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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Amin Ibrahim HASSEN

Petitioner,

v.

Kristi NOEM, Secretary, U.S. Department of
Homeland Security; Todd M. LYONS, Acting
Director, U.S. Immigration & Customs
Enforcement; David EASTERWOOD, Acting
Director, St. Paul Field Office, Immigration
and Customs Enforcement; Warden, ERO El
Paso – Camp East Montana

Respondents.

Case No: 3:26-cv-48

**VERIFIED PETITION FOR WRIT
OF HABEAS CORPUS AND
COMPLAINT FOR DECLARATORY
RELIEF**

¹ A pro hoc vice motion for Ms. Carr is forthcoming.

INTRODUCTION

1. Petitioner Amin Ibrahim HASSEN is unlawfully detained in the physical and legal custody of Respondents in El Paso, Texas. This case presents a fundamental question of statutory interpretation: whether Petitioner's detention is governed by the mandatory detention provisions in 8 U.S.C. § 1225(b) or the discretionary detention framework of 8 U.S.C. § 1226(a).
2. On January 9, 2026, U.S. Immigration and Customs Enforcement ("ICE"), a component of the Department of Homeland Security ("DHS"), arrested Petitioner in Saint Paul, Minnesota, after he appeared for a scheduled appointment with the Intensive Supervision Appearance Program ("ISAP"). DHS detained him overnight in Minnesota and then moved him to El Paso, Texas, where he remains detained.
3. Petitioner is 19 years old and under the care of a court-appointed guardian. At the time of his arrest, Petitioner was in removal proceedings pursuant to 8 U.S.C. § 1229a, had a pending asylum application, and had been adjudicated an "at-risk juvenile" by a Minnesota state court.
4. Petitioner, a citizen of Ethiopia, entered the United States for the first and only time on October 10, 2024, at the age of 18. He presented himself near the Calexico, California port of entry and declared his fear of returning to Ethiopia. U.S. Customs and Border Protection ("CPB") initially placed him in expedited removal proceedings under 8 U.S.C. § 1225(b)(1), and detained him pending a credible fear interview.
5. Following an interview, an asylum officer determined that there was a significant possibility that Hassen could establish eligibility for asylum in the United States. DHS therefore vacated the expedited removal order and initiated removal proceedings by

1 issuing a Notice to Appear (“NTA”) under 8 U.S.C. § 1229a, charging removability
2 under INA § 212(a)(6)(A)(i) (codified at 8 U.S.C. § 1182(a)(6)(A)(i).) [Exhibit 1:
3 Notice to Appear].

- 4
- 5 6. On November 18, 2024, DHS exercised its discretion to parole Hassen into the United
6 States for humanitarian reasons pursuant to INA § 212(d)(5)(A) (codified at 8 U.S.C.
7 § 1182(d)(5)(A)). [Exhibit 2: Interim Notice Authorizing Parole]. That parole was
8 authorized for one year and expired automatically on November 18, 2025.
- 9
- 10 7. Petitioner has no criminal history in the United States or elsewhere. Notably, regulations
11 permit DHS to grant humanitarian parole only upon a determination that the noncitizen
12 presents neither a danger to the community nor a risk of flight. *See* 8 C.F.R. § 212.5(b).
- 13
- 14 8. Following his release, Petitioner fully complied with all conditions imposed by ICE. He
15 relocated to Minnesota, retained counsel who entered appearances and pleadings on his
16 behalf in immigration court, and timely filed his application for asylum with the Fort
17 Snelling, MN, Immigration Court. Counsel also filed Petitioner’s application for Special
18 Immigrant Juvenile (“SIJ”) classification with U.S. Citizenship and Immigration
19 Services (“USCIS”). His SIJ petition remains pending.
- 20
- 21 9. Respondents detained Petitioner without any individualized determination of danger or
22 flight risk, relying instead on recently adopted DHS and Executive Office for
23 Immigration Review (“EOIR”) policies asserting that all noncitizens charged as
24 inadmissible under § 1182(a)(6)(A)(i) are “arriving aliens” subject to mandatory
25 detention under 8 U.S.C. § 1225(b)(2)(A), regardless of their physical presence or
26 procedural posture.
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10. Those policies have been adopted by the Board of Immigration Appeals (“BIA.”). *See Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025); *Matter of Yajure Hurtado*, 29 I & N Dec. 216, 229 (BIA 2025).

11. Even assuming arguendo that Petitioner could be characterized as an “arriving alien”, § 1225(b) does not apply because Petitioner was not “seeking admission” when ICE arrested him on January 9, 2026. He was physically present in the United States, residing in the community, and already in § 1229a removal proceedings. His detention therefore falls squarely under 8 U.S.C. § 1226(a), which authorizes discretionary detention and provides eligibility for release on bond.

12. Petitioner seeks declaratory and habeas relief because his continued detention violates the Due Process Clause of the Fifth Amendment and the Immigration and Nationality Act.

JURISDICTION

13. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S. C. § 1101 *et seq.*

14. This Court has subject matter jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), the Immigration and Nationality Act, 8 U.S.C. §§ 1101-1537, regulations implementing the INA, the Administrative Procedures Act (“APA”), 5 U.S.C. §§ 701-706, and Article I, section 9, clause 2 of the United States Constitution (Suspension Clause).

15. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

VENUE

16. Venue is proper in the United States District Court for the Western District of Texas because Petitioner is detained in the physical and legal custody of Respondents in El Paso, Texas. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973) (venue lies in the judicial district in which a petitioner is currently detained.)
17. Venue is also properly in this Court pursuant to 28 U.S.C. § 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 occurred in the District of Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

18. The court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents “forthwith,” unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the court must require the Respondents to file a return “within three days unless for good cause, additional time, not exceeding twenty days, is allowed.” *Id.*
19. Habeas corpus is “perhaps the most important writ known to Constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) (habeas corpus

1 is “a speedy remedy, entitled by statute to special, preferential consideration to insure
2 expeditious hearing and determination”).

3 20. As noted above, the precedential decisions issued by the BIA in *Matter of Q. Li* and
4 *Matter of Yajure-Hurtado* stand for the proposition that the Petitioner is subject to
5 indefinite, mandatory detention and is ineligible for a bond hearing before an
6 immigration judge.

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8 21. The BIA's precedential decisions “serve as precedents in all proceedings involving the
9 same issue or issues.” 8 C.F.R. §§ 1003.1(g)(2), (d)(1). Therefore, requiring the
10 Petitioner to seek a bond hearing and, when denied, appeal that denial to the BIA will
11 certainly result in a holding that anyone who is deemed “[a]n alien present in the United
12 States without being admitted or paroled,” will be subjected to mandatory detention
13 without bond under 8 U.S.C. § 1225(b)(2).

14
15 22. Exhaustion would be futile in light of *Q. Li* and *Hurtado*. See *E-M- v. Noem*, No. 25-
16 cv-03975-SRN-DTS, 2025 WL 3157839, at *2, fn. 1 (D. Minn. Nov. 12, 2025) (citing
17 with favor *Ortiz v. Freden*, --- F. Supp. 3d ---, No. 25-CV-960-LJV, 2025 WL 3085032,
18 at *5 (W.D.N.Y. Nov. 4, 2025) (finding exhaustion of remedies would be futile, even if
19 petitioner had not exhausted his remedies). Immigration judges would be obliged to
20 follow *Hurtado* or *Q. Li*'s rulings on the scope of § 1225(b)(2)(A).

21
22 23. Moreover, the fundamental question presented by this petition is whether 8 U.S.C. §
23 1225 or 8 U.S.C. § 1226 applies to the Petitioner's detention, which is a purely legal
24 question of statutory interpretation which would not be impacted by any administrative
25 record developed in immigration court or on appeal to the BIA.
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1 24. This Honorable Court is not bound by and is not required to give deference to any
2 agency interpretation of a statute. *See Loper Bright Enter. v. Raimondo*, 603 U.S. 369,
3 413 (2024) (holding that federal judges are not required to, and pursuant to the
4 Administrative Procedure Act (the “APA”), are not to defer to an agency interpretation
5 of the law simply because a statute is ambiguous, as that is the role of the federal courts).
6

7 25. Thus, requiring prudential exhaustion is a futile exercise, and will only result in the
8 extended, unlawful detention of the Petitioner.

9 26. In this case, the Court should grant the petition for writ of habeas corpus “forthwith,”
10 and order Respondents to file a return within three days, as Respondents failed to
11 comply with the statutory and regulatory requirements governing parole termination,
12 and arrested and detained Petitioner, an “at-risk juvenile”, separating him from his
13 court-appointed guardian, in violation of the Immigration and Nationality Act and
14 Petitioner’s Due Process Rights under the Fifth Amendment.
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17 PARTIES

18 27. Petitioner Amin Ibrahim HASSEN is ethnic Somali and a citizen of Ethiopia. He was
19 arrested by ICE on January 9, 2026, and is presently detained in El Paso, Texas. He has
20 resided in the United States since October 10, 2024.

21 28. Respondent Kristi NOEM is the Secretary of the Department of Homeland Security.
22 She is responsible for implementing and enforcing the Immigration and Nationality Act
23 (INA) and oversees ICE, which is responsible for Petitioner’s detention. Ms. Noem has
24 ultimate custodial authority over Petitioner and is sued in her official capacity.
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1 29. Todd M. LYONS, is the Acting Director of U.S. Immigration & Customs Enforcement,
2 a subagency of DHS. As ICE is responsible for Petitioner's detention, Mr. Lyons has
3 custodial authority over Petitioner and is sued in his official capacity.

4 30. Respondent David EASTERWOOD, is the Acting Director of ICE's St. Paul Field
5 Office. As such, Mr. Easterwood is Petitioner's immediate custodian and is responsible
6 for Petitioner's detention and removal. He is named in his official capacity.

7 31. Respondent Warden of ERO El Paso Camp East Montana, where Petitioner is
8 detained, has immediate physical custody of Petitioner and is sued in his or her official
9 capacity.
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12 LEGAL FRAMEWORK

13 Respondents' Change in Policy Regarding Mandatory Detention

14 32. Federal immigration law provides two distinct statutory authorities governing the
15 detention of noncitizens in removal proceedings: 8 U.S.C. § § 1225 and 1226. Section
16 1225 applies only to "applicants for admission," defined as noncitizens who either
17 "arrive[] in the United States" or are "present in the United States who ha[ve] not been
18 admitted." 8 U.S.C. § 1225(a)(1).

19 33. Applicants for admission fall under either § 1225(b)(1) or § 1225(b)(2). *Jennings v.*
20 *Rodriguez*, 583 U.S. 281, 287 (2018). Section 1225(b)(1) applies to noncitizens initially
21 determined to be inadmissible for fraud, misrepresentation, or lack of valid
22 documentation, as well as certain other noncitizens designated by the Attorney General.
23 *Id.* (citations omitted). Section 1225(b)(2) operates as a residual provision, applying to
24 most other applicants for admission not covered by § 1225(b)(1). *Id.* at 289.
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34. The mandatory detention statute at issue here, Section § 1225(b)(2)(A), provides that “a [noncitizen] seeking admission, [who] is not clearly and beyond a doubt entitled to be admitted . . . *shall be* detained for a proceeding under 8 U.S.C. § 1229a.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). By its plain terms, this provision applies only to noncitizens who are actively seeking admission to the United States.

35. On July 8, 2025, ICE issued interim guidance instructing ICE officers to consider all noncitizens charged with inadmissibility under § 1182(a)(6)(A)(i)—that is, individuals alleged to have entered the United States without inspection—as “applicants for admission” subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) (herein “July 8 ICE Policy Memo”).

36. The July 8 ICE Policy Memo states that it was issued in coordination with the Department of Justice (“DOJ”), of which EOIR is a component.

37. On September 5, 2025, the BIA adopted this same interpretation in *Matter of Yajure Hurtado*, holding that all noncitizens who entered the United States without inspection or parole are “applicants for admission” and therefore categorically ineligible for bond hearings before an Immigration Judge.

38. Petitioner’s Notice to Appear charges him with inadmissibility pursuant to INA § 212(a)(6)(A)(i) (codified at 8 U.S.C. § 1182(a)(6)(A)(i)) (*See* Exhibit 1). Based on the July 8 ICE Policy Memo, Petitioner is purportedly subject to indefinite, mandatory detention under § 1225(b)(2)(A), notwithstanding his prior release into the community on humanitarian parole.

39. Respondents’ position is incorrect. Petitioner’s detention is governed by 8 U.S.C. § 1226(a).

40. The discretionary detention statute at issue here, Section § 1226(a), applies to the apprehension and detention of noncitizens who are already present in the United States and are in ongoing removal proceedings. *See Jennings*, 583 U.S. at 288; *Rodriguez v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022).

41. Under § 1226(a), ICE may arrest and detain such noncitizens pursuant to a warrant issued by the Attorney General, but the statute authorizes release on bond or conditional parole in the exercise of discretion. 8 U.S.C. § 1226(a). The mandatory detention exception set forth in § 1226(c), which applies to noncitizens with certain enumerated criminal convictions, does not apply to Petitioner.

42. In short, § 1225 authorizes detention of noncitizens who are *seeking admission into* the United States while § 1226 governs detention of noncitizens who are *already in the country* pending the outcome of removal proceedings. *Jennings*, 583 U.S. at 289 (emphasis added). Respondents' contrary interpretation collapses this statutory distinction and unlawfully subjects Petitioner to mandatory detention.

Respondents' Actions Support a Finding that Petitioner is Detained

Under Section 1226(a)

43. Respondents' treatment of Petitioner since his arrival in the United States confirms that his detention is governed by 8 U.S.C. § 1226(a). After Petitioner entered the United States, DHS initially served him with a Notice of Expedited removal pursuant to 8 U.S.C. § 1225(b)(1). That order was vacated after an asylum officer determined that there was a significant possibility that Hassen could establish eligibility for asylum. DHS then initiated full removal proceedings by serving Petitioner with a Notice to Appear ("NTA"), charging removability under 8 U.S.C. § 1182(a)(6)(A)(i) (*See Exhibit 1*).

1 44. The NTA (Form I-862) requires DHS to classify a respondent as either (1) an “arriving
2 alien²,” (2) an “alien present in the United States who has not been admitted or paroled,”
3 or (3) “admitted to the United States.” When DHS issued Petitioner’s NTA, they did not
4 designate him as an “arriving alien.”
5

6 45. On November 18, 2024, DHS paroled Hassen into the United States on humanitarian
7 grounds pursuant to 8 U.S.C. § 1182(d)(5)(A)) (*See* Exhibit 2). That parole was for a
8 fixed time and expired automatically on November 18, 2025. The Department did not
9 detain Petitioner at that time and instead allowed him to remain at liberty until January
10 9, 2026.
11

12 46. Parole under § 1182(d)(5)(A) permits DHS, on a case-by-case basis, to release certain
13 noncitizens detained after inspection under § 1225 “for urgent humanitarian reasons or
14 significant public benefit.” *See Jennings*, 583 U.S. at 288. Such parole is expressly “not
15 to be regarded as an admission” and is granted subject to a reservation of rights by DHS.
16 *See Martinez v. Hyde*, 792 F. Supp. 3d 211, 214, 2025 WL 2084238, at *3 (D. Mass.
17 2025) (distinguishing “conditional parole” under § 1226 from parole under §
18 1182(d)(5)(A)).
19

20 47. Termination of parole is governed by regulation. Under 8 C.F.R. § 212.5(e)(2)(i), parole
21 must be terminated either upon accomplishment of its purpose or upon a determination
22 that continued parole is no longer warranted, and termination must occur upon written
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27 ² The INA defines “arriving alien” as an *applicant for admission* coming or attempting to
28 come into the United States at a port-of-entry, or an alien seeking transit through the United
States at a port-of-entry . . . 8 C.F.R. § 1.2.

1 notice to the noncitizen, at which point the individual “shall be restored to the status that
2 he or she had at the time of parole”

3 48. The statute further provides that, once parole ends, the noncitizen “shall *forthwith* return
4 or be returned to the custody from which he was paroled,” and thereafter be treated as
5 any other applicant for admission. 8 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. §
6 212.5(e)(2)(i) (emphasis added).
7

8 49. In *Q. Li*, the Board held that a noncitizen detained under 8 U.S.C. § 1225(b), released
9 on parole under § 1182(d)(5)(A), and re-detained contemporaneously upon termination
10 of parole is returned to § 1225(b) custody. 29 I. & N. Dec. at 70. Crucially, both *Q. Li*
11 and the statutory term “forthwith” presuppose immediate or contemporaneous re-
12 detention at the time parole ends.
13

14 50. That did not occur here. Under the governing regulation, parole terminates either upon
15 written notice or automatically upon expiration of the authorized parole period. 8 C.F.R.
16 § 212.5(e)(1). DHS served Petitioner’s NTA *before* issuing his parole document, and
17 therefore the NTA could not have served as notice of parole termination. Hassen’s
18 parole instead expired automatically on November 18, 2025. By that date, Hassen was
19 already in 8 U.S.C. § 1229a removal proceedings and had a pending asylum application.
20 DHS nevertheless allowed him to remain at liberty for an additional 52 days. When ICE
21 arrested Hassen on January 9, 2026, DHS did not serve him with any written notice
22 terminating parole.
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24 51. Under these circumstances, Respondents failed to comply with the statutory and
25 regulatory requirements governing parole termination. First, the purpose of Petitioner’s
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1 parole had not been accomplished. At the time of Petitioner’s arrest, he remained in
2 removal proceedings and continued to seek asylum protection.

3 52. In addition, Petitioner, now 19 years old, applied for Special Immigrant Juvenile (SIJ)
4 classification after a state court found that he is an “at-risk juvenile”, that reunification
5 with his parents is not viable due to his father’s death and his mother’s abandonment
6 when he was an infant, that return to Ethiopia would not be in Petitioner’s best interests,
7 and that the appointment of his U.S. citizen sister in Minnesota as guardian serves his
8 best interests. [Exhibit 3: State Court Predicate Order]. Petitioner’s SIJ petition remains
9 pending before USCIS.
10

11 53. Nothing in the record suggests that the humanitarian reasons or public benefit justifying
12 parole have ceased to exist. To the contrary, detaining an adjudicated “at risk juvenile”
13 and separating him from his court-appointed guardian is incompatible with the
14 humanitarian purposes underlying parole.
15

16 54. Second, district courts addressing revocation of § 1182(d)(5)(A) parole consistently
17 held that, just as parole must be granted on an individualized basis, its revocation
18 likewise requires a case-by-case determination. *See Mata Velasquez v. Kurzdorfer*, 794
19 F. Supp. 3d 128, 146 (W.D.N.Y. 2025); *Y-Z-L-H*, 792 F. Supp. 3d at 1137–47; *Loaiza*
20 *Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL 3295385, at *2-4 (S.D. Cal.
21 Nov. 25, 2025); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149, at
22 *10–13 (S.D. Cal. Oct. 1, 2025); *Munoz Materano v. Arteta*, No. 25 CIV. 6137 (ER), -
23 -- F. Supp. 3d ----, 2025 WL 2630826, at *14–17 (S.D.N.Y. Sept. 12, 2025); *Gabriel*
24 *B.M. v. Bondi*, No. 25-cv-4298 (KMM/EMB), 2025 WL 3443584, at *6–7 (D. Minn.
25 Dec. 1, 2025).
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1 55. Here, there is no indication that Respondents conducted any individualized assessment
2 before purportedly revoking Petitioner's parole.

3 56. Respondents cannot now resurrect mandatory detention under § 1225(b). Because
4 parole terminated without contemporaneous re-detention, DHS chose not to classify
5 Hassen as an "arriving alien" in the NTA, and DHS permitted him to remain at liberty
6 while his § 1229a proceedings progressed, Petitioner's custody is governed by 8 U.S.C.
7 § 1226(a), not § 1225(b). *See Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958).
8

9 57. Section 1225(b) authorizes detention only "pending a final determination of
10 admissibility" and contemplates continuous custody following inspection unless parole
11 is promptly revoked and detention resumed. DHS determined that Hassen is neither
12 dangerous nor a flight risk, allowed him to remain at liberty for almost 14 months after
13 his initial release, and for 52 days after parole expired. That prolonged acquiescence in
14 liberty is incompatible with mandatory detention and instead reflects discretionary
15 detention authority. Having declined to detain Petitioner under § 1225 when parole
16 ended, DHS may not impose mandatory detention retroactively.
17

18 58. Finally, even assuming arguendo that Petitioner reverted to "arriving alien" status upon
19 parole expiration, he was not "seeking admission" to the United States on January 9,
20 2026. He was residing in the United States and already in removal proceedings.
21 Mandatory detention under § 1225 does not apply.
22

23
24 **Mandatory vs. Discretionary Detention for Noncitizens in Removal Proceedings**

25 59. Respondents' assertion that § 1225(b) mandates detention of all noncitizens who have
26 not been admitted into the United States cannot be reconciled with the structure of the
27 INA. That interpretation would render multiple provisions of § 1226 superfluous. For
28

example, § 1226(c)(1)(A), (D), and (E) already impose mandatory detention on specific categories of inadmissible noncitizens. Congress most recently expanded § 1226(c) by adding subsection (c)(1)(E) through the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), which mandates detention for certain inadmissible noncitizens charged with offenses such as burglary, theft, and larceny. If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these provisions would be meaningless.

60. If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these targeted mandatory-detention provisions in § 1226(c) would serve no purpose. Courts must avoid statutory constructions that render entire provisions meaningless or redundant.

61. Courts in the Western District of Texas and within the Fifth Circuit have repeatedly emphasized that immigration detention statutes must be construed narrowly to avoid unconstitutional deprivations of liberty and to preserve the statutory distinction Congress drew between arriving noncitizens seeking admission and noncitizens already present in the United States.

62. In *Santos v. Warden, El Paso SPC*, No. EP-18-CV-00301-KC, 2019 WL 1233847, at *4–6 (W.D. Tex. Mar. 15, 2019), this Court recognized that detention authority depends on the petitioner’s procedural posture at the time of arrest and rejected efforts to apply mandatory detention provisions beyond their text.

63. Likewise, courts in this District have held that where DHS elects to place a noncitizen in full removal proceedings under 8 U.S.C. § 1229a and permits release into the community, subsequent detention is governed by 8 U.S.C. § 1226 rather than § 1225.

1 *See, e.g., Gonzalez v. McAleenan*, No. EP-19-CV-00112-DCG, 2019 WL 4737466, at
2 *5 (W.D. Tex. Sept. 27, 2019) (distinguishing detention of “arriving aliens” from
3 detention of noncitizens already present in the United States and placed in § 1229a
4 proceedings).

5
6 64. Fifth Circuit precedent likewise confirms that § 1225 and § 1226 establish distinct
7 detention regimes and may not be collapsed by agency interpretation. *See Ogbokpor v.*
8 *U.S. Att’y Gen.*, 980 F.3d 940, 944–45 (5th Cir. 2020) (recognizing that detention
9 authority turns on whether the noncitizen is seeking admission or is already present in
10 the United States);

11
12 65. The Fifth Circuit has further cautioned that civil immigration detention must bear a
13 reasonable relation to its regulatory purpose and may not become arbitrary or indefinite.
14 *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), as applied by *Tran v. Mukasey*, 515
15 F.3d 478, 483 (5th Cir. 2008).

16
17 66. Applying these principles, Western District of Texas courts have granted habeas relief
18 or ordered bond hearings where DHS relied on an incorrect detention statute or failed
19 to provide individualized custody determinations. *See Hernandez v. Barr*, No. EP-20-
20 CV-00145-FM, 2020 WL 4346911, at *3–4 (W.D. Tex. July 28, 2020).

21
22 67. These authorities confirm that this Court has both the power and the obligation to
23 independently determine whether Respondents are detaining Petitioner under the correct
24 statute and to order immediate relief where detention exceeds statutory or constitutional
25 bounds.

1 68. Because Petitioner's detention is governed by 8 U.S.C. § 1226(a), the Court should
2 order Petitioner's release unless Respondents provide him with an individualized bond
3 hearing pursuant to § 1226(a) within five days.
4

5 **CLAIMS FOR RELIEF**

6 **COUNT ONE**

7 **Violation of Fifth Amendment Right to Due Process**
8 **Procedural Due Process**

9 69. Petitioner restates and realleges all paragraphs as if fully set forth here.

10 70. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the
11 federal government from depriving any person of "life, liberty, or property, without due
12 process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the
13 United States, including [noncitizens], whether their presence here is lawful, unlawful,
14 temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
15

16 71. To determine whether a civil detention violates a detainee's Fifth Amendment
17 procedural due process rights, courts apply the balancing test set forth in *Mathews v.*
18 *Eldridge*, 424 U.S. 319 (1976). *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852
19 (6th Cir. 2020) (applying the *Mathews* test in the context of immigration).
20

21 72. *Mathews* requires a court to consider the following three factors: "(1) the private
22 interest that will be affected by the official action; (2) the risk of erroneous deprivation
23 of that interest; and (3) the government's interest, including the fiscal and administrative
24 burdens that the additional or substitute procedures entail." *See Lopez-Campos v.*
25 *Raycraft, et al.*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) at
26 *9 (citing *Mathews*, 424 U.S. at 335).
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1 73. Respondents failed to comply with the statutory and regulatory requirements governing
2 parole termination and detained Petitioner without an individualized assessment of this
3 circumstances. Further, Petitioner was detained based upon the Respondents' novel
4 interpretation of existing law, and without notice or any opportunity to contest the
5 redetermination of his custody.
6

7 74. In addition, as explained above, there is no indication that Respondents followed the
8 statutory and regulatory requirements to revoke Petitioner's parole. If Respondents did
9 not do so, and because there was no other valid reason to arrest him, then they did not
10 have the authority to arrest and detain Petitioner.
11

12 75. All of the foregoing violates his due process rights.

13 76. Subjecting Petitioner to indefinite, mandatory detention on the flimsy legal pretext of
14 the July 8 ICE Policy Memo violates his due process rights.
15

16 **COUNT TWO**

17 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), the Immigration**
18 **and Nationality Act – 8 U.S.C. § 1226, and Federal Regulations**
19 **Not in Accordance with Law and in Excess of Statutory Authority**
20 **Unlawful Detention**

21 77. Petitioner restates and realleges all paragraphs as if fully set forth here.

22 78. Under the APA, a court shall “hold unlawful and set aside agency action” that is an
23 abuse of discretion. 5 U.S.C. § 706(2)(A).

24 79. An action is an abuse of discretion if the agency “entirely failed to consider an important
25 aspect of the problem, offered an explanation for its decision that runs counter to the
26 evidence before the agency, or is so implausible that it could not be ascribed to a
27 difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v.*
28

1 *Def. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S.,*
2 *Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

3 80. To survive an APA challenge, the agency must articulate “a satisfactory explanation”
4 for its action, “including a rational connection between the facts found and the choice
5 made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).
6

7 81. By arresting Petitioner without a warrant and detaining him indefinitely, Respondents
8 have violated the INA, implementing regulations, and the APA.

9 82. On information and belief, Respondents have made no finding that Petitioner is a danger
10 to the community or a flight risk. DHS may grant humanitarian or public interest parole
11 only upon a determination that the noncitizen presents neither a danger to the
12 community nor a risk of flight. *See* 8 C.F.R. § 212.5(b).
13

14 83. By detaining Petitioner, Respondents have further abused their discretion because, since
15 the DHS made its initial determination to release the Petitioner into the United States,
16 there have been no changes to Petitioner’s facts or circumstances that support detention.
17

18 **COUNT THREE**

19 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**
20 **Not in Accordance with Law and in Excess of Statutory Authority**
21 **Violation of 8 C.F.R. § 239.2(c)**

22 84. Petitioner restates and realleges all paragraphs as if fully set forth here.

23 85. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in
24 accordance with law;” “contrary to constitutional right;” “in excess of statutory
25 jurisdiction, authority, or limitations;” or “without observance of procedure required by
26 law.” 5 U.S.C. § 706(2)(A)-(D).
27
28

1 86. Petitioner does not concede that DHS has the authority to reverse its initial processing
2 choice to parole him pursuant to § 1182(d)(5)(A) and redetain him pursuant to §
3 1225(b)(2), 52 days after his parole expired.

4 87. Under the APA, an agency must provide “reasoned explanation for its action” and “may
5 not depart from a prior policy *sub silentio* or simply disregard rules that are still on the
6 books.” *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). *see also Dep’t*
7 *of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 24-33 (2020)
8 (holding that rescission of immigration policy without considering “particular reliance
9 interests” is arbitrary and capricious in violation of the APA).

10
11
12 **PRAYER FOR RELIEF**

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

- 14 1) Assume jurisdiction over this matter;
- 15 2) Issue an Order to Show Cause ordering that Respondents show cause within
16 three days as to why this Petition should not be granted;
- 17 3) Declare that Petitioner’s warrantless arrest and detention without an
18 individualized determination violates the Due Process Clause of the Fifth
19 Amendment;
- 20 4) Declare that the application of the July 8 ICE Policy Memo to Petitioner violates
21 the Due Process Clause of the Fifth Amendment;
- 22 5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from
23 custody immediately, or, in the alternative, to promptly provide him with a bond
24 hearing under 8 U.S.C. § 1226 before an immigration judge;
- 25
26
27
28

- 1 6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act,
2 and on any other basis justified under law; and
3 7) Grant any further relief this Court deems just and proper.
4

5 DATED this 14th Day of January, 2026

/s/ Robin Chandler Carr

6 Robin Chandler Carr
7 Cal Bar No. 154023
8 Abdulwahid Law Firm
9 2929 Chicago Ave, Ste 110
10 Minneapolis, MN 55407
11 612-605-8410
12 *Motion for Admission Pro Hoc Vice*
13 *forthcoming*

14 

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VERIFICATION

On this 10th day of January 2026, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. I make this verification in lieu of and acting on behalf of Petitioner, Amin Ibrahim HASSEN, because Petitioner is currently detained and because of the urgent nature of the relief requested. I am authorized to make this verification as a member of the legal team representing the Petitioner, Amin Ibrahim HASSEN .

/s/ Robin Chandler Carr

Robin Chandler Carr

Cal Bar No. 154023

Abdulwahid Law Firm

2929 Chicago Ave, Ste 110

Minneapolis, MN 55407

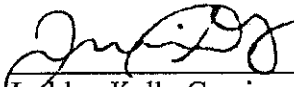
612-605-8410

*Motion for Admission Pro Hoc Vice
forthcoming*

Certificate of Service

I hereby certify I served Petitioner's Petition for Writ of Habeas Corpus and attached Exhibits to the U.S. Attorney for the Western District of Texas via electronic service.

Date: 1/14/2026

A handwritten signature in black ink, appearing to read 'Jacklyn Garcia', is written over a horizontal line.

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