UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

JOSE NILA CASTRO, Petitioner, vs. **KEVIN RAYCRAFT, in his official capacity as Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement;** **KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY;** Respondents.	Case No.: _____ **PETITION FOR WRIT OF HABEAS CORPUS**

I. INTRODUCTION

Petitioner Jose Nila Castro is a 27-year-old DACA recipient who has lived in the United States since he was three years old, has never been detained, has no criminal record, graduated from high school, and has spent the last decade working continuously at the same job. He holds valid Deferred Action for Childhood Arrivals ("DACA") status, a valid Social Security number, and continues to qualify for DACA, which has not been revoked. Nevertheless, on January 3, 2026, Mr. Castro was detained without any individualized determination that he posed a danger to the community or a risk of flight and without meaningful consideration of his lawful DACA status. His detention arose not from any allegation of wrongdoing or violation of law, but from a

roadside encounter in which immigration agents detained him after he identified himself as a DACA recipient and allegedly failed to immediately answer questions about his birthplace. This arbitrary detention, apparently predicated on silence rather than conduct, epitomizes the kind of unreasoned and constitutionally infirm deprivation of liberty that habeas corpus exists to remedy.

Petitioner is in the physical custody of Respondents at the North Lake Processing Center and now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

Petitioner is charged with, *inter alia*, having entered the United States without admission or inspection. See 8 U.S.C. § 1182(a)(6)(A)(i). Based on this allegation in Petitioner's removal proceedings, DHS denied Petitioner's release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i) (i.e., those who entered the United States without admission or inspection) to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. See *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who

previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

This petition arises within the same statutory and factual context as numerous habeas cases nationwide, including, *Juarez Mendez v. Raycraft, No. 1:25-cv-01323, (W.D. Mich. Nov. 18, 2025), Lopez-Campos v. Raycraft* and *Contreras-Cervantes v. Raycraft*—in which federal courts have held that the Department of Homeland Security's July 8, 2025 policy misinterprets the INA and unlawfully mandates detention without bond for long-term residents who entered without inspection."

Most recently, on November 25, 2025, the Central District of California granted class certification and partial summary judgment on a nationwide basis, holding that the government's policy of detaining interior noncitizens under § 1225(b)(2) is unlawful. *Bautista v. Santacruz*, No. 5:25-cv-01873 (C.D. Cal. Nov. 25, 2025). As of December 18, 2025 the Court issued a Final Judgment in the case. While Petitioner is a member of that putative class, he seeks a Writ of Habeas Corpus from this Court, the only court with jurisdiction over his immediate custody, because declaratory relief from a distant district is insufficient to secure his immediate release or a hearing in the face of the government's continued non-compliance.

II. JURISDICTION

1. Petitioner is in the physical custody of Respondents. Petitioner is detained at the North Lake Processing Center in Baldwin, Michigan.
2. This Court has jurisdiction under 8 U.S.C. §§2241(a) and 2241(c)(3) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).
3. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.
4. Immigration judges across the country are denying bond and declining to hold bond hearings citing lack of jurisdiction based on the holding in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Therefore, administrative exhaustion is moot and/or futile.
5. **Exhaustion is Futile.** Immigration judges across the country are denying bond and declining to hold bond hearings citing lack of jurisdiction based on the holding in *Matter of Yajure Hurtado*. Furthermore, the government has ignored the *Bautista* court's nationwide order, necessitating individual habeas action.
6. While Petitioner is a member of the nationwide declaratory class certified in *Bautista v. Santacruz* (C.D. Cal.), this Court retains habeas jurisdiction. The *Bautista* court granted declaratory relief but lacks jurisdiction to issue a Writ of Habeas Corpus directed at Respondents Raycraft and Noem regarding a detainee physically confined in Michigan. See *Rumsfeld v. Padilla*, 542 U.S. 426 (2004). A separate habeas petition in the district of confinement is the necessary mechanism to enforce the law declared in *Bautista.*

III. VENUE

7. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the United States District Court for the Western District of Michigan, the judicial district in which Petitioner currently is detained.

8. 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 Baldwin—housed in the Western District of Michigan.

IV. REQUIREMENTS OF 28 U.S.C § 2243

9. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.

10. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

11. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "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).

V. PARTIES

12. Petitioner Jose Castro Nila is a citizen of Mexico who has been in immigration detention since January 3, 2026. After arresting Petitioner, ICE did not set bond, and Petitioner is

unable to obtain review of his custody by an Immigration Judge pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

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

14. Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

VI. STANDARD OF REVIEW AND APPLICABLE LAW

15. A petition for writ of habeas corpus under 28 U.S.C. § 2241 is the proper vehicle to challenge the legality of immigration detention and to seek release or a bond hearing where custody violates the Constitution or federal law. *Jennings v. Rodriguez*, 583 U.S. 521 (2018).

16. While the REAL ID Act limits district court jurisdiction to review removal orders, it does not bar review of detention claims or constitutional challenges to custody. *See id.*; *Zadvydas v. Davis*, 533 U.S. 678 (2001).

17. The district court reviews such claims de novo, exercising independent judgment over statutory interpretation and constitutional questions. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024) (abolishing *Chevron* deference).

18. 8 U.S.C. § 1226(a) sets out the "default rule" for the discretionary detention of noncitizens "already present in the United States." *Jennings*, 583 U.S. at 303.

19. Under 8 U.S.C. 1226(a), immigration authorities may make an initial determination as to detention, but noncitizens may then request a bond hearing before an immigration judge. 8 C.F.R. § 1236.1(c)(8), (d)(1).

20. At that hearing, the noncitizen "may secure his release if he can convince the officer or immigration judge that he poses no flight risk and no danger to the community." *Nielsen v. Preap*, 586 U.S. 392, 397–98 (2019) (citing 8 C.F.R. §§ 1003.19(a), 1236.1(d); *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006)).

21. By contrast, 8 U.S.C. § 1255 governs the detention of those "seeking admission." An applicant for admission is defined as a noncitizen "present in the United States who has not been admitted or who arrives in the United States," § 1255(a)(1), and "fall[s] into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." Jennings, 583 U.S. at 287.

22. The second category creates a catchall mandatory detention provision: "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 [full removal proceedings under § 1229]." 8 U.S.C. § 1225(b)(2)(A).

23. Unlike noncitizens detained under § 1226(a), those detained under § 1225 may only be released "for urgent humanitarian reasons or significant public benefit." *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)).

24. On July 8, 2025, ICE, "in coordination with" the Department of Justice, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of firmly-rooted immigration law precedent.

25. The new policy, entitled *"Interim Guidance Regarding Detention Authority for Applicants for Admission,"* claims that all persons who entered the United States without inspection shall now be subject to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

26. On September 5, 2025, the Board of Immigration Appeals adopted this same position in a published decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for immigration judge bond hearings.

27. Since Respondents adopted their new policies, dozens of federal courts have rejected this interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

28. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the text of the INA, as clarified by the United States Supreme Court in *Jennings.* 583 U.S. at 303. See, e.g., *Singh v. Lyons*, 2025 WL 2932635 (E.D. Va. Oct. 14, 2025); *Sanchez Ballestros v. Noem*, 2025 WL 2880831 (W.D. Ky. Oct. 9, 2025); *D.S. v. Bondi*, 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Lepe v. Andrews*, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025); *Hasan v. Crawford*, No. 25-cv-1408, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Velasquez Salazar v. Dedos*, 2025 WL 2676729 (D. N.M. Sept. 17, 2025); *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9 2025); *Lopez-Campos v. Raycraft*, 2025 WL

2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Aguilar Maldonado v. Olson*, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025).

29. Even where statutory authority exists, prolonged civil detention without an individualized bond hearing violates the Fifth Amendment's Due Process Clause. See *Jennings*, 583 U.S. at 540–41; *Mathews v. Eldridge*, 424 U.S. 319 (1976). The government must justify continued detention as necessary to ensure appearance or public safety, and less restrictive alternatives must be considered.

30. Due process also forbids enforcing a removal order obtained *in absentia* where the noncitizen's failure to appear resulted from exceptional circumstances—such as serious mental illness or coercive fear—rather than willful evasion. *See* INA § 240(b)(5)(C)(i); *Singh v. INS*, 295 F.3d 1037 (9th Cir. 2002).

VII. DEFERRED ACTION FOR CHILDHOOD ARRIVALS

31. Deferred Action for Childhood Arrivals is a form of prosecutorial discretion exercised by DHS that permits certain noncitizens who came to the United States as children to remain in the country on a renewable, temporary basis. Deferred action reflects an affirmative decision by DHS to defer removal action against an individual for a specified period of time and constitutes a recognized form of lawful presence under federal immigration regulations.[1]

[1] See *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483–84 (1999) (recognizing deferred action as a longstanding practice in immigration enforcement and an exercise of prosecutorial discretion).

32. DHS derives its authority to grant deferred action from its longstanding enforcement discretion under the Immigration and Nationality Act and implementing regulations.[2] Individuals granted deferred action under DACA are eligible to apply for and receive employment authorization incident to that status.[3]

33. DACA was formally established by the Secretary of Homeland Security through a memorandum dated June 15, 2012, and is implemented through DHS regulations governing deferred action and employment authorization.[4]

34. To qualify for DACA, an individual must, *inter alia*: (1) have entered the United States before the age of sixteen; (2) have continuously resided in the United States since June 15, 2007; (3) have been physically present in the United States on June 15, 2012, and at the time of requesting deferred action; (4) be currently in school, have graduated from high school, obtained a GED, or have been honorably discharged from the U.S. Armed Forces; and (5) have not been convicted of a felony, a significant misdemeanor, or three or more other misdemeanors, and otherwise not pose a threat to national security or public safety.[5]

35. A grant of DACA is case-specific, discretionary, and requires an individualized assessment of the applicant's background, equities, and public-safety considerations. Once granted, deferred action remains valid for the designated period unless affirmatively terminated by DHS through an individualized determination. Termination or revocation

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[2] *Id.*; see also *Arizona v. United States*, 567 U.S. 387, 396–97 (2012) (recognizing the Executive Branch's broad discretion in immigration enforcement decisions).
[3] 8 C.F.R. § 274a.12(c)(33).
[4] Memorandum from Janet Napolitano, Sec'y, Dep't of Homeland Sec., *Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children* (June 15, 2012); see also 8 C.F.R. §§ 236.21–236.25 (establishing Deferred Action for Childhood Arrivals, eligibility criteria, and procedures for requesting, granting, renewing, and terminating DACA).
[5] 8 C.F.R. §§ 236.21–236.25.

of DACA likewise requires consideration of the recipient's circumstances and cannot be effectuated arbitrarily or without due process.[6]

36. Petitioner Jose Nila Castro continues to meet the eligibility requirements for DACA. Upon information and belief, his DACA has not been revoked nor has he received a notice of intent to revoke his DACA. To the extent Respondents contend otherwise, any purported revocation occurred without individualized consideration and in contravention of DHS's own regulations and governing law.

VIII. FACTUAL BACKGROUND

37. Petitioner Jose Castro Nila has continuously resided in the United States for the past 24 years. He has not set foot in his country of birth since he was three years old. **(Exhibit B, Form I-765).**

38. Upon information and belief, petitioner has maintained valid DACA status for the past several years. His current DACA status is valid until June 24, 2026. **(Exhibit A, Employment Authorization document issued pursuant to DACA grant).**

39. On January 3, 2026 Petitioner was arrested by immigration officers without a warrant subsequent to a suspect traffic stop. Upon information and belief, ICE officers followed the car Petitioner was in as it was leaving a gas station. ICE pulled the car over and asked Petitioner about his immigration status. Despite Petitioner's initial reticence, he answered ICE's questions and provided his proof of valid DACA status. Petitioner was told that he was being detained despite his valid DACA because of his initial reluctance to answer questions.

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[6] 8 CFR 236.23(d)(1)(providing that deferred action may be terminated or revoked only after an individualized determination, notice to the recipient, and consideration of relevant facts and circumstances).

40. Petitioner was subsequently transferred to the North Lake Processing Center in Baldwin, Michigan, where he remains detained.

41. Upon information and belief, following the arrest, DHS placed Petitioner in removal proceedings pursuant to 8 U.S.C. § 1229a and charged him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for being present in the United States without admission or parole.

42. Petitioner has resided in the United States for more than two decades, during which time he has established deep family and community ties. He has three U.S. citizen brothers and parents who are in the process of applying for lawful permanent residency. He has had the same job as a carpet installer for ten years.

43. Petitioner has no criminal record. **(Exhibit B, Form I-821D).**

44. He poses no danger to the community or risk of flight.

45. After his transfer to North Lake Processing Center, ICE issued a custody determination continuing Petitioner's detention without an opportunity to post bond or to be released on conditions. As a result, Petitioner remains detained in ICE custody with no opportunity for an individualized bond hearing to assess his flight risk or dangerousness. Absent relief from this Court, Petitioner faces the prospect of prolonged, potentially indefinite detention—separated from his family, community, and U.S. citizen children—based solely on an erroneous interpretation of immigration law and regulations.

VIII. CLAIMS FOR RELIEF

COUNT I
Violation of the Immigration and Nationality Act (INA)

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

47. 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.

48. The District Court in *Bautista* confirmed this reading, holding that § 1225(b)(2)(A) requires a specific factual predicate: a determination by an 'examining immigration officer' that occurs during an inspection. Bautista, Order on Motion for Partial Summary Judgment, Dkt. 81 at 14. Because Petitioner entered without inspection and was apprehended later, this statutory condition precedent was never met. To apply § 1225(b)(2) here would be to rewrite the statute and render § 1226(a) superfluous.

49. As relevant here, it does not apply to those who previously entered the country without permission and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

50. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA. The mandatory-detention clause at 8 U.S.C. § 1225(b)(2)(A) applies only to *arriving aliens* or to noncitizens *caught in the act of seeking admission* at a port of entry.

51. It does not extend to individuals who entered the United States years earlier and were apprehended within the interior after establishing residence, family ties, and employment. Such individuals are governed by 8 U.S.C. § 1226(a), which authorizes discretionary custody and release on bond, unless they fall within the narrow mandatory-detention categories of § 1225(b)(1) (expedited removal), § 1226(c) (certain criminal aliens), or § 1231 (post-order detention).

52. Respondents' reliance on § 1225(b)(2)(A) to mandate Petitioner's detention contradicts the statutory text, structure, and history of the INA. Congress deliberately separated the detention provisions for *arriving* and *present* noncitizens; reading § 1225(b) to subsume § 1226(a) renders that distinction meaningless, violating the canon against surplusage. *See Chogllo Chafla v. Scott*, No. 2:25-cv-00437-SDN (D. Me. Sept. 21 2025); *Giron Reyes v. Lyons*, No. 3:25-cv-302 (N.D. Iowa Sept. 23 2025) (holding that individuals apprehended in the interior are detained under § 1226(a), not § 1225(b)(2)).

53. Moreover, after *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), agency interpretations such as *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), are not entitled to *Chevron* deference; they are reviewed *de novo* and accorded weight only to the extent they are persuasive.

54. The Board's inconsistent reading of § 1225(b)(2) lacks such persuasive force and has been rejected by multiple district courts.

55. Accordingly, application of § 1225(b)(2) to Petitioner unlawfully mandates continued detention, exceeds statutory authority, and violates the INA. Petitioner is entitled to a custody determination under § 1226(a) and immediate consideration for release on bond or conditional parole.

COUNT II
Violation of the Bond Regulations

56. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

57. Following the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA), EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See Inspection and*

Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

58. That contemporaneous interpretation, binding until lawfully amended through notice-and-comment rulemaking, confirmed that noncitizens apprehended in the interior after entering without inspection fall under 8 U.S.C. § 1226(a), not § 1225(b), and are entitled to individualized bond consideration under 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

59. Nonetheless, following *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), EOIR has adopted a policy and practice of reclassifying such individuals as § 1225(b)(2) detainees, thereby stripping immigration judges of bond jurisdiction.

60. This abrupt reversal of a 25-year-old rule contradicts the plain text of the governing regulations, which remain unamended, and constitutes agency action "not in accordance with law," arbitrary, and *ultra vires* under 5 U.S.C. § 706(2)(A), (C). *See Chogllo Chafla v. Scott*, No. 2:25-cv-00437-SDN (D. Me. Sept. 21 2025) (finding *Yajure-Hurtado* inconsistent with the INA and 1997 regulations).

61. By detaining Petitioner under § 1225(b)(2) and denying him access to bond redetermination procedures mandated by §§ 236.1 and 1003.19, Respondents have acted beyond their statutory and regulatory authority.

62. Accordingly, application of § 1225(b)(2) to Petitioner violates the INA's implementing regulations and the Administrative Procedure Act, and his continued mandatory detention is unlawful.

COUNT III
Violation of the Administrative Procedure Act (APA) and the Immigration and Nationality Act (INA)
(Arbitrary, Capricious, and Ultra Vires Agency Action)

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

64. The APA requires that agency action be set aside when it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," or when it is "in excess of statutory jurisdiction, authority, or limitations." 5 U.S.C. § 706(2)(A), (C).

65. Respondents' classification of Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), rather than the discretionary-bond framework of § 1226(a), is contrary to both the plain language of the INA and the regulations that have governed immigration custody for nearly three decades.

66. When Congress enacted IIRIRA in 1996, the DOJ and the former Immigration and Naturalization Service jointly promulgated the interim rule *Apprehension, Custody, and Detention of Aliens*, which expressly provided that "[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. 10,312, 10,323 (Mar. 6 1997) (emphasis added).

67. These regulations, codified at 8 C.F.R. §§ 236.1, 1236.1, 1003.19, have never been amended through notice-and-comment rulemaking. Respondents' current practice, adopted through *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), summarily reclassifies interior arrests as "applicants for admission" subject to § 1225(b)(2), thereby extinguishing immigration judges' bond jurisdiction. That shift represents an unexplained departure from the agencies' settled interpretation and an exercise of authority Congress never conferred.

68. Because *Yajure-Hurtado* reversed twenty-five years of consistent policy without engaging in reasoned analysis or formal rulemaking, it constitutes arbitrary and capricious agency action under *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29 (1983).

69. The decision also conflicts with the governing statute, which limits § 1225(b) to arriving aliens and those caught in the act of seeking admission, and thus is *ultra vires*.

70. After *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), courts no longer defer to agency interpretations that expand statutory reach beyond Congress's text. Recent district courts have uniformly rejected *Hurtado*'s reasoning and held that noncitizens apprehended in the interior fall under § 1226(a) and are entitled to bond hearings. *See Chogllo Chafla v. Scott*, No. 2:25-cv-00437-SDN (D. Me. Sept. 21 2025); *Giron Reyes v. Lyons*, No. 3:25-cv-302 (N.D. Iowa Sept. 23 2025).

71. By detaining Petitioner pursuant to an unlawful interpretation of the INA and contrary to controlling regulations, Respondents have acted not in accordance with law, without observance of required procedure, and in excess of their statutory authority, in violation of 5 U.S.C. § 706(2)(A) and (C).

72. Petitioner therefore seeks a declaration that Respondents' application of § 1225(b)(2) to him is unlawful, and an order directing his immediate release or, at minimum, a prompt individualized custody redetermination hearing under § 1226(a) before a neutral immigration judge.

COUNT IV
Violation of the Suspension Clause of the United States Constitution
(U.S. Const. art. I, § 9, cl. 2)

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

74. The Suspension Clause of Article I, Section 9 of the Constitution provides that "*The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.*"

75. This constitutional safeguard predates the Bill of Rights and stands as the fundamental guarantee that government officials may not imprison individuals without accountability to an independent judiciary. The Great Writ is not a mere procedural device; it is the constitutional mechanism through which the people ensure that executive detention remains subject to law. *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *Boumediene v. Bush*, 553 U.S. 723, 739–46 (2008).

76. By classifying Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)—a provision that forecloses any individualized custody determination and disclaims Immigration Judge jurisdiction—the Government has effectively extinguished all statutory and administrative avenues for review of Petitioner's confinement.

77. The BIA does not entertain bond appeals where the Immigration Judge finds no jurisdiction, and no other administrative process exists to test the legality of detention. Absent habeas review in this Court, Petitioner would have no forum whatsoever in which to challenge the basis of his custody or the agency's misapplication of the law. Such a regime amounts to an unconstitutional suspension of the writ of habeas corpus.

78. The Supreme Court has consistently held that the writ must remain available to test the legality of executive detention, even in the immigration context. In *St. Cyr*, 533 U.S. at 305–06, the Court reaffirmed that "a serious Suspension Clause issue would be presented

if a federal court were denied jurisdiction to hear a pure question of law" regarding detention or removal.

79. Likewise, in *Boumediene*, 553 U.S. at 779, the Court emphasized that the writ's core function is to ensure that the Executive "does not detain individuals except in accordance with law."

80. These decisions confirm that the constitutional minimum requires a judicial forum capable of determining whether the Government has lawful authority to detain a person and to order release if that authority is lacking.

81. The post-*Hurtado* detention framework deprives Petitioner of that constitutional protection. EOIR and ICE have erected a system in which a noncitizen apprehended in the interior can be held indefinitely under § 1225(b)(2) without a bond hearing and without access to any reviewing tribunal.

82. This administrative black hole is precisely what the Framers sought to forbid: executive imprisonment unreviewable by the judiciary. As Professor Kamin explains in *The Great Writ as Popular Sovereignty*, 77 Stan. L. Rev. 297 (2025) the Suspension Clause embodies the principle that the legitimacy of government itself depends upon the continual availability of the writ to test the lawfulness of confinement. When the Government constructs a scheme that removes an entire category of persons from judicial review, it acts in derogation of the people's reserved right to demand legal justification for state restraint, and the principles of popular sovereignty. S*ee id.* at 302 ("[T]he principal purpose of American habeas is the vindication not of individual physical liberty, but of popular sovereignty. More simply put, we should understand American habeas as a Great Writ of Popular Sovereignty.").

83. Petitioner's detention under § 1225(b)(2) thus violates not only the INA and the APA but the structural command of the Constitution. The Suspension Clause protects against exactly this scenario—where an individual is held by executive order with no opportunity to obtain judicial scrutiny of the detention's legality.

84. Because Respondents' actions have eliminated all practical means for Petitioner to challenge his confinement, the statutory scheme as applied to him constitutes an unconstitutional suspension of the writ of habeas corpus.

85. Petitioner therefore respectfully requests that this Court (1) declare that the application of § 1225(b)(2) to his case violates the Suspension Clause; (2) exercise its habeas jurisdiction under 28 U.S.C. § 2241 to review the legality of his detention; and (3) order his immediate release or, at minimum, a prompt individualized custody hearing under 8 U.S.C. § 1226(a) before a neutral immigration judge.

COUNT V
Violation of the Fifth Amendment to the United States Constitution
(Prolonged Detention in Violation of Substantive Due Process)

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

87. The Fifth Amendment to the United States Constitution provides that no person shall "be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V.

88. This protection extends to *all persons* within the United States, including noncitizens, regardless of manner of entry. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

89. At the core of the liberty the Due Process Clause protects is freedom from physical restraint by the government, a right that may be curtailed only in the most exceptional circumstances and for purposes consistent with law. *Id.* at 690.

90. Immigration detention, though civil in form, must remain regulatory in purpose—it may not become punitive. Detention is justified only to ensure attendance at proceedings or to protect the community from danger. *Jennings v. Rodriguez*, 583 U.S. 521, 540–41 (2018).

91. When detention extends beyond the period reasonably necessary to achieve those purposes, or when it occurs without any individualized determination of necessity, it violates the substantive due process guarantee that government action not be arbitrary, excessive, or purposeless. *Demore v. Kim*, 538 U.S. 510, 528 (2003); *Zadvydas*, 533 U.S. at 690.

92. Petitioner has now been detained for a prolonged period without any opportunity to seek release or to demonstrate that he poses no risk of flight or danger. He has resided in the United States since he was three years old, has no criminal record, and has deep ties to his family and community in the United States. There is no rational justification for treating him as a mandatory-detention case under 8 U.S.C. § 1225(b)(2), a provision intended for arriving aliens at ports of entry.

93. His continued confinement, months after the initiation of removal proceedings and in the absence of any bond hearing, has lost any legitimate regulatory purpose and has become arbitrary and punitive in violation of substantive due process.

94. Courts across the country have recognized that prolonged detention under § 1225(b)(2) or § 1226(a) without a bond hearing offends the Constitution. In *Chogllo Chafla v. Scott*, No. 2:25-cv-00437-SDN (D. Me. Sept. 21, 2025), the court granted habeas relief to three noncitizens detained under the same circumstances, finding that detention without bond review "exceeds what due process tolerates."

95. Likewise, in *Giron Reyes v. Lyons*, No. 3:25-cv-302 (N.D. Iowa Sept. 23, 2025), the court issued a preliminary injunction requiring a bond hearing within fourteen days, holding that "[p]rolonged civil confinement without any opportunity to show that continued detention is unnecessary violates the Due Process Clause."

96. Petitioner's detention bears all the hallmarks of unconstitutionality: indefinite duration, categorical denial of process, and complete disregard for his individual circumstances. It imposes an excessive restraint on liberty that is not narrowly tailored to any legitimate governmental interest.

97. The Due Process Clause forbids the Government from detaining a person indefinitely and without justification. As the Supreme Court held in *Zadvydas*, "once detention's purpose no longer bears a reasonable relation to the Government's goal, the detention may not continue." 533 U.S. at 690.

98. Accordingly, Petitioner's continued mandatory detention under § 1225(b)(2) violates the substantive component of the Due Process Clause of the Fifth Amendment. Petitioner respectfully requests that this Court declare his detention unconstitutional and order his immediate release or, in the alternative, direct Respondents to provide a prompt, individualized custody hearing before a neutral immigration judge, at which the Government must justify continued detention by clear and convincing evidence.

COUNT VI
Violation of the Fifth Amendment to the United States Constitution
(Substantive and Procedural Due Process)

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

100. The Fifth Amendment provides that no person shall "be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. Freedom from physical restraint lies "at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

101. This protection extends to all persons within the United States, including noncitizens, regardless of their status or manner of entry. *Id.* at 693.

102. Civil immigration detention is constitutionally permissible only when it is narrowly tailored to serve legitimate regulatory purposes—ensuring appearance at proceedings and protecting the community—and only when accompanied by meaningful procedural safeguards. *Jennings v. Rodriguez*, 583 U.S. 521, 540–41 (2018).

103. By classifying Petitioner under 8 U.S.C. § 1225(b)(2) and denying any opportunity for an individualized bond hearing, Respondents have imposed mandatory detention without process, thereby violating Petitioner's substantive and procedural due process rights.

104. The application of § 1225(b)(2) to a long-term resident apprehended in the interior bears no rational relation to Congress's stated objectives and results in an arbitrary deprivation of liberty. Substantively, detention that continues for months without individualized review ceases to serve a regulatory purpose and becomes punitive, contrary to *Zadvydas* and *Demore v. Kim*, 538 U.S. 510, 528 (2003).

105. Procedurally, Respondents' categorical denial of a bond hearing fails the *Mathews v. Eldridge*, 424 U.S. 319 (1976), balancing test. The private interest at stake—freedom from unlawful confinement—is of the highest order. The risk of erroneous deprivation is acute where, as here, no hearing exists to assess flight risk or danger.

106. The government's interests can be fully satisfied through individualized bond determinations that safeguard both liberty and the integrity of removal proceedings. *See Chogllo Chafla v. Scott,* No. 2:25-cv-00437-SDN, 2025 U.S. Dist. LEXIS 184909, at *333 (D. Me. Sep. 21, 2025) ("In sum, the *Mathews* factors weigh in favor of the Petitioners and compel a hearing on detention before an Immigration Judge where they may have the opportunity to be heard.").

107. Petitioner has been gravely prejudiced by this misapplication of law and by the government's refusal to afford a bond redetermination hearing. His detention—spanning months, despite strong family ties, community support, and an unblemished record—serves no lawful purpose and offends the fundamental guarantees of due process.

108. Petitioner respectfully requests that this Court declare his continued mandatory detention unconstitutional and order his immediate release or, in the alternative, direct Respondents to provide a prompt, individualized custody hearing before a neutral immigration judge, at which the government must justify continued detention by clear and convincing evidence.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully prays that this Court enter judgment in his favor and grant the following relief:

1. *Issue the Writ.* Grant a writ of habeas corpus under 28 U.S.C. § 2241 and order Petitioner's immediate release from immigration custody.
2. *Declaratory Relief (Statutory/Regulatory).* Declare that Respondents' application of 8 U.S.C. § 1225(b)(2) to Petitioner—an interior arrest long after entry—violates the INA

and is contrary to 8 U.S.C. § 1226(a) and the implementing regulations, including 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

3. Enforcement of Nationwide Class Rights: Recognize Petitioner's status as a member of the Bautista nationwide class and issue a Writ of Habeas Corpus to enforce the declaratory judgment issued in that action against Respondents within this District.
4. *Declaratory Relief (APA).* Declare that Respondents' policy and practice of categorically detaining interior arrestees under § 1225(b)(2), and thereby stripping immigration judges of bond jurisdiction, is arbitrary, capricious, and ultra vires in violation of 5 U.S.C. § 706(2).
5. *Declaratory Relief (Constitutional).* Declare that Petitioner's continued detention without an individualized bond hearing violates the Fifth Amendment (substantive and procedural due process) and, to the extent the scheme forecloses any judicial review, violates the Suspension Clause.
6. *Bond-Hearing Alternative*. In the alternative to immediate release, order a prompt, individualized custody hearing before a neutral immigration judge within 14 days, conducted under the following minimum constitutional safeguards: The Government bears the burden of proof by clear and convincing evidence to justify continued detention as necessary to ensure appearance or protect the community; The IJ must consider the least restrictive alternatives to detention, including conditional parole, supervision, and electronic monitoring; Any monetary bond must account for Petitioner's ability to pay and be set at the least amount necessary to ensure appearance; The IJ must issue a reasoned, written decision.

7. *Anti-Transfer / Status-Quo Orders.* Pending final resolution, enjoin transfer of Petitioner outside this District (absent Court permission) and maintain the status quo necessary to effectuate the Court's orders.
8. *Stay of Removal (as needed).* To preserve this Court's jurisdiction and avoid irreparable harm, stay Petitioner's removal until completion of these proceedings and any ordered bond hearing.
9. *Production of Records.* Order Respondents to produce forthwith Petitioner's A-file and custody records (including any custody determinations, Form I-286, and any documents relied upon to deny bond jurisdiction), and to file a status report confirming compliance with the Court's orders.
10. *Retention of Jurisdiction.* Retain jurisdiction to enforce, modify, and monitor compliance with the Court's orders, including any bond-hearing directives.
11. *Fees and Costs.* Award costs and any other relief the Court deems just and proper; without waiver, reserve Petitioner's right to seek fees under applicable law.

Respectfully submitted.

Dated:January 15, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 15, 2026 *Petitioner's Petition for Writ of Habeas Corpus* was filed with the Court Clerk via ECF system e-filing system which will give notice of such filing to all parties of record.

/s/ Robert Anthony Alvarez
Robert Anthony Alvarez