make a lawful custody determination or to consider Petitioner for release under 8 U.S.C. § 1226(a).As a result, Petitioner remains 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.

36. An appeal of the bond denial to the BIA would not provide timely remedy for ongoing harms or vindicate the Petitioner's fundamental liberty interests, and is futile. Petitioner would face a lengthy delay awaiting the adjudication, compounding his harm. The BIA has recently

addressed the issue, and Respondents have demonstrated their adherence to the BIA's contested legal position, such that appeal on this matter is clearly futile. Because of the fundamental nature of the harms and the futility of administrative remedies, discussed further herein, combined with Petitioner's prolonged detention while awaiting adjudication, the option of appealing to the BIA is insufficient to vindicate Petitioner's fundamental liberty interest.

LEGAL BACKGROUND

Special Immigrant Juvenile Status

37. SIJS is a form of humanitarian protection and a path to lawful permanent residence for vulnerable immigrant youth under the age of 21 in the United States who have been abused, abandoned or neglected and are under the jurisdiction of a state juvenile court. U.S.C. §1101(a)(27)(J)(i).

38. Congress created SIJS to alleviate "hardships experienced by some dependents of United States juvenile courts by providing qualified aliens the opportunity to apply for special immigrant classification and lawful permanent resident status, with possibility of becoming citizens of the United States in the future." 58 Fed. Reg. 42, 843, 42, 844 (Aug. 12, 1993); *see also Galvez v. Cuccinelli*, Case No. C19-0321RSL, at *2 (W.D. Wash. July 17, 2019). Recognizing that many immigrant youth who qualify for this status are in removal proceedings because they have entered the U.S. to escape the abuse, abandonment or neglect they suffered in their country of origin, the INA does not prevent an abused, abandoned or neglected juvenile in removal proceedings, or even one with a final order of removal, from applying with USCIS, which has exclusive jurisdiction over such applications. 8 C.F.R. § 204.11(b).

39. An applicant may receive SIJS only after satisfying a set of rigorous, congressionally defined eligibility criteria, including that a juvenile court find it would not be in the child's best interest

to return to her country of last habitual residence and that the child is dependent on the court or placed in the custody of the state or someone appointed by the state. *See* 8 U.S.C. §1101(a)(27)(J); 8 C.F.R. § 204.11(c). The child must also receive approval from USCIS and the consent of the Secretary of Homeland Security to obtain the status. 8 U.S.C. §1101(a)(27)(J); 8 C.F.R. § 204.11(b)(5); *Osorio-Martinez v. U.S. Attorney General*, 893 F.3d 153, 163 (3d Cir. 2018). "[T]he requirements for SIJ[S] … show a congressional intent to assist a limited group of abused of children to remain safely in the country with a means to apply for LPR status." *Id.* at 168 (internal quotation marks omitted). DHS itself has characterized SIJS as "a classification to provide humanitarian protection for abused, neglected, or abandoned child immigrants…." *Id.* at 169 (quoting 6 U.S.C.I.S. Policy Manual, pt. J, ch 1).

40. The SIJS Statute has been amended and expanded several times since its enactment in 1990, most significantly in 2008 by the William Wilberforce Trafficking Victims Protection Reauthorization Act ("TVPRA").

41. Once granted, "SIJ[S] classification conveys a host of important benefits." *Psorio v. Holder*, 893 F.3d 153, 163 (2018). First, SIJ[S] designees are "deemed … to have been paroled into the United States" for the purposes of adjustment of status. 8 U.S.C. § 1255(h)(1). Second, "the INA automatically exempts SIJ[S] designees from a set of generally applicable grounds of inadmissibility and provides that the other grounds of inadmissibility also may be waived at the Attorney General's discretion. 8 U.S.C. §§ 1255(h)(2), 1182(a)." *Osorio-Martinez v. Holder*, 893 F.3d at 163. Third, Special Immigrant Juveniles also become eligible for a variety of ancillary benefits, "such as access to federally funded education programming and preferential status when seeking employment-based visas. *See id.* §§ 1232(d)(4)(A), 1153(b)(4)." *Id.*

42. These waivers of inadmissibility and deportability make sense in light of the purpose of the SIJS statute. By waiving certain grounds of deportability for SIJS beneficiaries, exempting them from inadmissibility on certain grounds, and deeming them to have been paroled into the United States for the purpose of adjusting status, Congress created the legal framework necessary to protect and provide permanent lawful status to a particularly vulnerable group of immigrant children. *See Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011) (noting congressional intent to "assist a limited group of abused children to remain safely in the country with a means to apply for LPR [lawful permanent resident] status"); *Osorio-Martinez*, 893 F.3d at168 (quoting same passage from *Garcia*). Each of these congressional actions reflects an unmistakable intent to permit SIJS beneficiaries to remain in the United States to pursue lawful permanent residency, absent independent and legally sufficient reasons to remove them. Ordering removal of a SIJS beneficiary would directly undermine the statutory design that provides for both protected status and a path to permanent residency. *See Joshua M. v. Barr*, 439 F. Supp. 3d 632, 679 (E.D. Va. 2020) (removing SIJS beneficiary and thereby "stripping [him] of his SIJ[S], without 'good and sufficient cause,' appears to contravene the purpose of the SIJ[S] statutes"); *but see Cortez-Amador v. United States*, 66 F.4th 429 (3d Cir. 2023) (SIJS parole only applies for purposes of adjustment).

43. To apply for SIJS, a young person must first petition a state family or juvenile court for an order that it is not in their best interest to return to their home country. 8 U.S.C. § 101(a)(27)(J). Upon obtaining the family or juvenile court order, the young person must file Form I-360, a special immigrant application, with USCIS.

44. Once the I-360 is approved, SIJS protection provides a young person with the right to apply for lawful permanent resident in the United States. *See* 8 U.S.C. 1255(a), (h)(1). However, due

to years-long backlogs, in practical terms visas are not immediately available. This means that most individuals with SIJS protections must wait an unpredictable length of time for a visa to become available in their category.

45. In order to protect vulnerable youth while they wait for their immigrant visas, DHS created the SIJS Deferred Action policy in 2022 which provided SIJS grantees with deferred action—a safeguard against deportation—and work authorization.[1] In other words, a beneficiary of an approved I-360 SIJS petition who is granted deferred action is protected from deportation while they wait in line to apply for their lawful permanent residence.

46. The petitioner is at this stage of the SIJS process. His I-360 application has been approved, and he is only waiting for a visa to become available in his category so that he may apply for permanent residence. Exhibit D. He received deferred action and subsequently applied for and received an employment authorization document (EAD) to support himself while he waits for visa availability to apply for permanent residence. Exhibit F.

47. On June 6, 2025, USCIS abruptly issued policy guidance eliminating automatic consideration of deferred action for SIJS grantees.[2] Of note, the policy did not terminate deferred action status for individuals, like Petitioner, who are already recipients. USCIS's elimination of automatic consideration of deferred action for SIJS grantees is being challenged in *A.C.R v. Noem*, No. 1:25-cv-3962, in the United States District Court for the Eastern District of New York. As of November 19, 2025, the Court stayed USCIS' June 6 policy guidance, restoring automatic consideration of deferred action for SIJS grantees while litigation proceeds.

[1] *See* Special Immigrant Juvenile Classification and Deferred Action, PA-2022-10, issued March 7, 2022, https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220307-SIJAndDeferredAction.pdf.
[2] *See* Special Immigrant Juvenile Classification and Deferred Action, PA-2025-07, issued June 6, 2025, https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250606-SIJDeferredAction.pdf.

48. In sum, Petitioner is a recipient of SIJS and the beneficiary of deferred action by USCIS. He held a valid EAD when he was detained from his workplace. Exhibit F. Additionally, he was designated an unaccompanied child by the U.S. government when he entered the U.S. entitling him to certain rights and protections under the Trafficking Victims Protection Reauthorization Act (TVPRA). 22 U.S.C. Section 7101. Exhibit C. Respondents have no permissible statutory basis for detaining Petitioner without a hearing.

Statutory Right to Individualized Pre-Detention Determination

49. The two primary provisions of the United States Code that govern the detention of noncitizens prior to an order of removal are 8 U.S.C. Section 1226(a) and 8 U.S.C Section 1225(b).[3]

50. Section 1226(a) governs the detention of most noncitizens who are already in the United States and subject to formal removal proceedings before an immigration court under 8 U.S.C. Section 1229a. 8 U.S.C. Section 1226(a); *see also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) ("[U.S. immigration law] authorizes the Government to detain certain ***aliens already in the country*** pending the outcome of removal proceedings under Sections 1226(a) and (c).") (emphasis added). "Section 1226(a) sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of an alien 'pending a decision on whether the alien is to be removed from the United States.'" *Jennings*, 583 U.S. at 287-89.

51. Under Section 1226(a), individuals who are taken into immigration custody pending a decision on whether they are to be removed can be detained but are generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d).[4] Detention under Section

[3] Section 1226(c) concerns mandatory detention for noncitizens who have been convicted, or in some circumstances arrested, for certain criminal offenses, and is irrelevant to Petitioner's petition as he has never been arrested outside of immigration detention.

[4] Section Section 1226 contains an exception for noncitizens who have been arrested, charged with, or convicted of certain crimes, who are subject to mandatory detention without bond. 8 U.S.C. Section 1226(c). That exception is not relevant here.

1226(a) is discretionary, not mandatory; the government "may release the alien on—(A) a bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole[.]" 8 U.S.C. § 1226(a)(2)(A)-(B).

52. Pursuant to regulation, prior to detention pursuant to Section 1226(a), immigration officers may allow a noncitizen to "demonstrate to the satisfaction of the officer that … release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceeding." 8 C.F.R. § 1236.1(c)(8).

53. If, after an individualized consideration, ICE chooses to detain the noncitizen pursuant to Section 1226(a) pending removal proceedings, the individual may ask for a bond redetermination hearing before the immigration judge. 8 C.F.R. § 1003.19.

54. The ICE agents who arrested Petitioner did not provide Petitioner with an opportunity to explain why he met the conditions for release under Section 1226(a). Instead, they detained him during a workplace raid, even though he was able to demonstrate that he was an SIJS applicant with a grant of deferred action, and an EAD that allowed him to be legally work in the United States.

55. Until recently, DHS typically detained individuals who had entered without inspection, like Petitioner, pursuant to DHS's discretionary authority under Section 1226. But, on July 8, 2025, DHS issued an informal memorandum to all ICE employees "revisit[ing] its legal position" and declaring all aliens except those admitted to the United States at the time of their arrival "subject to detention under [8 U.S.C. § 1225(b)]." Exhibit H.

56. In contrast with Section 1226, which applies to "certain aliens *already in the country*," *Jennings*, 583 U.S. at 289 (emphasis added), Section 1225(b) governs detention of noncitizens seeking entry into the United States (*i.e.*, "applicants for admission").

57. Section 1225(b)(2)(A) provides that, "if the examining officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien *shall be detained* for a proceeding under Section 1229a of this title." 8 U.S.C. § 1225(b). (emphasis added). In other words, Section 1225(b) mandates detention for those noncitizens subject to it, and they are not eligible to be considered for release.

58. This petition concerns Respondents' erroneous decision that Petitioner is subject to mandatory detention without bond under Section 1225(b)(2), rather than being bond-eligible under Section 1226(a).

59. The detention provisions at Section 1226(a) and Section 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, Sections 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).

60. Following the 1996 enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under Section 1225 and that they were instead detained under Section 1226(a). *See* 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) (explaining that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.").

61. Thus, in the three decades that followed, people who entered without inspection and were subsequently placed in removal proceedings received bond hearings if ICE chose to detain

them, unless their criminal history rendered them ineligible. 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 Section 1226(a) simply "restates" the detention authority previously found at Section 1252(a)).

62. However, on July 8, 2025, ICE, "in coordination with" DOJ, suddenly announced a new governmental policy that rejected the well-established understanding of the statutory framework and reversed decades of agency practice.[5]

63. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection are subject to mandatory detention without bond under Section 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.

64. In a May 22, 2025, unpublished decision from the Board of Immigration Appeals (BIA), EOIR adopted this same position.[6] That decision holds that *all* noncitizens who entered the United States without admission or parole are ineligible for bond hearings before an immigration judge. On September 5, 2025, the BIA published *Matter of Yajure Hurtado*, a precedential position with the same erroneous holding. 29 I&N Dec. 216 (BIA 2025).

65. Respondents have adopted this position even though federal courts have rejected this exact conclusion. Most importantly, the United States District Court for the Eastern District of

[5] In light of the fact that DHS is the opposing party in removal proceedings and DOJ is the agency that houses the immigration courts, joint development of litigation positions by those two agencies in concert with one another raises serious questions about whether the immigration courts are actually impartial arbiters of fact and law.

[6] Available at https://nwirp.org/our-work/impact-litigation/assets/vazquez/591%20ex%20A%20decision.pdf [https://perma.cc/Z8V4-QDYX].

Michigan—like this Court, within the Sixth Circuit—recently addressed this precise issue in *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025). The Eastern District of Michigan forcefully rejected the government's interpretation:

> Section 1226(a) of the INA recognizes that the core and "most elemental of liberty interests" is to be free from restraint and physical detention. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). For centuries, the Government has acted in accordance with these principles. The recent shift to use the mandatory detention framework under Section 1225(b)(2)(A) is not only wrong but also fundamentally unfair. In a nation of laws vetted and implemented by Congress, we don't get to arbitrarily choose which laws we feel like following when they best suit our interests. It is clear to this Court that the plain language of both Section 1226(a) and Section 1225(b)(2)(A) mandate a finding that Lopez-Campos is entitled to a detention hearing pending his removal proceedings. *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025).

66. Other district courts have reached the same conclusion. After IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for people who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that Section 1226(a), not Section 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d ---, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025) (granting preliminary injunction). *See also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) (finding detention unlawful based on same conclusion); Order, *Bautista et al. v. Santacruz Jr. et al.*, No. 5:25-CV-1873-BFM (C.D. Cal. July 28, 2025), Dkt. 14 at *7-8 (granting temporary restraining order based on same conclusion); Opinion & Order, *Benitez v. Francis*, No. 1:25-CV5937-DEH (S.D.N.Y. August 8, 2025), Dkt. 14 at *10-18, 31

(granting habeas petition and directly ordering release from custody based on same conclusion).

67. DHS's and DOJ's interpretation defies the INA. As the aforementioned courts explained, the plain text of the statutory provisions demonstrates that Section 1226(a), not Section 1225(b), applies to people like Petitioner.

68. 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 Section 1229a to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

69. The text of Section 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

70. 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.

71. By contrast, Section 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). *See Jennings*, 583 U.S. at 287 (explaining 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.").

72. Further, multiple federal courts have recently held that the government cannot unilaterally reclassify a noncitizen's detention as mandatory pursuant to Section 1225 after arresting them under the discretionary authority of Section 1226. *See, e.g., Lopez Benitez*, 2025 WL 2371588, at *5 (where arrest warrants and the record referenced Section 1226 as a basis for detention, in reply to a habeas petition, the government could not justify said detention as mandatory pursuant to Section 1225); *Martinez v. Hyde*, No. 25-11613-BEM, 2025 WL 2084238, at *3-4 (D. Mass. July 24, 2025) (rejecting the government's attempt to reclassify its detention authority where the documentation supporting arrest referred to Section 1226); *Gomez v. Hyde*, No. 1:25-cv-1571-JEK, 2025 WL 1869299, at *5–8 (D. Mass. July 7, 2025) (ordering a bond hearing pursuant to Section 1226 and rejecting government's argument that Section 1225 applied); *Rodriguez v. Bostock*, 779 F. Supp. 3d. 1239, 1257, 1263 (W.D. Wash. 2025) (same).

73. Accordingly, the mandatory detention provision of Section 1225(b)(2) does not apply to people who have already entered and were residing in the United States at the time they were apprehended by immigration authorities and detained.

74. Thus, the IJ erroneously applied Section 1225(b)(2) to Petitioner and denied him eligibility for bond. Even if Petitioner appeals to the BIA, that process has proven futile in many other cases, and the BIA has already issued *Matter of Yajure Hurtado* adopting the erroneous adverse position. 29 I&N Dec. 216 (BIA 2025). By the time the BIA could even issue decisions—a process that typically takes approximately six months, *Rodriguez Vazquez*, 2025 WL 1193850, at *3—the harm of their unlawful detention will be impossible to remediate. Nor will the downstream effects of continued detention be remediable: Petitioner has been deprived of his liberty, unable to work and earn income to support himself and his ongoing legal expenses as he pursues immigration relief for which he is eligible, and unable to contribute financially to

the care of his younger sister. He has experienced stomach issues in detention, receiving medical advice to improve his diet – which he cannot follow while incarcerated. He has experienced throat and skin irritation from the conditions in detention, having to ask multiple times to receive basic remedies. Housed among other detainees with criminal histories and hopeless outlooks, he fears for his safety every day that he is detained. The losses cannot be restored or adequately compensated after months or years of wrongful detention.

***Maldonado Bautista* Class Membership**

75. Overwhelmingly, federal district courts have rejected the government's new interpretation of the mandatory detention statute. On November 20, 2025, the district court for the Central District of California granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class, and extended declaratory judgment to the certified class. *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) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, 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).
76. The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. Section 1226(a), and thus may not be denied consideration for release on bond under Section 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.
77. On December 18, 2025, the district court entered a clarifying order to declare the new DHS policy unlawful and vacate it under the APA, and to enter its previous order as final. The

district court did not grant vacatur of *Yajure Hurtado* under the APA, but noted that case "is no longer controlling; the legal conclusion underlying the decision is no longer tenable." *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3678485, WL 3678485 (C.D. Cal. Dec. 18, 2025).

78. Petitioner is a member of the Bond Eligible Class, as he:

a. does not have lawful status in the United States and is currently detained at the Northeast Ohio Correctional Center in Youngstown, Ohio, after he was apprehended by immigration authorities on or about August 6, 2025; and

b. he entered the United States without inspection nearly 4 years ago on February 19, 2022. At that time, DHS determined that he was an unaccompanied alien child subject to protections of the TVPRA, 8 U.S.C. Section 1232. Pursuant to the TVPRA, DHS transferred him to the custody of ORR within HHS, and later released him to a sponsor in New York. While he was encountered as a UC near the time of his entry, he was only apprehended and detained after he had been in the United States for over 3 years, *cf. id.*; and

c. he is not detained under 8 U.S.C. Section 1226(c), Section 1225(b)(1), or Section 1231.

79. Nonetheless, the Executive Office for Immigration Review, the Immigration Court, and DHS have blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

80. After apprehending Petitioner on or about August 6, 2025, the DHS placed him in removal proceedings pursuant to 8 U.S.C. Section 1229a. Exhibit B. DHS has charged Petitioner as being inadmissible under 8 U.S.C. Section 1182(a)(6)(A)(i) as someone who entered the United States without inspection, and under 8 U.S.C. Section 1182(a)(7)(A)(i)(I) as someone who is not in possession of a valid visa or entry document. *Id.*

81. The Court should expeditiously grant this petition because Petitioner is a member of the certified class in Maldonado Bautista, and the federal officials and agencies responsible for Petitioner's custody decisions are bound by the class-wide declaratory relief entered in that

case. DHS and EOIR officials are bound by the declaratory judgment entered in Maldonado Bautista as to the certified class, and Petitioner seeks enforcement of that class-wide relief as applied to his custody determination. Nevertheless, the immigration judge denies jurisdiction to provide an individualized bond hearing, and Respondents in this case continue to flagrantly defy the judgment in that case and subject Petitioner to unlawful detention without opportunity to seek bond despite his clear entitlement to consideration for release on bond as a Bond Eligible Class member.

82. Immigration judges have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

83. Respondents are detaining Petitioner without an opportunity to seek bond, in violation of the judgment issued in *Maldonado Bautista.*

Due Process Right to Individualized Pre-Detention Determination

84. The Due Process Clause of the Fifth Amendment protects all persons in the United States from deprivations of life, liberty, or property without due process of law. *Reno v. Flores*, 507 U.S. 292, 306 (1993). As clearly enunciated by the Supreme Court, the protection of the Due Process Clause applies to noncitizens in the United States "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citations omitted).

85. Noncitizens are entitled to procedural due process protections, even in the face of policy shifts between administrations. While a "new administration can change the rules … it cannot change them and make up new rules as it goes along when the new rules abridge constitutional rights."

Mata Velasquez v. Kurzdorfer, No. 25-CV-493-LJV, 2025 WL 1953796, at *14 (W.D.N.Y. July 16, 2025).

86. In the context of immigration detention due process claims, the Sixth Circuit has applied the three-factor balancing test set forth in *Mathews v. Eldridge* to determine what process is due. 424 U.S. 319 (1976). *See Alonso v. Tindall*, No. 3:25-cv-652-DJH, 2025 U.S. Dist. LEXIS 217084, 2025 WL 3083920, at *8 (citing *Barrera v. Tindall*, No. 3:25-cv-541-RG, 2025 U.S. Dist. LEXIS 184356, 2025 WL 2690565, at *6). These factors are: (i) "the private interest that will be affected by the official action"; (ii) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (iii) "the [Government's] interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* (citing *Mathews*, 424 U.S. at 335).

87. In light of a noncitizen's due process right, a decision to detain a noncitizen requires an individualized determination as to the noncitizen's risk of flight and danger to the community. *See e.g. Shurney v. I.N.S.*, 201 F. Supp. 2d 783, 786 (N.D. Ohio 2001) (finding that the that the risk of erroneous deprivation of liberty was high without an individualized safety or flight risk determination for a noncitizen charged as an aggravated felon); *Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771, 785 (E.D. Mich. 2025). *See also Velesaca v. Decker*, 458 F. Supp. 3d 224, 235 (S.D.N.Y. 2020); *Lopez Benitez*, 2025 WL 2371588, at *10; Order, *Kelly v. Almodovar*, 25 civ. 6448, 2025 WL 2381591 (S.D.N.Y. Aug. 15, 2025); *Rosado v. Figueroa*, No. CV 25-02157, 2025 WL 2337099, at *13 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Pinchi v. Noem*, 5:25-cv-05632, 2025 WL 2084921, at *1 (N.D. Cal. July 24, 2025).

88. The mere convening of a hearing is not sufficient where the adjudicator disclaims jurisdiction and refuses to exercise authority to grant or deny release; such a proceeding does not constitute a meaningful opportunity to be heard.

89. Freedom from imprisonment, physical restraint, or other forms of government custody is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *Lopez Benitez,* 2025 WL 2371588, at *9 ("[Petitioner] invokes 'the most significant liberty interest there is—the interest in being free from imprisonment.'" (quoting *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) (noncitizens in immigration custody had an arguably even greater liberty interest in remaining out of detention than criminal parolees who required due process protections).

90. With respect to the second *Mathews* factor, the denial of an individualized custody determination amounts to no process at all and thus poses an unacceptably high risk of error. *Valdez*, 2025 WL 1707737, at *4 (finding respondents "re-detained Petitioner with no notice, explanation, or opportunity for Petitioner to be heard," and that "Petitioner's re-detention without any change in circumstances or procedure establishes a high risk of erroneous deprivation of his protected liberty interest"). The vast majority of nondetained respondents in removal proceedings attend their immigration court hearings. Ingrid Eagly & Steven Shafer, *Measuring in Absentia Removal in Immigration Court*, 168 U. Pa. L. Rev. 817, 873 (2020) (concluding, based on an empirical analysis of immigration court data between 2008 and 2018 made publicly available by the EOIR, that "83% of all nondetained respondents in completed or pending removal cases attended all their hearings since 2008"). And available evidence suggests that undocumented immigrants "have substantially lower crime rates than native-born citizens and legal immigrants across a range of felony offenses." Michael T. Light et al.,

Comparing crime rates between undocumented immigrants, legal immigrants, and native-born US citizens in Texas, 117 Proceedings of the Nat'l Academy of Sci. 32340 (2020). Given the strong liberty interest at stake, the Fifth Amendment's guarantee of due process requires at least some notice and an opportunity to be heard before a person can be placed in immigration detention. Further, due process requires that "notice must be afforded within a reasonable time and in such manner as will allow [noncitizens] to actually seek . . . relief[.]" *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025).

91. For the third *Mathews* factor, "the Attorney General's discretion to detain individuals under 8 U.S.C. Section 1226(a) is valid where it advances a legitimate government purpose." *Velasco Lopez*, 978 F.3d at 854. The recognized government interests in immigration detention are "ensuring the appearance of [noncitizens] at future immigration proceedings" and "preventing danger to the community." *Zadvydas*, 533 U.S. at 690. Absent evidence in the record that a noncitizen is dangerous, and in situations when the noncitizen has appeared for immigration proceedings, district courts have held that the government cannot demonstrate a significant interest in their detention. *See Lopez Benitez*, 2025 WL 2371588, at *13; Valdez, 2025 WL 1707737, at *4. Moreover, requiring the government to make the individualized determination that Congress expressly required in the INA will not impose a substantial burden upon the government, and "will likely be outweighed by costs saved by reducing unnecessary detention." *Black v. Decker*, 103 F.4th 133, 155 (2d Cir. 2024).

92. Recent decisions by federal courts in various jurisdictions confirm that due process requires the government to make individualized determinations to detain noncitizens and give them notice and a meaningful opportunity to be heard when challenging their detention. *See Rios Pena v. Ladwig*, No. 2:25-CV-03082-TLP-CGC, 2025 WL 3679766, at *8 (W.D. Tenn. Dec.

18, 2025) ("All three [*Mathews*] factors weigh in Petitioner's favor. He has a strong liberty interest in being free from physical detention. *See Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The risk of erroneous deprivation is high here considering that Respondent and the BIA's current position is to afford him no bond hearing whatsoever. And bond hearings are a significant procedural safeguard to balance the Government's interest in immigration enforcement against individual liberties. So the Court finds that the Government's interest in detaining Petitioner without that procedural safeguard does not outweigh Petitioner's liberty interest or the risk of erroneous deprivation. This is all the more true because Petitioner has no meaningful opportunity for an immigration judge to consider whether he is a danger to society or a flight risk. And the fact that Petitioner has been living and working in the United States for the past several years with no criminal history further tips the scales in his favor."); *Lopez Benitez*, 2025 WL 2371588, at *13 ("Respondents' ongoing detention of [Mr. Lopez Benitez] with no process at all, much less prior notice, no showing of changed circumstances, or opportunity to respond, violates his due process rights.") (citations omitted); *Kelly*, 2025 WL 2381591, at *4 (ordering immediate release based on violation of petitioner's due process rights where he was re-arrested at his ICE check-in without notice, opportunity to respond or showing of changed circumstances); *Valdez*, 2025 WL 1707737, at *4 (ordering immediate release where noncitizen, previously released on recognizance, was re-arrested after appearance in immigration court with no explanation for re-detention); *see also Chipantiza-Sisalema v. Francis*, No. 25 Civ. 5528, 2025 WL 1927931, at *3 (S.D.N.Y. July 13, 2025) (granting habeas petition based on violation of Fifth Amendment where noncitizen was detained without an individualized determination of changed circumstances justifying detention); *Rosado*, 2025 WL 2337099, at *13, 19 (ordering immediate release and return to jurisdiction where "Rosado's re-detention, after six years of being released on recognizance from an initial detention on inspection, was without prior notice, a showing of changed circumstances, or a meaningful opportunity to object" and finding it was a procedural due process violation) (citations omitted).

93. Further, if a noncitizen does not receive individualized consideration pre-deprivation, their due process rights are irrevocably violated, and no amount of procedure provided post-detention can remedy that violation. *See, e.g.*, *Lopez Benitez*, 2025 WL 2371588, at *14 ("Given the nature of the constitutional violation Mr. Lopez Benitez sustained here—i.e., Respondents' failure to conduct any kind of individualized assessment before detaining him—any post-deprivation review by an immigration judge would be inadequate."); *see also Chipantiza-Sisalem*a, 2025 WL 1927931, at *3 (finding bond "hearing is no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause.") (citation modified); *Kelly*, 2025 WL 2381591, at *3 (same).

94. As a result, courts have ordered a noncitizen's immediate release where their pre-detention due process rights have been violated. *See, e.g.*, *Lopez Benitez*, 2025 WL 2371588, at *15; *see also Maklad v. Murray*, 1:25-cv-946, 2025 WL 2299376, at *10 (E.D. Cal. Aug 8, 2025); *Pinchi*, 2025 WL 2084921, at *7; *Velasquez*, 2025 WL 1953796, at *18; *Singh v. Andrews*, 1:25-cv-00801, 2025 WL 1918679, at *10 (E.D. Cal. July 11, 2025); *Kelly*, 2025 WL 2381591, at *8; *Rosado*, 2025 WL 2337099, at *19; *Valdez*, 2025 WL 1707737, at *5.

95. Further, officers lacked probable cause basis for the August 6, 2025, arrest of Petitioner. The I-213 record states that the Petitioner told officers that he had "no papers/status" and that the alleged admission was the probable cause to support the arrest. Exhibit G. In fact, Petitioner

provided the officers with a valid employment authorization document based on a grant of deferred action, which an officer inspected and brought to a supervisor for review. Exhibit F. The officers apparently retained Petitioner's employment authorization document and detained him anyway. The I-213 record does not include any reference to Petitioner's valid work authorization or grant of deferred action in the I-213 narrative. Exhibit G. In addition, the I-213 narrative contains multiple inaccuracies, including a reference to Mexico which is not the Petitioner's home country, and a statement that Petitioner does not have a Salvadoran passport, which he does. Exhibit J. The stated probable cause for Petitioner's arrest is inaccurate. Officers' arrest narrative is inconsistent with the documentary record of Petitioner's SIJS-based deferred action and work authorization, and Respondents' continued detention without a lawful custody framework and meaningful process violates due process. In similar cases, Respondents may have argued that petitioners can request bond hearings before an Immigration Judge to remedy any constitutional harms of detention. As demonstrated, Petitioner and many similarly situated have been denied access to that minimal process.

EXHAUSTION

96. Exhaustion of administrative remedies is not required before a party may seek federal judicial review unless Congress has so stated. *McCarthy v. Madigan*, 503 U.S. 140, 144–45, 112 S.Ct. 1081, 117 L.Ed.2d 291 (1992). Under the INA, exhaustion of administrative remedies is only required for appeals of final orders of removal. 8 U.S.C. § 1252(d)(1). In the absence of a Congressional mandate for administrative exhaustion, courts "must balance the interest of the individual in retaining prompt access to a federal judicial forum against countervailing institutional interests favoring exhaustion." *McCarthy* at 144, 112 S.Ct. 1081.

97. The Supreme Court has recognized three "broad sets of circumstances in which the interests of an individual weigh heavily against requiring administrative exhaustion": (1) where such requirement would subject an individual to an unreasonable or indefinite time frame for administrative action, (2) where the administrative agency lacks the competence to resolve the particular issue presented, or (3) the exhaustion of administrative remedies would be futile because the administrative body is shown to be biased or has pre-determined the issue before it. *McCarthy*, 503 U.S. at 146–48, 112 S.Ct. 1081.

98. The Sixth Circuit has not adopted a rigorous standard for determining when prudential exhaustion applies; but courts in the Circuit have utilized the test, set forth in *United States v. California Care Corp.*, 709 F.2d 1241, 1248 (9th Cir. 1983) (derived from *McGee v. United States*, 402 U.S. 479, 484, 91 S.Ct. 1565, 29 L.Ed.2d 47 (1971); *McKart v. United States*, 395 U.S. 185, 193-95, 89 S.Ct. 1657, 23 L.Ed.2d 194 (1969)). Under this framework, courts are inclined to require administrative exhaustion when: (1) agency expertise is required to develop the record; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review. *See Shweika v. Dep't of Homeland Sec.*, No. 1:06-cv-11781, 2015 WL 6541689, at *12 (E.D. Mich. Oct. 29, 2015); *Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771, 778 (E.D. Mich. 2025). Courts have found that exhaustion is not necessary "when the interests of the individual weigh heavily against requiring administrative exhaustion" *Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771, 778 (E.D. Mich. 2025). Here, none of the factors warrant this Court to require administrative exhaustion. Petitioner's liberty interests as a law-abiding community member present in the U.S. for over three years and who has completed substantial requirements toward achieving

permanent status in the U.S., combined with the agency's clear demonstration of its position on the issues at hand weigh heavily against administrative exhaustion.

99. Agency expertise is not required to resolve the issues at hand. Indeed, administrative agencies lack the authority to resolve constitutional issues. *McCarthy*. at 147–48, 112 S.Ct. 1081. The BIA has expressly found that it lacks authority to determine the constitutionality of the mandatory detention provisions of 8 U.S.C. Section 1226(c). *In re Joseph*, Int.Dec. 3387 at 6 (BIA 1999). See, also., *Shurney v. I.N.S.*, 201 F. Supp. 2d 783, 789 (N.D. Ohio 2001); *Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771, 778 (E.D. Mich. 2025) ("because Lopez-Campos' habeas petition includes a due process claim, the administrative scheme (i.e. appeal to the BIA) is likely futile."). When the "central issue here is whether Petitioner may be detained under Section 1225 or Section 1226 of the INA—a purely legal question of statutory interpretation—agency expertise is not required "to generate a proper record and reach a proper decision." *Martinez-Elvir v. Olson*, No. 3:25-CV-589-CHB, 2025 WL 3006772, at *5 (W.D. Ky. Oct. 27, 2025). In this case, the issues raised in this petition are matters of statutory and constitutional interpretation. Given that the BIA cannot dispose of Petitioner's due process claim, and because it cannot provide unique or valuable expertise in a matter that requires judicial statutory interpretation rather than deep subject matter analysis, it would be futile and will inevitably result in prolonged detention to require Petitioner to pursue relief before the BIA.

100. Habeas relief in these circumstances is not intended to "bypass administrative scheme," nor is the agency likely to correct its own mistakes when it has recently determined the very questions at issue here. In some cases, courts have required exhaustion so that the BIA can evaluate potentially distinguishable factors even though agency has already squarely

determined an issue. *See Laguna Espinoza v. Director of Detroit Field Office, U.S. Immigration and Customs Enforcement*, 2025 WL 2878173 (2025) (identifying the possibility of factual differences between the petitioner and the applicants in *Yajure Hurtado* and *Q Li* but noting a lack of sufficient detail in the petition). Rejecting *Laguna Espinoza*, however, and finding its rationale is unpersuasive, the Middle District of Tennessee concluded that requiring exhaustion, "so that the BIA can address an issue it has already decided creates hardship for hardship's sake. The court explained that the issue of whether the petitioner could be given a bond hearing had been predetermined because, ''[f]or Petitioner to exhaust his remedies, he would need to appeal to the same BIA that just decided *Matter of Yajure Hurtado*." *Rios Pena v. Ladwig*, No. 2:25-CV-03082-TLP-CGC, 2025 WL 3679766, at *4 (W.D. Tenn. Dec. 18, 2025).

101. Even though the United States District Court for the Central District of California held in *Maldonado Bautista v. Santacruz* that Respondents' application of 8 U.S.C. § 1225(b)(2)(A) to members of the certified class violates the INA and issued class-wide declaratory relief, Immigration Judges, including the Immigration Judge in Petitioner's case, continue to incorrectly claim they lack jurisdiction to conduct bond hearings for class members. In Petitioner's own case, the Immigration Judge erroneously concluded, contrary to the plain language of the *Maldonado Bautista* orders, that relief is available only to named plaintiffs and not to class members. Exhibit I.

102. For decades, the agency has interpreted the INA to allow immigration judges jurisdiction to issue bonds under Section 1226 to noncitizens who entered without inspection. The agency deviated from its decades long interpretation of the same statute and completely reversed course without amendment to the statute. The agency's blatant ultra vires policy shifts

cloaked as new statutory interpretations significantly undermine the agency's expertise and impartiality. Given its decision in *Yajure Hurtado*, its refusal to deviate from its holding even after the Court in *Maldonado Bautista* found the policy to be unlawful, requiring Petitioner to exhaust his claim before the BIA would subject him to continued unlawful detention.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

104. Respondents are unlawfully detaining Petitioner without bond pursuant to the mandatory detention provision at 8 U.S.C. Section 1225(b)(2).

105. Section 1225(b)(2) does not apply to Petitioner, who previously entered the country and has been residing in the United States prior to being apprehended and detained by Respondents in August 2025.

106. Instead, Petitioner is plainly subject to the detention provisions of Section 1226(a) and are therefore entitled to custody determinations by ICE, and if custody is continued, to custody redeterminations (i.e., bond hearings) by an IJ.

107. The application of Section 1225(b)(2) to Petitioner unlawfully mandates his continued detention without bond and violates the INA.

COUNT II

Violation of Due Process

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

109. 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, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

110. Having been in the U.S. for over three years, securing gainful and consistent lawful employment, and having given significant effort to attaining lawful status in the U.S, Petitioner has a fundamental interest in liberty and being free from official restraint.

111. Respondents' arrest of Petitioner, backed by false statements and lacking probable cause, as well as the detention of Petitioner without a meaningful opportunity for a custody determination or bond hearing to decide whether Petitioner is a flight risk or danger to others violates Petitioner's right to due process.

COUNT III

Violation of the INA:
Request for Relief Pursuant to *Maldonado Bautista*

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

113. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. Section 1226(a).

114. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at Section 1225(b)(2) to class members.

115. The order granting class certification in *Maldonado Bautista* further orders that "[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole."

116. The clarifying order in *Maldonado Bautista* vacates DHS' policy imposing a legally untenable position, and specifies that *Yajure Hurtado* does not control.

117. Government Respondents are parties to *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

118. By denying Petitioner a bond hearing under Section 1226(a) and asserting that he is subject to mandatory detention under Section 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA and the Court's judgment in *Maldonado Bautista*.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Enjoin Respondents from transferring Petitioner from the jurisdiction of this District pending these proceedings;

c. Declare that Petitioner's arrest without probable cause violates the Due Process Clause of the Fifth Amendment.

d. Declare that Petitioner's ongoing detention violates the Due Process Clause of the Fifth Amendment.

e. Declare that 8 U.S.C. Section 1226(a)—and not 8 U.S.C. Section 1225(b)(2)(A) is the appropriate statutory provision that governs Petitioner's detention and eligibility for bond.

f. Declare that Petitioner's detention violates 8 U.S.C. Sections 1226(a) and/or 8 C.F.R. Section 1003.19.

g. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner from custody. In the alternative, order that Respondents provide Petitioner a bond hearing under 8 U.S.C. § 1226(a) within seven (7) days, before an immigration judge with authority to consider release, and that the hearing be conducted consistent with due process.; and

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

Respectfully submitted,

Adriana Coppola, Esq
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E-mail: acoppola@cliniclegal.org
Counsel for Petitioner

Dated: 1/12/2026

PETITIONER-PLAINTIFFS' INDEX OF EXHIBITS

Exhibit (A)	Petitioner's **DHS Form I-862, Notice to Appear** (February 20, 2022)
Exhibit (B)	Petitioner's **DHS Form I-862, Notice to Appear** (August 6, 2025)
Exhibit (C)	Petitioner's Office of Refugee Resettlement, Division of **Unaccompanied Children Operations, Verification of Release Form** (March 7, 2022)
Exhibit (D)	Petitioner's USCIS I-797 **Approval Form** for his I-360 Petition for Special Immigrant Juvenile Status granting Petitioner deferred action until February 29, 2028
Exhibit (E)	Petitioner's **Motion for Bond** and Supporting Evidence
Exhibit (F)	Petitioner's Proof of Petitioner's **Employment Authorization** based on a grant of Deferred Action (physical document is believed to be in DHS possession)
Exhibit (G)	Petitioner's **I-213 Narrative** of August 6, 2025, Arrest
Exhibit (H)	July 8, 2025, **DHS Memorandum** to all ICE employees
Exhibit (I)	Immigration Judge **Order Denying Bond** (January 8, 2026)
Exhibit (J)	Petitioner's Salvadoran **Passport**
Exhibit (K)	Petitioner's **Form I-589, Application for Asylum and Withholding of Removal, DHS** (November 13, 2025)

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

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

Adriana Coppola
Catholic Legal Immigration Network (CLINIC)

Dated: 01/12/2026

CERTIFICATE OF SERVICE

I hereby certify that on 01/12/2026, a true and correct copy of the foregoing document was electronically filed via the Court's CM/ECF system which sends notice of electronic filing to all counsel of record.

Respectfully submitted,

Adriana Coppola
Catholic Legal Immigration Network (CLINIC)
Pro Bono Counsel for Petitioner

Dated: 01/12/2026