UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF NEW YORK

REAGAN EMILIO SANCHEZ ATZ,

Petitioner-Plaintiff,

v.

Civil Action No._____

ORAL ARGUMENT REQUESTED

EXPEDITED HEARING REQUESTED

KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security;

TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;

KENNETH GENALO, in his official capacity as Field Office Director of Enforcement and Removal Operations of the New York Office of U.S. Immigration and Customs Enforcement;

PAMELA BONDI, in her official capacity as U.S. Attorney General; and

RAUL MALDONADO, Jr., in his official capacity as Warden of the Metropolitan Detention Center;

Respondents-Defendants.

PETITIONER REAGAN EMILIO SANCHEZ ATZ'S
VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Reagan Emilio Sanchez Atz ("Mr. Sanchez" or "Petitioner") hereby petitions this Court for a writ of habeas corpus to remedy his unlawful arrest and detention at the Metropolitan Detention Center ("MDC") by the U.S. Department of Homeland Security ("DHS"), acting through U.S. Immigration and Customs Enforcement ("ICE"). Mr. Sanchez was arrested unlawfully and has been held unlawfully in immigration custody by Respondents since September 25, 2025 in violation of his statutory and constitutional rights. This Petition seeks Mr. Sanchez's immediate release from detention.

2. Mr. Sanchez is charged with having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i). Based on this allegation in Petitioner's removal proceedings, DHS is detaining Mr. Sanchez in immigration custody.

3. Mr. Sanchez's continued detention is unlawful for three overarching reasons.

4. First, the continued detention of Mr. Sanchez violates the plain language of the Immigration and Nationality Act ("INA"). 8 U.S.C. § 1101 *et seq.* Mr. Sanchez is being detained in immigration custody based on a new policy issued by DHS on July 8, 2025 instructing all ICE employees to consider anyone inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i)—*i.e.*, anyone who entered the United States without admission or inspection—to be subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). This new policy was later affirmed in a September 5, 2025 decision from the Board of Immigration Appeals (the "BIA"), binding on all immigration judges ("IJs"), holding that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A), which requires detention for the duration of their removal proceedings without the possibility of bond, rather than 8 U.S.C. § 1226, which permits the discretionary detention of only noncitizens present in the country who receive a pre-detention, individualized determination of their potential

for posing a flight risk or danger to the community. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 227–28 (BIA 2025). DHS's novel position has no basis in law or fact, as numerous district courts across the country have quickly acknowledged.[1] Section 1225 applies to noncitizens

[1] *See, e.g.*, *Artiga v. Genalo*, No. 25-cv-5208 (OEM), 2025 WL 2829434, at *4–8 (E.D.N.Y. Oct. 5, 2025); *J.U. v. Maldonado*, No. 25-cv-4836 (OEM), 2025 WL 2772765, at *4–9 (E.D.N.Y. Sept. 29, 2025); *R.P.L. v. Maldonado*, No. 25-CV-6886 (HG), 2025 WL 3731864 (E.D.N.Y. Dec. 26, 2025); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 483-91 (S.D.N.Y. 2025); *Samb v. Joyce*, No. 25-cv-6373 (DEH), 2025 WL 2398831, at *3 (S.D.N.Y. Aug. 19, 2025); *B.D.V.S. v. Forestal*, No. 25-cv-1968-SEB-TAB, 2025 WL 2855743, at *2 (S.D. Ind. Oct. 8, 2025); *Eliseo A.A., v. Olson*, No. 25-cv-3381 (JWB/DJF), 2025 WL 2886729, at *2–4 (D. Minn. Oct. 8, 2025); *Torres v. Wamsley*, No. 25-cv-5772-TSZ, 2025 WL 2855379, at *3–4 (W.D. Wash. Oct. 8, 2025) (granting preliminary injunction); *Ledesma Gonzalez v. Bostock*, No. 25-cv-1404-JNW-GJL, 2025 WL 2841574, at *2–4 (W.D. Wash. Oct. 7, 2025); *Cordero Pelico v. Kaiser*, No. 25-cv-7286-EMC, 2025 WL 2822876, at *7–15 (N.D. Cal. Oct. 3, 2025) (granting preliminary injunction); *Echevarria v. Bondi*, No. 25-cv-3252-PHX-DWL (ESW), 2025 WL 2821282, at *4–10 (D. Ariz. Oct. 3, 2025); *Elias Escobar v. Hyde*, No. 25-cv-12620-IT, 2025 WL 2823324, at *2–3 (D. Mass. Oct. 3, 2025); *Guerrero Orellana v. Moniz*, No. 25-cv-12664-PBS, 2025 WL 2809996, at *4–10 (D. Mass. Oct. 3, 2025) (granting preliminary injunction); *Casun v. Hyde*, No. 25-cv-427-JJM-AEM, 2025 WL 2806769, at *2 (D.R.I. Oct. 2, 2025); *Rocha v. Hyde*, No. 25-cv-12584-ADB, 2025 WL 2807692, at *2 (D. Mass. Oct. 2, 2025); *Belsai D.S. v. Bondi*, No. 25-cv-3682 (KMM/EMB), 2025 WL 2802947, at *5–7 (D. Minn. Oct. 1, 2025); *Rodriguez v. Bostock*, No. 25-cv-5240-TMC, 2025 WL 2782499, at *16–26 (W.D. Wash. Sept. 30, 2025); *Helbrum v. Williams*, No. 25-cv-349-SHL-SBJ, 2025 WL 2840273, at *4–7 (S.D. Iowa Sept. 30, 2025); *Quispe-Ardiles v. Noem*, No. 25-cv-1382-MSN-WEF, 2025 WL 2783800, at *4–7 (E.D. Va. Sept. 30, 2025); *Alves da Silva v. U.S. Immigr. and Customs Enf't*, No. 25-cv-284-LM-TSM, 2025 WL 2778083, at *2-3 (D.N.H. Sept. 29, 2025); *Quispe v. Crawford*, No. 25-cv-1471-AJT-LRV, 2025 WL 2783799, at *4–6 (E.D. Va. Sept. 29, 2025); *Zumba v. Bondi*, No. 25-cv-14626 (KSH), 2025 WL 2753496, at *4–9 (D.N.J. Sept. 26, 2025); *Lopez v. Hardin*, No. 25-cv-830-KCD-NPM, 2025 WL 2732717, at *2–3 (M.D. Fla. Sept. 25, 2025) (granting preliminary injunction); *Barrajas v. Noem*, No. 25-cv-322-SHL-HCA, 2025 WL 2717650, at *3–6 (S.D. Iowa Sept. 23, 2025) (granting preliminary injunction); *Giron Reyes v. Lyons*, No. 25-cv-4048-LTS-MAR, 2025 WL 2712427, at *4–6 (N.D. Iowa Sept. 23, 2025) (granting preliminary injunction); *Lepe v. Andrews*, No. 25-cv-1163-KES-SKO (HC), 2025 WL 2716910, at *3–10 (E.D. Cal. Sept. 23, 2025) (granting preliminary injunction); *Roman v. Noem*, No. 25-cv-1684-RFB-EJY, 2025 WL 2710211, at *4–6 (D. Nev. Sept. 23, 2025) (granting preliminary injunction); *Choglo Chafla v. Scott*, No. 25-cv-437-SDN, 2025 WL 2688541, at *4-9 (D. Me. Sept. 21, 2025); *Campos Leon v. Forestal*, No. 25-cv-1774-SEB-MJD, 2025 WL 2694763, at *2–3 (S.D. Ind. Sept. 22, 2025); *Singh v. Lewis*, No. 25-cv-96-RGJ, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025); *Barrera v. Tindall*, No. 25-cv-541-RGJ, 2025 WL 2690565, at *2–6 (W.D. Ky. Sept. 19, 2025); *Hasan v. Crawford*, No. 25-cv-1408 (LMB/IDD), 2025 WL 2682255, at *5–9 (E.D. Va. Sept. 19, 2025); *Maldonado Vazquez v. Feeley*, No. 25-cv-1542-RFB-EJY, 2025 WL 2676082, at *11–16, 23 (D. Nev. Sept. 17, 2025) (granting preliminary injunction); *Velasquez Salazar v. Dedos*, No. 25-cv-835-DHU-JMR, 2025 WL 2676729, at *4 (D.N.M. Sept. 17, 2025); *Garcia Cortes v. Noem*, No. 25-cv-2677-CNS, 2025 WL 2652880, at *2–3 (D. Colo. Sept. 16, 2025); *Salcedo Aceros v. Kaiser*, No. 25-cv-6924-EMC, 2025 WL 2637503, at *6–12 (N.D. Cal. Sept. 12, 2025); *Lopez Santos v. Noem*, No. 25-cv-1193, 2025 WL 2642278, at *3–5 (W.D. La. Sept. 11, 2025); *Hernandez Marcelo v. Trump*, No. 25-cv-94-RGE-WPK, 2025 WL 2741230, at *6–9 (S.D. Iowa Sept. 10, 2025); *Guzman v. Andrews*, No. 25-cv-1015-KES-SKO (HC), 2025 WL 2617256, at *3–5, 9 (E.D. Cal. Sept. 9, 2025) (granting preliminary injunction); *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *4–8 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 25-cv-11981-JEK, 2025 WL 2607924, at *7–8 (D. Mass. Sept. 9, 2025); *Jimenez v. FCI Berlin*, No. 25-cv-326-LM-AJ, 2025 WL 2639390, at *3–10 (D.N.H. Sept. 8, 2025); *Mosqueda v. Noem*, No. 25-cv-2304 CAS (BFM), 2025 WL 2591530, at *4–5, 7 (C.D. Cal. Sept. 8, 2025) (granting preliminary injunction); *Doe v. Moniz*, No. 25-cv-12094-IT, 2025 WL 2576819, at *4–6 (D. Mass. Sept. 5, 2025); *Hernandez Nieves v. Kaiser*, No. 25-cv-6921-LB, 2025 WL 2533110, at *4-5 (N.D. Cal. Sept. 3, 2025) (granting preliminary injunction).

"seeking admission" to the United States while Section 1226 applies to noncitizens who are "already in the country." Mr. Sanchez, who has resided in the United States for three years and was arrested on the way to work, plainly falls in the latter category, is subject to Section 1226, and is being deprived of his rights under the INA.

5. Second, Mr. Sanchez's continued detention violates his procedural and substantive rights to due process under the Fifth Amendment. Mr. Sanchez was detained without any individualized determination as to the necessity of that detention, as required by Section 1226(a) and due process, and there is no valid basis for his ongoing immigration detention as he does not pose a flight risk or danger to the community. Mr. Sanchez has no criminal history whatsoever, and prior to his sudden arrest by ICE, lived with his father in Poughkeepsie, New York, where they worked together in construction. Due to Respondents' unlawful actions, however, he has been separated from his father and suffering at MDC, a federal jail plagued with inhumane conditions, including lack of access to medical care and rampant violence.[2]

6. Third, Mr. Sanchez's arrest and continued detention violates the Fourth Amendment. Mr. Sanchez was suddenly and violently stopped by a combination of immigration officials and local law enforcement while driving to work without a warrant, arrested, searched and detained without a reasonable suspicion that he was a noncitizen illegally in the United States in violation of his Fourth Amendment right to be protected from unreasonable searches and seizures.

7. Due to the unconstitutional actions and policies of Respondents, Mr. Sanchez has no other remedy at law than to petition this Court and request the Court order Respondents to

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2 *See* Katie Rose Quandt, et al., *Lockdowns, Violence, and "Barbaric Conditions" in a Federal Jail Known for its Famous Detainees*, The Appeal (June 30, 2025), https://theappeal.org/brooklyn-metropolitan-detention-center-solitary-watch/, attached as Ex. 14 to the Declaration of Edan Lisovicz ("Lisovicz Declaration").

immediately release him from custody. In the alternative, Petitioner requests the Court issue an order requiring an individualized bond hearing pursuant to Section 1226(a). If the Court finds that a bond hearing is necessary, Petitioner respectfully requests that this Court hold such a hearing given Respondents' inability or unwillingness to afford due process.

JURISDICTION & VENUE

8. "Federal courts have jurisdiction to review habeas petitions filed by immigration detainees who assert that they are 'in custody in violation of the Constitution or laws or treaties of the United States.'" *J.U. v. Maldonado*, No. 25-cv-4836 (OEM), 2025 WL 2772765, at *3 (E.D.N.Y. Sept. 29, 2025) (quoting 28 U.S.C. § 2241(c)(3)).

9. Mr. Sanchez was detained by Respondents on September 25, 2025.

10. This Court has subject matter jurisdiction over this Petition pursuant to U.S. Const. art. I, § 9, cl. 2 (habeas corpus); 28 U.S.C. § 2241 *et seq.* (habeas corpus); 28 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. § 1651 (All Writs Act).

11. This Court has authority to grant declaratory and injunctive relief, 28 U.S.C. §§ 2201, 2202, and to issue and enforce the writ of habeas corpus, U.S. Const. art. I, § 9, cl. 2 and 28 U.S.C. § 1651.

12. Respondents have waived sovereign immunity for purposes of this suit. 5 U.S.C. §§ 702, 706.

13. Venue is proper in this District pursuant to 28 U.S.C. § 2241(d) (stating that "the application [for habeas corpus] may be filed in the district court for the district wherein such person is in custody"). Venue is proper in this District because Mr. Sanchez is presently in the custody of Respondents in this District, at MDC, which is located at 80 29th St, Brooklyn, NY 11232.

14. A court hearing a petition for a writ of habeas corpus must issue the writ or an order to show cause to the Respondents "forthwith." 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require the Respondents to respond "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

PARTIES

15. Petitioner Mr. Sanchez was arrested and detained by ICE without a warrant on September 25, 2025. Mr. Sanchez is presently detained at MDC in Kings County, New York, in this District.

16. Respondent Kristi Noem is named in her official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(a), she routinely transacts business in the Eastern District of New York, she supervises Respondents Lyons and Genalo, she is legally responsible for the pursuit of Petitioner's detention and removal, and, as such, is a legal custodian of Petitioner. Respondent Noem's office is located at the U.S. Department of Homeland Security, 500 12th Street SW, Washington, D.C. 20528.

17. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. In this capacity, Respondent Lyons is responsible for administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a), he routinely transacts business in the Eastern District of New York, he supervises Respondent Genalo, he is legally responsible for the pursuit of Petitioner's detention and removal, and, as such, is a legal custodian of Petitioner. Respondent Lyons's office is located at the U.S. Department of Homeland Security, 500 12th Street SW, Washington, D.C. 20528.

18. Respondent Kenneth Genalo is named in his official capacity as Acting Field Office Director of the New York Office for U.S. Immigration and Customs Enforcement. In this capacity, Respondent Genalo is responsible for the administration of immigration laws and execution of detention and removal determinations and, as such, is a legal custodian of Petitioner. Respondent Genalo's office is located at 26 Federal Plaza, New York, NY 10278.

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

20. Respondent Raul Maldonado, Jr. is named in his official capacity as Warden of MDC, a federal incarceration facility located within this District where Petitioner is currently detained. In his capacity as Warden, he oversees the administration and management of MDC, and, as such, is a legal custodian of Petitioner. His business address is 80 29th St., Brooklyn, NY 11232.

FACTS AND PROCEDURAL BACKGROUND

I. Mr. Sanchez's life in the United States

21. Since 2022, Mr. Sanchez has resided in Poughkeepsie, New York, with his elderly father. *See Declaration of Reagan Emilio Sanchez Atz* (with certified translation), dated November 14, 2025, attached as Ex. 1 Lisovicz Declaration ("Sanchez Declaration"); Lisovicz Decl. Ex. 2

(driver's abstract showing Mr. Sanchez received his driver's permit in 2022). Prior to his detention, Mr. Sanchez worked with his father in construction in Poughkeepsie. Sanchez Decl. ¶¶ 1-2.

22. Mr. Sanchez is not a danger to the community. He has no criminal history anywhere in the world. *Id.* ¶ 4. He has never been charged with or convicted of a crime. *Id.* He has a valid New York State driver's license and has never been charged with a traffic violation in New York, including on the day he was detained. Lisovicz Decl., Ex. 2. Other than his unlawful arrest and detention on September 25, 2025, Mr. Sanchez's only other interaction with police in New York was in early 2023, when he was pulled over by local police looking for a car that looked like his car and was let go upon providing them with his driver's license. Sanchez Decl. ¶ 4.

23. Mr. Sanchez is also not a flight risk. He has never fled or attempted to flee from law enforcement. *See id.* Together with his father, Mr. Sanchez has built a life in Poughkeepsie, where they both work in construction. *Id.* ¶ 5.

II. ICE unlawfully arrests and detains Mr. Sanchez

24. On September 25, 2025, Mr. Sanchez was driving to work with his father when a combination of federal and local law enforcement suddenly pulled in front of him and cut him off approximately three blocks from his home. *Id.* ¶¶ 6-7. Multiple vehicles surrounded Mr. Sanchez's car. *Id.* ¶ 6. There was no stated basis for the stop. *Id.* ¶ 11. Mr. Sanchez had a valid New York State driver's license and no traffic infractions were alleged to have occurred. *Id.* ¶ 8; *see also* Lisovicz Decl., Ex. 2. Mr. Sanchez stopped his vehicle. At this moment, he felt frozen in fear and complied with every order he was given so he would not be shot or otherwise harmed. Sanchez Decl. ¶ 6.

25. Multiple officers pointed guns at Mr. Sanchez and his father. *Id.* The officers yelled in English and demanded their names. *Id.* An officer with an ICE label on his uniform approached the driver's window, which was open. *Id.* ¶ 8. Mr. Sanchez indicated that he had a driver's license that he could show them, but rather than let him retrieve it, the ICE officer opened the car door, grabbed Mr. Sanchez by the arm and pulled Mr. Sanchez from his car. *Id.* ¶ 8. Mr. Sanchez was handcuffed immediately against the side of his car. *Id.* At this point, the officers still had not articulated any basis for this stop nor their decision to point multiple guns at Mr. Sanchez and his father. The ICE officer then reached into the car and took Mr. Sanchez's entire wallet from inside the vehicle and conducted a search of his wallet (which contained, among other things, his consular identification card) without his permission. *Id.*

26. Without further explanation, officers transported Mr. Sanchez to a local police station, where he sat outside the police station handcuffed in a vehicle for over an hour, allegedly waiting for someone else that had been arrested. *Id.* ¶ 12. At that point, he still had not been charged with a crime, given a ticket or provided any information about why he was being arrested. Officers then transported Mr. Sanchez to the ICE Field Office in Newburgh, New York, where they took his fingerprints. *Id.* ¶ 12. ICE officers then took Mr. Sanchez to the Orange County Jail. *Id.* On the way to the Orange County Jail after leaving the Newburgh Field Office, while handcuffed and long after the initial vehicle stop, an agent showed Mr. Sanchez photos of two other Latino men they had supposedly been looking for, whom Mr. Sanchez did not recognize. *Id.* ¶ 13. Mr. Sanchez was never shown a warrant and did not receive a traffic ticket in connection with his arrest. *Id.* ¶ 14. He has now been detained by DHS for over three months.

27. DHS served Mr. Sanchez with a Notice to Appear ("NTA") on September 25, 2025. *See* Lisovicz Decl., Ex. 7. DHS placed Mr. Sanchez in removal proceedings pursuant to 8 U.S.C.

§ 1229a and charged Mr. Sanchez with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for allegedly entering the United States without inspection. *Id.*

28. As a result of his detention, Mr. Sanchez has experienced significant emotional and physical distress. *See* Declaration of Hannah Rosner ("Rosner Decl.") ¶ 17. Given his lack of criminal history, Mr. Sanchez has never been in jail before his current detention.

29. Conditions at MDC are dire. Since his detention, Mr. Sanchez reports experiencing high cholesterol for the first time in his life due to the quality of the food. *Id.* He also reports headaches and physical pain due to the quality of food, lack of sleep and stress. *Id.* The jail is cold and detainees are not given any additional clothing beyond their jumpsuits; they must purchase warm clothing themselves. He also reports that guards harass the detainees and, on at least one occasion, a guard shouted at them they should all be deported. *Id.*

30. MDC has become notorious for its "barbaric," violent, unsanitary, unsafe and inhumane conditions, in which detainees like Mr. Sanchez are held alongside criminal detainees in conditions akin to solitary confinement. *See* Quandt and Brennan, https://theappeal.org/brooklyn-metropolitan-detention-center-solitary-watch/, *supra* n.2 (describing conditions at MDC, including how a diabetic man lost consciousness in his cell and was unable to obtain medical help because "[t]here were no correctional officers working on the unit at the time"). MDC guards regularly mistreat the detainees, restrict them to their cells when they are not supposed to, and make noise and keep lights on at night, inhibiting detainees' ability to sleep. *Id.*

III. The IJ Denies Mr. Sanchez's Motion to Suppress and Motion to Terminate Immigration Proceedings

31. Following his arrest and detention, Mr. Sanchez retained *pro bono* counsel to represent in him in his immigration proceedings. On November 14, 2025, Mr. Sanchez filed a motion to suppress DHS's alleged evidence of alienage and a motion to terminate the removal

proceedings instituted against him because DHS's only evidence of alienage (an unauthenticated copy of Mr. Sanchez's consular identification card) was obtained in connection with an illegal search and seizure in violation of his Fourth Amendment rights. *See Respondent's Motion to Suppress*, attached as Ex. 8 to the Lisovicz Declaration; *Respondent's Motion to Terminate Proceedings*, attached as Ex. 9 to the Lisovicz Declaration (collectively, the "Motions to Suppress and Terminate"); *see also U.S. Department of Homeland Security's Submission of Evidence*, dated September 30, 2025, attached as Ex. 7 to the Lisovicz Declaration.

32. On November 26, 2025, DHS filed an opposition to the Motions to Suppress and Terminate. *See U.S. Department of Homeland Security Opposition to Respondent's Motions to Terminate and Proceedings and Suppress Evidence*, attached as Ex. 10 to the Lisovicz Declaration ("DHS Opp'n."). DHS alleged, *inter alia*, that Mr. Sanchez voluntarily provided immigration officers with his consular identification card. *Id.* With its opposition, DHS filed a Form I-213 linked to Mr. Sanchez through information allegedly provided to DHS by Mr. Sanchez and an Office of Biometric Identity Management Secondary Inspection Tool. *Id.*, Ex. A.

33. On December 3, 2025, Mr. Sanchez filed his reply to DHS's opposition, addressing DHS's arguments in its opposition and addressing the newly filed documents. *See Respondent's Reply to DHS Opposition to Motions to Suppress and Terminate*, attached as Ex. 11 to the Lisovicz Declaration.

34. At a master calendar hearing before Immigration Judge Charles Ouslander ("IJ Ouslander") on December 5, 2025, both DHS and IJ Ouslander indicated they had no cross examination for Mr. Sanchez based on his declaration and DHS indicated that it would not be presenting any witnesses or additional evidence. IJ Ouslander then adjourned the case with the intention of providing a written decision on the motions. Later that same day, IJ Ouslander issued

a written decision denying both motions, finding that no egregious violations of Mr. Sanchez's constitutional rights occurred. *See Order of the Immigration Judge*, attached as Ex. 12 to the Lisovicz Declaration.

35. On January 9, 2025, IJ Ouslander ordered Mr. Sanchez removed. Later that same day, Mr. Sanchez, through counsel, filed a Notice of Appeal of the decision. *See* Rosner Decl. ¶ 15.

LEGAL FRAMEWORK

I. Mr. Sanchez's Detention is Unlawful

a. Mr. Sanchez's detention is unlawful under the INA

36. As relevant here, the INA contains two methods for detaining noncitizens: 8 U.S.C. §§ 1225 and 1226. *See Jennings v. Rodriguez*, 583 U.S. 281, 287–89 (2018). Section 1225 imposes mandatory detention on noncitizens who are "seeking admission" to the United States; Section 1226 permits discretionary detention of noncitizens who are "already in the country." *Id.* at 287–89 (stating that Section 1225 governs "an alien seeking to enter the country" whereas Section 1226 governs aliens "once inside the United States").

37. Section 1225(b) requires mandatory detention of certain noncitizens who are "seeking admission" to this country. 8 U.S.C. § 1225(b)(2)(A) ("[I]f the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall* be detained") (emphasis added); *Jennings*, 583 U.S. at 287 (stating that Section 1225 applies to "an alien *seeking to enter* the country") (emphasis added). The only exception to detention under this section is temporary parole for humanitarian reasons or public benefit. *See* 8 U.S.C. § 1182(d)(5)(A).

38. By contrast, Section 1226(a) provides discretionary authority to the government to detain noncitizens who are already in the country. 8 U.S.C. § 1226(a) ("[A]n alien *may be* arrested and detained pending a decision on whether the alien is to be removed") (emphasis added); *Jennings*, 583 U.S. at 289 (stating that Section 236 "authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings") (emphasis added). Section 1226(a) and the implementing regulations require an individualized determination as to the noncitizen's risk of flight and danger to the community prior to detention. *See* 8 U.S.C. § 1226(a) ("On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States"); *Velesaca v. Decker*, 458 F. Supp. 3d 224, 241 (S.D.N.Y. 2020) (noting that the government "do[es] not dispute, that 8 U.S.C. § 1226(a) and its implementing regulations require ICE officials to make an individualized custody determination"); *see also* 8 C.F.R. § 236.1(c)(8). Noncitizens discretionarily detained pursuant to § 1226(a) are also generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d).[3]

39. Notwithstanding the statutory distinction between noncitizens "seeking admission" to this country and those who are already present in the country and decades of case law recognizing this distinction, DHS has recently concocted an argument that it has detained noncitizens like Mr. Sanchez who are already present in the country pursuant to Section 1225. This position is pretextual and baseless. Mr. Sanchez lived in New York for three years before his arrest. "As noted, § 1226 applies to aliens already present in the United States." *Jennings*, 583 U.S. at 303. Because he was unquestionably "already present in the United States"—and has been for years—Mr. Sanchez's detention can only be pursuant to Section 1226.

[3] Noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).

40. Respondents' reinterpretation of the settled understanding of the INA is based on a July 8, 2025 internal agency memorandum providing that it is now DHS's position that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under Section 1225(b)(2)(A). *See* ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission, Am. Immigr. Laws. Ass'n (July 7, 2025), https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission, attached as Ex. 13 to the Lisovicz Declaration (screen captures of ICE Memo announcing interim guidance). Respondents' novel interpretation of the INA is contrary to binding precedent, numerous other cases considering this same argument and basic principles of statutory interpretation.

41. This Court should join the overwhelming majority of district courts that have considered this argument and reject Respondents' position.

42. First, Respondents' new interpretation of the statutory scheme is contrary to longstanding binding precedent. *See J.U.*, 2025 WL 2772765, at *8 (holding that "Respondent's interpretation of the statutory scheme does not square with more than a century of Supreme Court's holdings interpreting the relationship between §§ 1225(b) and 1226(a)"). As far back as 1958, the Supreme Court held that "our immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality." *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958). "In the latter instance the Court has recognized additional rights and privileges not extended to those in the former category who are merely 'on the threshold of initial entry.'" *Id.* "The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "[O]nce an

alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.*

43. In *Jennings*, the Supreme Court reaffirmed this principle, stating that Section 1225(b) governs "aliens seeking admission into the country" whereas Section 1226(a) governs "aliens already in the country." 583 U.S. at 289; *see also J.U.*, 2025 WL 2772765, at *8.

44. The BIA's recent decision in *Matter of Yajure Hurtado*, which merely adopts the same position advocated by ICE, is in conflict with the applicable statutes passed by Congress and decades of binding Supreme Court precedent, for the reasons already explained. 29 I. & N. Dec. 216, 2025 WL 2674169 (Sept. 5, 2025). The Court has no obligation to credit *Matter of Yajure Hurtado*, and indeed, it can and should reject it outright. "[T]hese administrative agency decisions are not entitled to substantial deference." *Hyppolite v. Noem*, 25-cv-4304 (NRM), 2025 WL 2829511, at *11 (citing *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 402 (2024) ("Congress has [not] taken the power to authoritatively interpret [a] statute from the courts and given it to [an] agency.")).

45. That the Court is not required to defer to the BIA's interpretation is especially true when the agency's view has not remained "consistent over time." *Loper Bright*, 603 U.S. at 386 ("'the longstanding 'practice of the government''—like any other interpretive aid—'can inform [a court's] determination of what the law is'"); *see also Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944) ("The weight of such a judgment in a particular case will depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control."). *Matter of Yajure Hurtado* is not just inconsistent with prior interpretations of the law

but also represents a radical departure from decades of practice and understanding of Section 1225. Accordingly, it is particularly unpersuasive given immigration courts' consistent prior statements and actions to the contrary. *See Matter of Yajure Hurtado*, 2025 WL 2674169 at 225 n.6 ("We acknowledge that for years Immigration Judges have conducted [§ 1226(a)] bond hearings for aliens who entered the United States without inspection."); *Martinez v. Hyde*, No. 25-cv-11613-BEM, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) (discussing prior BIA decisions "clearly holding that the detention of a non-citizen arrested within the United States is governed under section 1226, rather than section 1225"); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1248 (W.D. Wash. 2025) (same).

46. In light of this history, the Court must treat this newfound "assertion of a 'previously unheralded power' to detain non-citizens present in the United States under Section 1225(b)(2)(A) with 'a measure of skepticism.'" *Martinez*, 2025 WL 2084238, at *8 (quoting *W. Virginia v. Env't Prot. Agency*, 597 U.S. 697, 748 (2022) (Gorsuch, J., concurring)). Indeed, in the months since Respondents began to broadly invoke Section 1225(b)(2)(A) to justify mandatory detention of noncitizens who already reside within the United States, hundreds district courts have rejected this illogical interpretation of the INA. *See Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025) ("[T]he administration's new position . . . has been challenged in at least 362 cases in federal district courts. The challengers have prevailed, either on a preliminary or final basis, in 350 of those cases decided by over 160 different judges sitting in about fifty different courts spread across the United States."); *Y- C- v. Genalo*, No. 25-CV-06558 (NCM), 2025 WL 3653496, at *2 (E.D.N.Y. Dec. 17, 2025) ("Within the Eastern District of New York, at least six judges have considered the issue in the last three months

and have unanimously rejected the government's interpretation.") (collecting cases); *see also supra* n.1 (listing cases).

47. Moreover, "Respondents' position violates the canon of statutory interpretation that 'every clause and word of a statute should have meaning.'" *Hyppolite*, 2025 WL 2829511, at *9. Section 1225(b)(2)(A) states that, "in the case of an alien who is an *applicant for admission*, if the examining immigration 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)(2)(A) (emphasis added). "If the mandatory detention provision in § 1225(b)(2) applied to *all* noncitizens who are 'applicants for admission,' then there would be no need for Congress to have separately referenced a sub-category of persons 'seeking admission' in the specific section that relates to mandatory detention." *Hyppolite*, 2025 WL 2829511, at *9. Adopting Respondents' position would thus require the Court to "elide[] or avoid[] section 1225(b)(2)(A)'s 'seeking admission' language . . ., treating it as mere surplusage of the 'applicant' requirement." *Id.* (collecting cases holding same).

48. Interpreting the statute's words "in their context and with a view to their place in the overall statutory scheme," as courts must, further undermines Respondents' position. *See King v. Burwell*, 576 U.S. 473, 486 (2015); *see also Graham Cnty. Soil & Water Conservation Dist. v. U.S. ex rel. Wilson*, 559 U.S. 280, 290 (2010) (stating that the court's duty is to "construe statutes, not isolated provisions") (internal quotation marks omitted). "In considering § 1225(b)(2)(A) within its statutory context, it was clearly intended to apply to noncitizens who are *presently* seeking to enter the United States, and not those . . . who have lived in the country for almost three years." *Hyppolite*, 2025 WL 2829511, at *9. Section 1225(b)(2)(A) is explicitly subject to subparagraphs (B) and (C), which set out specific exceptions and rules for "crewm[e]n",

"stowaway[s]", and aliens "*arriving*" on land, making clear that "seeking admission" in that section "is meant to refer to those who are presenting themselves at the border, or who were recently apprehended just after entering"—not those like Mr. Sanchez who have been present in the United States for years. *Hyppolite*, 2025 WL 2829511, at *9.

49. Furthermore, it is a basic canon of statutory interpretation that a statute should be construed as to give effect to all its provisions and that no part will be superfluous. *Corley v. United States*, 556 U.S. 303, 314 (2009). If an interpretation of one provision "would render another provision superfluous[,]" courts presume that interpretation is incorrect. *Bilski v. Kappos*, 561 U.S. 593, 607–08 (2010). This presumption is "strongest when an interpretation would render superfluous another part of the same statutory scheme." *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2013). Under Respondents' newfound theory, nearly all noncitizens in the United States not previously admitted or who entered without inspection are suddenly subject to mandatory detention pursuant to Section 1225(b). But if that were correct, then it would render superfluous numerous provisions of the same statutory scheme, including Sections 1226(c)(1)(A), (D), and (E).

50. Section 1226(c)(1)(A) provides that the "Attorney General shall take into custody any alien who is inadmissible by reason of having committed any offense covered in section 1182(a)(2) of this title," such as crimes of moral turpitude and offenses relating to controlled substances. 8 U.S.C. § 1226(c)(1)(A). "[T]his mandatory detention under § 1226(c) would be unnecessary if all persons who have not been admitted into the United States were already subject to § 1225(b)'s mandatory detention provisions." *Hasan v. Crawford*, No. 25-cv-1408 (LMB/IDD), 2025 WL 2682255, at *8 (E.D. Va. Sept. 19, 2025); *J.U.*, 2025 WL 2772765, at *8 (same).

51. Section 1226(c)(1)(D) provides that the "Attorney General shall take into custody any alien who is inadmissible under section 1182(a)(3)(B) of this title or deportable under section 1227(a)(4)(B) of this title," which include aliens engaged in terrorist activities. Again, "this mandatory detention under § 1226(c) would be unnecessary if all persons who have not been admitted into the United States were already subject to § 1225(b)'s mandatory detention provisions." *Hasan*, 2025 WL 2682255, at *8; *J.U.*, 2025 WL 2772765, at *8 (same).

52. Section 1226(c)(1)(E)—added by amendment last year via the enactment of the Laken Riley Act—makes certain noncitizens subject to mandatory detention if (1) they are inadmissible under certain provisions in 8 U.S.C. § 1182, and (2) they are charged with, arrested for, convicted of, or admit to having committed certain crimes. 8 U.S.C. § 1226(c)(1)(E). "When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect." *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995). Yet, "if § 1225(b)(2) already mandated detention of any alien who has not been admitted, regardless of how long they have been here, then adding § 1226(c)(1)(E) to the statutory scheme was pointless." *Hyppolite*, 2025 WL 2829511, at *10 (quoting *Lopez-Campos v. Raycraft*, No. 25-cv-12486 (BRM), 2025 WL 2496379, at *8 (E.D. Mich. Aug. 29, 2025)). Respondents' theory that Section 1225(b) applies to practically every noncitizen who entered without inspection and was then arrested while residing in the United States, regardless of whether they committed any crime, would make Section 1226(c)(1)(E)'s criminal conduct requirement entirely superfluous. *Id.*; *Gomes v. Hyde*, No. 25-cv-11571-JEK, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025).

53. In sum, Mr. Sanchez, who has lived in New York for three years and was not "seeking admission" at the time of his arrest, is plainly being detained pursuant to Section 1226(a) without any individualized determination as to his risk of flight and danger to the community, as

required by Section 1226(a) and the implementing regulations. Respondents' position that Mr. Sanchez is being detained pursuant to Section 1225(b)(2)(A) is inconsistent with the plain language of the statute, settled case law and the Respondents' own prior interpretations of the law. Respondents' continued detention of Mr. Sanchez violates the INA and is therefore unlawful. *See, e.g., Hyppolite*, 2025 WL 2829511, at *7-8 ("[A] noncitizen who has resided continuously in the United States since . . . 2022 . . . is subject to the discretionary provisions of § 1226(a), not the 'mandatory' provisions of § 1225(b) as Respondents claim."); *Lopez Benitez*, 795 F. Supp. 3d 475 at 484 (holding that Section 1225(b)(2) does not apply to a noncitizen who "has been residing in the United States for more than two years at the time of his arrest and detention").

b. Mr. Sanchez's detention violates his procedural rights under the Due Process Clause of the Fifth Amendment

54. Mr. Sanchez is detained in violation of his procedural rights under the Fifth Amendment.

55. The Due Process Clause of the Fifth Amendment to the Constitution of the United States provides that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law." As the Supreme Court has repeatedly instructed, freedom "from government custody, detention, or other forms of physical restraint" is at "the heart" of what the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690; *see also Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) ("Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action."); *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) ("the Constitution requires some kind of hearing *before* the State deprives a person of liberty or property" (emphasis in original)). This is particularly true in the context of civil detention. *See, e.g., Addington v. Texas*, 441 U.S. 418, 425 (1979) ("This Court repeatedly has recognized that civil commitment for any purpose constitutes a significant deprivation of liberty

that requires due process protection."); *Kansas v. Hendricks*, 521 U.S. 346, 368 (1997) (requiring "strict procedural safeguards" to justify involuntary civil commitment of certain sex offenders); *Foucha*, 504 U.S. at 81-82, 86 (holding unconstitutional a state civil commitment "statute [that] place[d] the burden on the detainee to prove that he is not dangerous").

56. 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*, 533 U.S. at 693 (citations omitted). Although Respondents now regularly contend that individuals who have not been admitted to the United States lack due process rights, more than a century of consistent Supreme Court case law has held otherwise. *See, e.g., Yamataya v. Fisher*, 189 U.S. 86, 101 (1903); *Leng May Ma*, 357 U.S. at 187; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976); *Landon v. Plasencia*, 459 U.S. 21, 32 (1982).

57. In determining whether an individual's procedural due process rights have been violated, courts weigh three factors: (1) "the private interest that will be affected by the official action"; (2) "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 (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Here, the *Mathews* test strongly supports Mr. Sanchez's claim to a procedural due process violation.

58. As to the first *Mathews* factor, the private interest of Mr. Sanchez's that is being affected is of fundamental importance: "The interest in being free from physical detention," which is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see United States v. Salerno*, 481 U.S. 739, 755 (1987) ("In our society liberty is the norm, and

detention . . . is the carefully limited exception."); *Zadvydas*, 533 U.S. at 690 (explaining that an individual's interest in being free from detention "lies at the heart of the liberty that [the Due Process] Clause protects").

59. Mr. Sanchez has now resided in the United States for at least three years, a period that statutorily forecloses detention under Section 1225(b). Given noncitizens' due process rights and the procedural rights conferred by Section 1226(a) and its implementing regulations, 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.*, *Velesaca v. Decker*, 458 F. Supp. 3d 224, 235 (S.D.N.Y. 2020); *Lopez Benitez,* 795 F. Supp. 3d at 493; *Kelly v. Almodovar*, No. 25-CV-6448 (AT), 2025 WL 2381591, at *3 (S.D.N.Y. Aug. 15, 2025); *Rosado v. Figueroa*, No. 25-CV-2157, 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*, No. 5:25-CV-5632-PCP, 2025 WL 2084921, at *1 (N.D. Cal. July 24, 2025). Yet, Mr. Sanchez "was detained without any pre-detention, individualized determination as to whether he posed a flight risk or any risk of dangerousness," in in clear violation of both the INA and the Due Process Clause. *Hyppolite*, 2025 WL 2829511, at *13; *Lopez-Arevelo*, 2025 WL 2691828, at *11 (W.D. Tex. Oct. 29, 2025).

60. "When assessing the first *Mathews* factor, courts also consider the 'conditions under which detainees are currently held, including whether the detainee is held in conditions indistinguishable from criminal incarceration.'" *Hasan*, 2025 WL 2682255, at *11 (quoting *Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. 2025)). Mr. Sanchez is being held at MDC, a facility notorious for barbaric, violent, unsanitary, unsafe, and inhumane conditions, in which detainees like Mr. Sanchez are held alongside criminal detainees in conditions akin to

solitary confinement. *See* Quandt and Brennan, https://theappeal.org/brooklyn-metropolitan-detention-center-solitary-watch/, *supra* n.2.

61. For these reasons, the first *Mathews* factor strongly supports Mr. Sanchez's claim of a procedural due process violation.

62. Under the second *Mathews* factor, the risk of erroneous deprivation of Mr. Sanchez's liberty interest is obvious because Mr. Sanchez is not subject to mandatory detention under Section 1225(b)(2), but Respondents are effectively treating him as such. This "creates a substantial risk of erroneous deprivation of [Mr. Sanchez's] interest in being free from arbitrary confinement" because it "fails to account for any individualized facts." *Hasan v. Crawford*, 2025 WL 2682255, at *12 (E.D. Va. Sept. 19, 2025) (citing *Maldonado v. Olson*, 2025 WL 2374411, at *13 (D. Minn. Aug. 15, 2025)). "The risk lies in the automatic continued deprivation of liberty for a noncitizen who has lived in the United States for over [three] years and with strong ties to the community, especially where there are no facts in the record to reflect [Mr. Sanchez's] dangerousness or flight risk." *See Vasquez Chinchilla*, 2025 WL 3268459, at *5. Moreover, because requesting any administrative redress is "almost certainly a futile exercise," after the BIA's decision in *Yajure Hurtado*, "there is a high risk that [Mr. Sanchez] has been and will continue to be erroneously deprived of his liberty." *See Lopez-Arevelo*, 2025 WL 2691828, at *11.

63. Mr. Sanchez's personal circumstances further demonstrate the "extremely high" risk of erroneous deprivation of his liberty here: Mr. Sanchez has no criminal history, has resided in the United States for at least three years and lives with and has a close relationship with his father. Without any pre-detention individualized consideration of his circumstances, he has been ripped from the "free[dom] to be with family and friends and [the opportunity] to form the . . . enduring attachments of normal life." *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

Accordingly, there is a high risk that Mr. Sanchez is being erroneously deprived of his liberty. *See, e.g., Hyppolite*, 2025 WL 2829511, at *13 (finding "extremely high" risk of erroneous deprivation of petitioner's liberty interest where a person is detained under Section 1226(a) without any pre-deprivation notice or an opportunity to be heard); *Rodriguez-Acurio v. Almodovar*, No. 25-CV-6065 (NJC), 2025 WL 3314420, at *30 (E.D.N.Y. Nov. 28, 2025) ("[Petitioner]'s detention without any notice or opportunity to be heard, including an individualized assessment into whether she poses a flight or public safety risk . . . establishes a high risk of erroneous deprivation of her protected liberty interest.").

64. For these reasons, the second *Mathews* factor also strongly supports Mr. Sanchez's claim of a procedural due process violation.

65. As to the third *Mathews* factor, the extreme risk of erroneous deprivation of Mr. Sanchez's liberty interest heavily outweighs any interest of DHS in subjecting Mr. Sanchez to continued detention, or the burden of any substitute procedures. "The government's interest in detaining people on a discretionary, case-by-case basis under § 1226(a) includes 'ensuring the appearance of aliens at future immigration proceedings' and 'preventing danger to the community.'" *Hyppolite*, 2025 WL 2829511, at *14 (quoting *Valdez v. Joyce*, 2025 WL 1707737, at *4 (S.D.N.Y. June 18, 2025)). "The government's interest is generally protected by affording bond hearings." *Vasquez Chinchilla*, 2025 WL 3268459, at *5.[4] However, "[s]uch hearings . . . are provided for the purpose of custody *re*-determination—a hearing held by an immigration judge after ICE makes its initial decision to detain." *Chipantiza-Sisalema v. Francis*, No. 25 CIV. 5528 (AT), 2025 WL 1927931, at *3 (S.D.N.Y. July 13, 2025) (citing 8 C.F.R. § 236.1(d)(1)) (emphasis

[4] The government's interests are likewise served by separate mandatory detention procedures applicable to certain categories of noncitizens under which Mr. Sanchez categorically does not fall. *See* 8 U.S.C. § 1226(c); *Hasan*, 2025 WL 2682255, at *12 (finding same).

in original). Courts in this jurisdiction have routinely held that if a noncitizen does not receive individualized consideration pre-deprivation, his due process rights are irrevocably violated, and no amount of procedure provided post-detention can remedy that violation. *See, e.g.*, *Rodriguez-Acurio v. Almodovar*, 2025 WL 3314420, at *30 ("Respondents' detention of [petitioner] with no notice or opportunity to be heard and no showing of changed circumstances violates her due process rights."); *J.U.*, 2025 WL 2772765, at *10 ("Respondent's ongoing detention of Petitioner with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights."); *Hyppolite*, 2025 WL 2829511, at *16 (ordering petitioner's immediate release and that he not be re-detained "without providing him notice and an opportunity to be heard at a pre-deprivation bond hearing before a neutral decisionmaker, at which the government will bear the burden of showing that his detention is authorized"). Further, the government actually suffers greater financial administrative burdens in the absence of habeas relief given the cost of his continued detention alone.

66. At no time prior to arresting and detaining Mr. Sanchez did DHS conduct an individualized assessment of the need for his detention. Instead, he was subject to an unlawful arrest and detention by ICE. Mr. Sanchez is a non-violent individual who has retained *pro bono* counsel to represent him in his immigration proceedings. There is no evidence that he is a flight risk or danger to the community. "Where the noncitizen poses no danger and is not a flight risk, all the government does in requiring detention is 'separate[] families and remove[] from the community breadwinners, caregivers, parents, siblings, and employees.'" *Black v. Decker*, 103 F.4th at 154 (2d Cir. 2024) (quoting *Velasco Lopez*, 978 F.3d at 854-55).

67. Thus, the *Mathews* factors clearly establish that Mr. Sanchez's detention—without any individualized determination as to the necessity of his detention or procedural safeguards—

violates his procedural due process rights under the Fifth Amendment. Numerous courts have found due process violations in analogous circumstances. *See, e.g.*, *R.P.L.*, 2025 WL 3731864 at *4; *Lopez Benitez,* 795 F. Supp. 3d 475, 491–97 (S.D.N.Y. 2025); *Campos v. Deleon,* 2025 WL 3514120, at *1–2; *Cuy Comes v. DeLeon,* No. 25-CV-9283 (AT), 2025 WL 3206491, at *6 (S.D.N.Y. Nov. 14, 2025); *Perez Velasquez v. Noem,* No-25-CV-10338 (AT), 2025 WL 3707526, at *3–4 (S.D.N.Y. Dec. 22, 2025).

c. Mr. Sanchez's detention also violates his substantive Due Process rights

68. In addition to its procedural protections, the Due Process Clause of the Fifth Amendment "includes a substantive component that mandates the application of strict scrutiny whenever the government infringes on fundamental liberty interests, regardless of what process the government provides." *Hasan*, 2025 WL 2682255, at *10 (citing *Reno v. Flores*, 507 U.S. 292, 302 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690.

69. "[G]overnment detention violates that Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections or, in certain special and narrow nonpunitive circumstances where a special justification . . . outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (citation modified). "This guarantee extends to noncitizens present in the United States." *Hasan*, 2025 WL 2682255, at *10 (citing *Zadvydas*, 533 U.S. at 693).

70. Respondents have provided no special justification to deny Mr. Sanchez his liberty. Nor could they. There is no indication that Mr. Sanchez poses a flight risk or danger to the community and ICE's decision to detain Mr. Sanchez without individualized consideration of his

circumstances, statutory authority or any special justification is arbitrary and violates the substantive component of the Fifth Amendment's Due Process Clause.

71. Accordingly, ICE's detention of Mr. Sanchez also violates his Fifth Amendment substantive due process rights.

d. Respondents' unlawful arrest of Mr. Sanchez violated the Fourth Amendment

72. The Fourth Amendment prohibits "unreasonable" seizures, including arrests, *see* U.S. Const. amend. IV, and its "protections . . . extend to non-citizens," *Zuniga-Perez v. Sessions*, 897 F.3d 114, 122 (2d Cir. 2018). To briefly detain a noncitizen for questioning, immigration officers must have "a reasonable suspicion, based on specific articulable facts, that the person being questioned is … a[] [noncitizen] illegally in the United States." 8 C.F.R. § 287.8(b)(2). However, "[f]or the same reasons the Fourth Amendment forbids stopping vehicles at random to inquire if they are carrying aliens who are illegally in the country, it also forbids stopping or detaining persons for questioning about their citizenship on less than a reasonable suspicion that they may be aliens." *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975). At the same time, a stop may not be "prolonged beyond 'the time needed to handle the matter for which the stop was made.'" *Millan-Hernandez v. Barr*, 965 F.3d 140, 147 (2d Cir. 2020) (quoting *Rodriguez v. United States*, 575 U.S. 348, 350 (2015)).

73. Respondents allege immigration officers in this case stopped Mr. Sanchez because he "match[ed] the description of" their alleged target and was "observed outside of the residence" of their alleged target. Lisovicz Declaration, Ex. 3 at 2. Even assuming, *arguendo*, that ICE had reasonable suspicion to swarm Mr. Sanchez's vehicle and stop him, which they did not, ICE held him well after they realized that he was not their alleged target and without any indication, prior to conducting an illegal search, that he lacked legal status. Indeed, Mr. Sanchez was not even

asked about ICE's alleged target until well after he was arrested. The chain of events confirms as much.

74. Armed ICE agents, along with other local law enforcement personnel, ambushed and stopped Mr. Sanchez in his vehicle on his way to work. Sanchez Decl. ¶ 5. The agents requested identification from Mr. Sanchez, who indicated he had a driver's license that he could show them, but before he was able to offer it, the agents violently seized Mr. Sanchez from his car, handcuffed him and searched his wallet without his permission. *Id.* ¶ 8. Mr. Sanchez was only asked about two other Latino men the agents were purportedly looking for (whom Mr. Sanchez did not recognize) long after the initial vehicle stop when he was being transported to the Orange County Jail. *Id.* ¶ 13.

75. At no point during this interaction, in which Mr. Sanchez was fully cooperative, did ICE have reasonable suspicion about "the person being questioned" and thus had no authority to continue to hold him for questioning. 8 C.F.R. § 287.8(b)(2). Mr. Sanchez also did not make statements or provide documentation that could have justified extending the stop. Rather, Mr. Sanchez was never given a chance to present his state-issued identification. ICE therefore had no authority under the INA or the Constitution to continue to hold or question him.

76. This left the ICE agents to rely on impermissible factors to racially profile Mr. Sanchez, a Latino man with an address near that of ICE's alleged targets. *See Millan-Hernandez*, 965 F.3d at 143 (noting that the officer's words "You're not legal, right?," and his request for "papers," "coupled with the absence of probable cause to suspect that [the plaintiff] . . . had committed any crime . . . strongly suggest[ed] that a racial or ethnic impetus could have been the reason for the detention"); *Rodriguez v. Barr*, 943 F.3d 134, 143 (2d Cir. 2019) ("[T]he sheer paucity of evidence supporting a finding of probable cause buttresses the conclusion that the arrest

was racially motivated."); *Zuniga-Perez*, 897 F.3d at 125 (finding "substantial evidence that the search was improperly based on race" where the petitioner was questioned "only after the troopers had determined that the suspected fugitive was not present"). As such, Respondents' stop, arrest, search and continued detention of Mr. Sanchez therefore violate his Fourth Amendment rights.

II. Mr. Sanchez is Entitled to Immediate Release or, in the Alternative, a Bond Hearing Before This Court

a. Mr. Sanchez is entitled to immediate release

77. "The typical remedy for [unlawful executive] detention is, of course, release." *Munaf v. Geren*, 553 U.S. 674, 693 (2008).

78. Courts considering the detention of noncitizens under similar circumstances have concluded that "a bond determination by a DHS officer or an immigration judge would not remedy the core constitutional violation" given that such "detention was unlawful from its inception because ICE detained her under the wrong statute and without any notice or opportunity to be heard, much less the procedures required under Section 1226(a)." *Rodriguez-Acurio*, 2025 WL 3314420, at *31; *see also Comes v. Deleon*, 2025 U.S. Dist. LEXIS 225025, at *14-15 (S.D.N.Y. Nov. 14, 2025) (granting immediate release from custody and holding that "a custody redetermination hearing before an immigration judge . . . is an inadequate 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.") (quoting *Lopez v. Sessions*, 2018 U.S. Dist. LEXIS 98712, at *39 (S.D.N.Y. June 12, 2018)); *Lopez Benitez*, 795 F. Supp. 3d at 497 ("Indeed, 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.").

79. Accordingly, "'disposing of the matter as law and justice require' necessitates [petitioner's] release from detention and relief guarding against her re-detention in violation of this Court's determinations that she is not subject to mandatory detention under Section 1225(b)." *Rodriguez-Acurio,* 2025 WL 3314420, at *32 (quoting 28 U.S.C. § 2243); *see also O.F.B. v. Maldonado*, No. 25-CV-6336 (HG), 2025 WL 3277677, at *8 (E.D.N.Y. Nov. 25, 2025) ("The government's ongoing detention of the petitioner, in the face of this complete failure of process, entitles him to immediate release."); *Ye v. Maldonado*, No. 25-CV-6417 (AMD), 2025 WL 3521298, at *9 (E.D.N.Y. Dec. 8, 2025) (same).

80. Indeed, Mr. Sanchez's circumstances are strikingly similar to those of another case recently considered in this District. *See R.P.L.*, 2025 WL 3731864. There, the petitioner had resided in New York for years and his first encounter with immigration authorities occurred while he was driving to work and stopped by ICE agents who were attempting to locate another individual. *Id.* at *1. Agreeing with "'[a] number of courts that have recently considered the same question," the court held that "the detention of a petitioner during his first encounter with immigration authorities is 'unlawful from its inception because ICE detained him under the wrong statute and without any notice or opportunity to be heard,'" and "[t]hat unlawful detention entitles [the] petitioner to immediate release." *Id.* at *3 (quoting *Campos v. Deleon,* No. 25-CV-10099 (LJL), 2025 WL 3514120, at *2 (S.D.N.Y. Dec. 8, 2025).

81. Mr. Sanchez is therefore entitled to immediate release from Respondents' unlawful detention.

b. In the alternative, Mr. Sanchez is entitled to a bond hearing before this Court

82. In the alternative, to the extent the Court is not inclined to grant immediate release, due process requires that Mr. Sanchez receive a constitutionally adequate bond hearing. Given recent events, a bond hearing in immigration court is no longer adequate to protect Mr. Sanchez's

liberty interest. First, the BIA's holding in *Yajure Hurtado* that, "Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission" likely renders it "futile" to "require a bond hearing before an immigration judge." *Rodriguez-Acurio*, 2025 WL 3314420, at *31. Any appeal of bond denial to the BIA would likely be futile for the same reason and would likely further prolong Mr. Sanchez's unlawful detention by at least six months. *See Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *3 (E.D. Mich. Sept. 9, 2025) ("Bond denial appeals 'typically take six months or more to be resolved at the BIA.'") (quoting *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025)); *see also Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025) ("[P]reventing six months or more of unlawful detention (bond determinations typically take six months or more) outweighs the BIA's interest in detaining an individual while his or her bond determination is resolved on appeal."). Additionally, bond hearings before IJs in recent months have resulted in well-documented due process violations and motions to enforce in district courts. *See, e.g.*, Emergency Amended Motion to Enforce, *Romero Perez v. Francis*, No. 25-CV-8112-JGK, ECF No. 33 at 5 (S.D.N.Y. Nov, 13, 2025) (after order finding petitioner detained under § 1226(a), IJ disobeyed court order and denied bond under § 1225(b), then, after a second bond hearing to remedy the first deficiency, DHS invoked an automatic stay of the bond grant); *J.M.P. v. Arteta*, No. 25 CIV. 4987 (DEH), 2025 WL 2984913, at *14 nn.20, 21 (S.D.N.Y. Oct. 23, 2025) (collecting thirty-two cases in the prior three months where DHS invoked the automatic stay to prevent release on bond).

83. Moreover, a bond hearing before the IJ would not comport with due process because immigration courts and the BIA place the burden of proof on noncitizens to establish that they are *not* a flight risk or a danger to the community. *See Velasco Lopez*, 978 F.3d 842, 849 (2d

Cir. 2020); *In re Guerra*, 24 I. & N. Dec. 37 (BIA 2006). Numerous courts have found this to be an unconstitutional inversion of the burden of proof in situations where a noncitizen's liberty is at stake. *See, e.g.*, *Velasco Lopez*, 978 F.3d at 855–57; *Black v. Decker*, 103 F.4th 133, 155–56 (2d Cir. 2024); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 30–41 (1st Cir. 2021); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213–214 (3d Cir. 2020). Instead, the Supreme Court has held that the government must meet the burden of proof by clear and convincing evidence to justify civil detention. *See, e.g.*, *United States v. Salerno*, 481 U.S. 739, 751 (1987) (affirming legality of pre-trial detention where burden of proof was on the government); *Foucha*, 504 U.S. at 81-82, 86 (holding unconstitutional a state civil commitment statute that the placed burden of proving lack of dangerousness on the detainee); *Addington*, 441 U.S. at 427 ("The individual should not be asked to share equally with society the risk of error when the possible injury to the individual is significantly greater than any possible harm to the state.").

84. Courts have continuously found that, when the government seeks to hold a person in detention, it must justify its decision by clear and convincing evidence or risk erroneously depriving individuals of their liberty interests. *See Velasco Lopez*, 978 F.3d at 855-57 (affirming district court's conclusion that "a clear and convincing standard was appropriate"); *Black*, 103 F.4th at 155–57 (affirming district court conclusion that DHS was required to show "by clear and convincing evidence" the need for petitioner's continued detention under Section 1226(c)); *Roman*, 2020 WL 5743522, at *2 (citation omitted). Furthermore, courts must consider the detained person's ability to pay and alternatives to detention when setting a bond amount to ensure their liberty interest is meaningfully safeguarded. *See Black*, 103 F.4th at 158 ("refusing to consider ability to pay and alternative means of assuring appearance creates a serious risk that the noncitizen will erroneously be deprived of the right to liberty purely for financial reasons.").

85. Thus, to the extent the Court is not inclined to grant immediate release, a bond hearing before the IJ is not an adequate remedy. Instead, this Court, having all of the information that would also be available to an IJ at its disposal, should itself conduct a bond hearing to determine whether Mr. Sanchez is entitled to be released with the burden on the government to demonstrate by clear and convincing evidence that detention is warranted. *See L.G.M. v. LaRocco*, No. 2:25-CV-2631 (PKC), 2025 WL 2092027, at *3–5 (E.D.N.Y. June 25, 2025) (ordering bond hearing to be conducted by district court); Transcript of Record at 13, *Celestin v. Decker*, No. 1:17-cv-02419 (RA) (S.D.N.Y. June 14, 2017) [ECF No. 29] (ordering bond hearing conducted by district court to remedy IJ's failure to consider ability to pay at bond hearing); *see also Ostrer v. United States*, 584 F.2d 594, 596 n. 1 (2d Cir. 1978) ("[A] district court has inherent power to enter an order affecting the custody of a habeas petitioner who is properly before it contesting the legality of his custody."); *Mapp v. Reno*, 241 F.3d 221, 227 (2d Cir. 2001) (district court has inherent authority to grant bail in immigration habeas cases).

86. However, the Court need not order a bond hearing at all, because Mr. Sanchez is entitled to be immediately released from detention given the statutory and constitutional violations that resulted in his detention. *See, e.g., R.P.L.*, 2025 WL 3731864, at *3 (ordering immediate release of noncitizen apprehended for the first time and erroneously detained pursuant to Section 1225(b)(2)); *Campos,* 2025 WL 3514120, at *2 (same); *Cuy Comes,* 2025 WL 3206491, at *6 (same); *O.F.B.*, 2025 WL 3277677, at *8 (same); *Ye*, 2025 WL 3521298, at *9 (same); *Rocano Buestan v. McShane,* 2025 WL 3496361, at *6 (S.D.N.Y. Dec. 5, 2025) (same); *Morocho v. Jamison*, 2025 WL 3296300, at *3 (E.D. Pa. Nov. 26, 2025) (same); *Guaman Lliguicota v. Cabezas*, 2025 WL 3496300, at *2 (D.N.J. Dec. 5, 2025) (same); *Alejandro v. Olson*, 2025 WL 2896348, at *9 (S.D. Ind. Oct. 11, 2025); *Lepe v. Andrews*, 2025 WL 2716910, at *10 (E.D. Cal.

Sept. 23, 2025) (same). Further, the Court should order "that Petitioner shall not be re-detained without notice and an opportunity to be heard at a pre-deprivation bond hearing before a neutral decisionmaker, where Respondents will have the burden of showing that his detention is authorized under 8 U.S.C. § 1226(a)." *R.P.L.*, 2025 WL 3731864, at *3.

III. Administrative Exhaustion Should Be Excused

87. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his immigration detention. *See Louisaire v. Muller*, 758 F. Supp. 2d 229, 234 (S.D.N.Y. 2010); *Abdi v. Nielsen*, 287 F. Supp. 3d 327, 341 (W.D.N.Y. 2018). Rather, courts in this Circuit only "generally" require administrative exhaustion "as a prudential matter" before challenging immigration detention in a federal district court. *Lopez Benitez*, 795 F. Supp. 3d at 498 (excusing administrative exhaustion and granting petition for writ of habeas corpus); *Quintanilla v. Decker*, No. 21-cv-417 (GBD), 2021 WL 707062, at *2 (S.D.N.Y. Feb. 22, 2021) (same); *Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) ("There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention.").

88. Courts in this Circuit excuse administrative exhaustion and grant habeas petitions for relief from custody when: "(1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) in certain instances a plaintiff has raised a substantial constitutional question." *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (as amended July 24, 2003). Although a petitioner need not demonstrate all four factors for a court to excuse administrative

exhaustion,[5] here all four prongs of the *Beharry* test are satisfied and administrative exhaustion should be excused.

89. As to the first and third prongs, there are no administrative remedies that could provide Mr. Sanchez with the relief he seeks. "This is easily demonstrated by the source of the injury alleged: [Mr. Sanchez] asserts that the original constitutional transgression occurred when ICE detained him on [September 25, 2025], without first making an individualized determination that he posed a flight risk or a danger to community, or any other type of process and notice that would justify the detention. Thus, the only cure to that unlawful detention is the vacatur of detention—that is, the release of Petitioner from ICE custody." *J.U. v. Maldonado*, 2025 WL 2772765, at *3. Accordingly, courts have excused the exhaustion requirement for petitioners like Mr. Sanchez who are in ICE custody without individualized determinations of their eligibility for detention or release. *See, e.g.*, *Lopez Benitez*, 795 F. Supp. 3d at 498 (excusing administrative exhaustion and granting habeas petition when petition was filed before a bond hearing was requested); *Comes v. Deleon*, 2025 U.S. Dist. LEXIS 225025, at *14-15 (S.D.N.Y. Nov. 14, 2025) (same); *Lira Perez v. Noem*, 2025 WL 3140692, at *5 (N.D. Ill. Nov. 10, 2025) (same); *Silva Orellana v. Noem*, 2025 WL 3198685, at *4 (W.D. Mich. Nov. 17, 2025) (same); *Rodriguez Loredo v. Forestal*, 2025 WL 3187319, at *4 (N.D. Ill. Nov. 14, 2025) (same); *Vasquez Carcamo v. Noem*, 2025 WL 3119263, at *3 (M.D. Fla. Nov. 7, 2025) (same); *Granados Gonzalez*, No. 25-cv-04756, at 4 n.4 (same); *Patel v. Crowley*, 2025 WL 2996787, at *9 (N.D. Ill. Oct. 24, 2025) (same).

90. Moreover, courts generally excuse administrative exhaustion when pursuing administrative remedies would be futile or the agency has predetermined a dispositive issue. *See,*

[5] *See, e.g., Lopez Benitez*, 795 F. Supp. 3d at 496-98 (excusing administrative exhaustion and granting habeas relief where petitioner demonstrated factors (1) and (4)).

e.g., *Araujo-Cortes*, 35 F. Supp. 3d at 538-39; *Monestime v. Reilly*, 704 F. Supp. 2d 453, 456-7 (S.D.N.Y. 2010); *Garcia v. Shanahan*, 615 F. Supp. 2d 175, 180 (S.D.N.Y. 2009); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873, 2025 WL 2670875, at *8 (C.D. Cal. July 28, 2025) (finding the exhaustion of remedies for then prospective class of petitioners who alleged unlawful detention pursuant to § 1225 would be futile and thus not required). Since *Yajure Hurtado* was decided by the BIA, district courts have consistently found that pursuing administrative exhaustion would be futile for detainees who ICE asserts are mandatorily detained—even before a bond hearing has been requested or the BIA has decided any appeals—given that lack of administrative relief has been rendered a "foregone conclusion" by *Yajure Hurtado*. *Maldonado Vazquez v. Feeley*, 2025 WL 2676082, at *10 (D. Nev. Sept. 17, 2025) (finding attempts at administrative exhaustion futile after *Yajure Hurtado*); *Patel*, 2025 WL 2996787, at *9 (concluding that "attempting exhaustion would be futile because an immigration judge lacks the ability to consider [petitioner's] bond request absent Section 2241 relief due to its obligation to follow *Yajure Hurtado*"); *Lira Perez*, 2025 WL 3140692, at *5 ("Because the BIA has predetermined the issue, requiring [petitioner] to request a bond hearing from the EOIR would be futile, leaving him in limbo while indefinitely detained. Accordingly, [petitioner] need not exhaust his remedies in immigration court.").

91. As to the second prong, excusal of the exhaustion requirement is warranted because Mr. Sanchez is likely to experience irreparable harm if he is unable to seek habeas relief in this Court and remains in detention until the immigration court rules on a request for a bond hearing or the BIA rules on an appeal of a denial of his bond application. *See J.U. v. Maldonado*, 2025 WL 2772765, at *4 (finding second prong of *Beharry* test met where the petitioner "is likely to

experience irreparable harm if he is unable to seek habeas relief in this Court until the BIA issues a ruling on Petitioner's appeal of the denial of his bond application.").

92. Finally, Mr. Sanchez has no genuine opportunity for relief through administrative avenues because he brings a constitutional claim against the government, and immigration courts do not have authority to address *habeas* petitioners' constitutional challenges. *See Arango-Aradondo v. INS*, 13 F.3d 610, 614 (2d Cir. 1994); *Matter of Valdovinos*, 18 I&N Dec. 343, 345-46 (BIA 1982) (disclaiming jurisdiction to rule on constitutionality of immigration statute); *Lopez Benitez*, 795 F. Supp. 3d at 497 (stating that a constitutional challenge to immigration detention "cannot properly be adjudicated administratively") (citing *Valdez*, 2025 WL 1707737, at *1, n.1); *Maldonado Vazquez*, 2025 WL 2676082, at *10 (excusing administrative exhaustion where "[p]etitioner's constitutional challenge to his detention is necessarily beyond the scope of the BIA's review"); *Hyppolite*, 2025 WL 2829511, at *11 (quoting *Loper Bright*, 603 U.S. at 402) ("Congress has not taken the power to authoritatively interpret a statute from the courts and given it to an agency.") (citation modified).

93. For these reasons, all four prongs of the *Beharry* test are satisfied and administrative exhaustion should be excused.

CLAIMS FOR RELIEF

COUNT ONE
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT
8 U.S.C. § 1225(b)(2) and 1226(a)

94. Petitioner realleges and incorporates by reference each and every allegation contained above.

95. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As

relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under Section 1226(a), unless they are subject to Section 1225(b)(1), Section 1226(c), or Section 1231.

96. When Petitioner was arrested on September 25, 2025, he was an "alien[] already in the country," and accordingly "may only be subject to detention as a matter of discretion under § 1226(a)." *See J.U.*, 2025 WL 2772765, at *9. Respondents' application of Section 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT TWO
VIOLATION OF RIGHT TO PROCEDURAL DUE PROCESS UNDER THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION

97. Petitioner realleges and incorporates by reference each and every allegation contained above.

98. 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*, 533 U.S. at 690.

99. A person also has the right to procedural due process, and courts weigh the factors from *Mathews v. Eldridge*: (1) "the private interest that will be affected by the official action"; (2) "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 (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. 319, 335 (1976).

100. Here, the *Mathews* test strongly supports that Mr. Sanchez's detention violates his procedural due process rights.

COUNT THREE
VIOLATION OF RIGHT TO SUBSTANTIVE DUE PROCESS UNDER THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION

101. Petitioner realleges and incorporates by reference each and every allegation contained above.

102. 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 [Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

103. "This guarantee includes a substantive component that mandates the application of strict scrutiny whenever the government infringes on fundamental liberty interests, regardless of what process the government provides." *Hasan*, 2025 WL 2682255, at *10 (citing *Reno v. Flores*, 507 U.S. 292, 302 (1993)).

104. Respondents' detention of Mr. Sanchez is arbitrary and unjustified, in violation of his substantive due process rights.

COUNT FOUR
VIOLATION OF THE FOURTH AMENDMENT OF THE UNITED STATES CONSTITUTION – UNLAWFUL ARREST

105. Petitioner realleges and incorporates by reference each and every allegation contained above.

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

107. An immigration officer is authorized to "briefly detain [a] person for questioning" if they have "a reasonable suspicion, based on specific articulable facts, that *the person being questioned* is, or is attempting to be, engaged in an offense against the United States or is an alien

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

108. Here, ICE ostensibly stopped Petitioner's vehicle to identify and apprehend their alleged target, not Petitioner. It is unclear whether ICE had reasonable suspicion to stop his vehicle or was simply relying on impermissible factors, such as apparent race or ethnicity, language ability or location. However, even assuming, *arguendo*, that they did, ICE held Petitioner well after they realized that he was not their target. At that point, ICE could not have had reasonable suspicion about "the person being questioned" and had no authority to continue to hold Petitioner for questioning. 8 C.F.R. § 287.8(b)(2). Petitioner also did not make statements or provide documentation that could have justified extending the stop. Petitioner offered to present state-issued identification but was never given the opportunity to do so. ICE therefore had no authority under the statute or the Constitution to continue to hold or question him, rendering their actions both *ultra vires* and unconstitutional.

COUNT FIVE
VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT – 5 U.S.C. §§ 702, 706(2) AND THE *ACCARDI DOCTRINE*

109. Petitioner realleges and incorporates by reference each and every allegation contained above.

110. The Administrative Procedure Act ("APA") provides that "a person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof." 5 U.S.C. § 702.

111. The statute further provides that the reviewing court shall "compel agency action unlawfully withheld or unreasonably delayed," 5 U.S.C. § 706(1), and "hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" and "contrary to constitutional right, power, privilege, or immunity," *id.* at § 706(2)(A)-(B).

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

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

114. In 2022, as part of a settlement, ICE issued a nationwide policy that included a set of requirements that are relevant here. *See Castanon Nava v. Dep't of Homeland Sec.*, No. 18-CV-3757, 2025 WL 2842146 (N.D. Ill. Oct. 7, 2025). The policy stated that, to assess the likelihood of escape, ICE officers are "required to consider the totality of the circumstances, including the officer's ability to determine the person's identity; knowledge of that individual's prior escapes or evasions of immigration authorities; attempted flight from an ICE officer; and the person's ties to the community (such as a family, home, or employment)." *Id.*

115. ICE lacked probable cause that Petitioner was in the country unlawfully. Petitioner did not provide any documentation that could reasonably lead ICE to suspect that he was violating

the country's immigration laws. Petitioner also has never been convicted or even charged with committing a crime. ICE also lacked probable cause that Petitioner would likely escape before a warrant could be obtained.

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

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

118. Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules and instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow procedures governing deportation proceedings); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.").

119. Mr. Sanchez has no other adequate remedy in court to obtain direct review of the agency actions and omissions challenged here to redress Respondents' failure to provide him with

due process and the procedures required by the INA, which has caused and continues to cause him substantial and concrete harm.

120. Accordingly, Respondents are in violation of the APA. 5 U.S.C. §§ 706(1), (2)(A)-(B).

PRAYER FOR RELIEF

WHEREFORE, Petitioner Sanchez respectfully requests that this Court:

1. Exercise jurisdiction over this matter;

2. Enjoin Respondents from moving Mr. Sanchez outside the jurisdiction of this Court and the United States pending its adjudication of this Petition and full and fair adjudication of his immigration case, including any appeals;

3. Release Mr. Sanchez from custody of the Respondents pending disposition of this Petition;

4. Declare that Mr. Sanchez's detention violates the INA, the APA, the Due Process Clause of the Fifth Amendment and the Fourth Amendment;

5. Issue a Writ of Habeas Corpus ordering Mr. Sanchez's unconditional release from custody of Respondents, restoring him to the same status of liberty that he enjoyed prior to his arrest, pending the disposition of his removal proceedings, and any appeals in those proceedings by Mr. Sanchez;

6. In the alternative, the Court should conduct a constitutionally adequate, individualized bond hearing for Mr. Sanchez within fourteen days. If, instead, Respondents are ordered to carry out such a hearing in front an impartial adjudicator, the Court should direct that at that hearing:

a. Respondents must bear the burden of establishing by clear and convincing evidence that continued detention is justified;

b. the adjudicator must meaningfully consider alternatives to imprisonment such as release on recognizance, parole or electronic monitoring; and

c. the adjudicator must meaningfully consider Mr. Sanchez's ability to pay if setting a monetary bond;

7. Find that Respondents' litigation position is substantially unjustified;

8. Enjoin Respondents from re-detaining Mr. Sanchez without notice and an opportunity to be heard at a pre-deprivation bond hearing before an impartial adjudicator, where Respondents will have the burden of showing that his detention is authorized under 8 U.S.C. § 1226(a).

9. Award Mr. Sanchez costs and reasonable attorneys' fees; and

10. Order such other relief as this Court may deem just and proper.

Date: January 14, 2026

Respectfully submitted,

AKIN GUMP STRAUSS HAUER & FELD LLP

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