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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

YOSVANI RAMIREZ-CORDERO,

Petitioner,

v.

ROSE THOMPSON, Warden, Karnes County Immigration Processing Center;

MIGUEL VERGARA, Acting/Director of the San Antonio Field Office U.S. Immigration and Customs Enforcement;

TODD LYONS, Acting Director, Immigration and Customs Enforcement

KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; and

PAMELA BONDI, Attorney General of the United States, in their official capacities,

Respondents.

Case No. 5:26-cv-00221

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Yosvani Ramirez Cordero is in the physical custody of Respondents at the Karnes County Immigration Processing Center in Karnes City, Texas. **Exh. A, ICE Detainee Locator.** Petitioner was first detained and released in August 2022 under DHS's discretionary detention authority under 8 U.S.C. 1226. **Exh. B, Form I-220A, Order of Release on Recognizance.** Over three years later, in October 2025, the Department of Homeland Security (DHS) re-detained Petitioner when he attended his scheduled ICE check-in. He has remained detained since that date.

2. The Department of Homeland Security (DHS) insists that its authority to detain him stems from 8 U.S.C. § 1225(b) and that he is therefore ineligible for a bond hearing. This assertion is legally incorrect. Nevertheless, the Executive Office for Immigration Review (EOIR) has validated this position in contravention of the plain text of the statute and decades of statutory interpretation and practice and Respondents' own prior treatment of Petitioner.

3. Federal district courts across the nation have reached a clear consensus: Section 1225(b) does not apply to Petitioner's circumstances, and Respondents' reliance on this inapplicable statute renders his detention unlawful. Because Petitioner cannot be detained under Section 1225(b)(1) or Section 1225(b)(2), the only lawful basis for continued detention would be Section 1226—which provides for individualized bond determinations. However, Respondents do not assert they are detaining Petitioner under Section 1226. By detaining Petitioner under a statute that does not authorize his detention while simultaneously refusing to apply the statute that does, Respondents hold him in unlawful custody. Petitioner is therefore entitled to immediate release.

4. The present petition filed on behalf of the Petitioner is one of a number of recent lawsuits with similar facts challenging the federal government's authority to detain noncitizens during the pendency of removal proceedings under 8 U.S.C. § 1225(b). Overwhelmingly, District Courts in the Western District of Texas and other District Courts located in the Fifth Circuit have ruled in favor of petitioners facing similar detention conditions. *See e.g. Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314 (W.D. Tex. Nov. 26, 2025), *Diaz Perez v. Thompson et al*, No. 5:25-CV-1664-JKP, 2025 WL 3654333 (W.D. Tex. Dec. 15, 2025), *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025). Indeed, most District Courts across the nation have agreed with the petitioners in similar cases[1].

5. Accordingly, to preserve Petitioner's statutory and constitutional rights, this Court should grant the instant petition for a Writ of Habeas Corpus for the reasons stated *infra*. Absent an order from this Court, Petitioner will continue to suffer an unconstitutional deprivation of his right to liberty, as well as extreme irreparable harm given the personal facts of his situation. Petitioner asks this Court to find that his detention is unconstitutional and order immediate release from detention.

JURISDICTION

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

7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

[1] *Hundreds of judges reject Trump's mandatory detention policy, with no end in sight*, POLITICO (Jan. 5, 2026), https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494

8. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

9. Here, Petitioner challenges the legality of his detention, asserting that he is held in violation of both the Constitution and federal immigration statutes. Such claims fall squarely within the habeas jurisdiction of federal district courts. None of the jurisdiction stripping provisions found at 8 U.S.C. § 1252(a)(2)(A), § 1252(g) and § 1252(b)(9) apply.

10. Federal district courts have consistently held that these jurisdictional bars do not preclude habeas review of the proper application of INA detention provisions. *See Hernandez Fernandez v. Lyons et al, No. 5:25-CV-00773-JKP, 2025 WL 2976923* (W.D. Tex. Oct. 21, 2025), *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *2-4 (W.D. Tex. Oct. 16, 2025) (finding a case 'falls squarely outside' the jurisdictional bars where Petitioner was only 'challenging whether certain INA provisions require his detention without a bond hearing'); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *4 (W.D. Tex. Sept. 22, 2025) (rejecting government's jurisdictional arguments). As these courts have recognized, habeas jurisdiction exists to review whether the government is detaining a noncitizen under the correct statutory authority and with adequate procedural protections. That is precisely the question presented here.

VENUE

11. Venue is proper with this Court because Petitioner is detained at Karnes County Immigration Processing Center in Karnes City, Texas, which is within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for Writ of Habeas Corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, 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).

PARTIES

14. Petitioner, Yosvani Ramirez Cordero is a citizen of Cuba. He is currently detained at Karnes County Immigration Processing Center in Karnes City, Texas. He is in the custody, and under the direct control, of Respondents and their agents.

15. Respondent Rose Thompson is the Warden of the Karnes County Immigration Processing Center and she has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

16. Respondent Miguel Vergara is sued in his official capacity as the Acting Field Office Director of the San Antonio Field Office of U.S. Immigration and Customs Enforcement. Respondent Vergara is a legal custodian of Petitioner and has authority to release him.

17. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.

18. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention / custody. Respondent Noem is a legal custodian of Petitioner.

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

STATEMENT OF FACTS

20. Petitioner is a 44-year-old native and citizen of Cuba. He entered the United States without inspection near Nogales, Arizona, on about August 2, 2022. This was his first and only entry into the United States. He was apprehended shortly after his entry and charged with inadmissibility pursuant to 8 U.S.C. 1182(a)(6)(A)(i). **Exh. C, Form I-862 Notice to Appear.** A few days later, on August 6, 2022, he was served with an Order of Release on Recognizance issued pursuant to 8 U.S.C. 1226(a) and was released from custody. **Exh B, Form I-220A, Order of Release on Recognizance.** He proceeded to check-in with DHS repeatedly without incident.

21. Petitioner timely applied for asylum with the immigration court on July 26, 2023, within a year of his arrival. **Exh. D, Form I-589, Stamped by EOIR.** Subsequently, he applied for Adjustment of Status on or about January 15, 2025. **Exh. E, I-485 Receipt Notice.** Petitioner was residing with his wife and two-year old U.S. citizen daughter. He is the primary breadwinner of the household and has worked hard to provide for his family. He has no criminal history.

22. On October 27, 2025, Petitioner attended his scheduled check-in with ICE as he usually did. At his check-in, DHS took him into custody without any warning or any way to challenge his re-detention. He is currently detained at the Karnes County Immigration Processing Center. **Exh. A, ICE Detainee Locator Results.**

23. Petitioner has been unlawfully detained by ICE for over two months, and will not be released by DHS pursuant to the current policy or DHS and EOIR.

LEGAL FRAMEWORK

24. Two statutes principally govern the detention of noncitizens pending removal proceedings: 8 U.S.C. §§ 1225 and 1226. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge (IJ). *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c). Second, § 1225 applies to "applicants for admission," who are, as relevant here, noncitizens "present in the United States who [have] not been admitted." 8 U.S.C. § 1225(a)(1). All applicants for admission must be inspected by an immigration officer. Id. § 1225(a)(3). DHS can elect

to place certain applicants for admission into expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1); *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108-09 (2020). In other cases, if the examining immigration officer determines that an applicant for admission is not "clearly and beyond a doubt entitled to be admitted," Section 1225(b)(2) provides that the applicant for admission "shall be detained for" standard removal proceedings. 8 U.S.C. § 1225(b)(2)(A); *see Jennings v. Rodriguez*, 583 U.S. 281, 287-88 (2018). A noncitizen detained under Section 1225(b)(2) may be released only if he is paroled "for urgent humanitarian reasons or significant public benefit" under 8 U.S.C. § 1182(d)(5)(A). *Jennings*, 583 U.S. at 300 ("That express exception to detention implies that there are no other circumstances under which aliens detained under § 1225(b) may be released.").

25. Whereas Section 1225(b) "authorizes the Government to detain certain aliens *seeking admission* into the country," Section 1226 "authorizes the Government to detain certain *aliens already in the country* pending the outcome of removal proceedings." *Jennings*, 583 U.S. at 289 (emphases added). Section 1226(a) establishes a discretionary detention framework for noncitizens arrested and detained "[o]n a warrant issued by the Attorney General." For such individuals, the Attorney General (1) "may continue to detain the arrested alien," (2) "may release the alien on ... bond of at least $1,500," or (3) "may release the alien on ... conditional parole." 8 U.S.C. §§ 1226(a)(1)-(2). The arresting immigration officer makes an initial custody determination, but noncitizens have the right to request a custody redetermination (i.e., bond) hearing before an Immigration Judge. See 8 C.F.R. §§ 1236.1(c)(8), (d)(1).

26. In addition to bond, the government may release a noncitizen detained under Section 1226(a) on an Order of Recognizance, which is a form of conditional parole. *See* 8 U.S.C. § 1226(a)(2)(B); *Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 747 (B.I.A. 2023) ("The respondents were ... released on their own recognizance pursuant to DHS' conditional parole authority under ... 8 U.S.C. § 1226(a)(2)(B)[.]"); *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) ("It is apparent that the [government] used the phrase 'release on recognizance' as another name for 'conditional parole' under § 1226(a)."); *Cruz-Miguel v. Holder*, 650 F.3d 189, 191 (2d Cir. 2011) (similar).

27. Section 1226(c) is the sole exception to Section 1226(a)'s discretionary detention framework. *See* 8 U.S.C. § 1226(a) ("Except as provided in subsection (c) ... the Attorney General ... may"); id. § 1226(c)(1) Section 1226(c) requires the detention of noncitizens who are inadmissible or deportable and who have been arrested, charged with, or convicted of certain crimes. *See* id. §§ 1226(c)(1)(A)-(D).

28. This case concerns the detention provisions at §§ 1226(a) and 1225(b) and specifically whether Petitioner is lawfully detained under Section 1225(b) as the government now contends, or is instead subject to discretionary detention under Section 1226(a), as the government represented in its initial custody determination in 2022.

29. Section 1226(a) "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings," *Jennings*, 583 U.S. at 289, and it applies when a noncitizen is "arrested and detained" "[o]n a warrant issued by the Attorney General," 8 U.S.C. § 1226(a); *See Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 749 (BIA 2023) (holding that an immigration judge erred in treating release on recognizance of non-citizens "detained soon after their unlawful entry" as constructive

humanitarian parole where Government had not followed the "procedures for parole under [section 1182(d)(5)]").

30. Petitioner anticipates that Respondents will argue that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(1). Alternatively, Petitioner anticipates that Respondents will argue that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Both positions have no basis in law.

31. Petitioner cannot be subject to 8 U.S.C. § 1225(b)(1). When DHS apprehended Petitioner in August of 2022, DHS had the option to place him in either expedited removal proceedings under 8 U.S.C. § 1225(b)(1), *or* full removal proceedings 8 U.S.C. § 1229a. It opted for the latter and as such cannot now claim that Petitioner is not in full proceedings. *See Patel v. Tindall*, No. 3:25-CV-373-RGJ, 2025 WL 2823607, at *5 (W.D. Ky. Oct. 3, 2025) ("Respondents in other cases have conceded that an individual cannot be in two removal proceedings simultaneously); *Salcedo Aceros v. Kaiser*, 2025 WL 2637503, at *7 (N.D. Cal. Sep. 12, 2025) (stating that "The Government concedes that Ms. Salcedo Aceros is currently in full removal proceedings under Section 1229, and that while those proceedings are live, she cannot be simultaneously subjected to Section 1225(b)(1)'s expedited removal proceedings."); *Munoz Materano*, 2025 WL 2630826, at *11 ("Respondents therefore expressly concede that, while Munoz Materano's appeal is pending, he remains in Section 240 removal proceedings subject to § 1229a, not expedited removal pursuant to § 1225(b)(1).").

32. Furthermore, 1225(b)(1) could not apply to Petitioner due to the timing of his re-detention. "In this case, Petitioner is not an "arriving" noncitizen but one that has been present in our country for over [three years]. This substantial amount of time indicates he

is afforded the Fifth Amendment's guaranteed due process before removal." *Noori v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *10 (S.D. Cal. Oct. 1, 2025); *See also Yamataya v. Fisher*, 189 U.S. 86, 87 (1903) (finding a noncitizen was entitled to due process before removal despite having spent only four days in the US); *Make the Rd. New York v. Noem*, No. 25-CV-190 (JMC), 2025 WL 2494908 (D.D.C. Aug. 29, 2025) (staying DHS guidance authorizing expansion of scope of expedited removal to noncitizens apprehended anywhere in the United States on the basis that it violates the Due Process).

33. Respondents' alternative anticipated position that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) is equally untenable. Respondents are likely to argue that Petitioner is subject to mandatory detention without a bond hearing under the plain language of 8 U.S.C. § 1225(b)(2), despite being released on his own recognizance pursuant to 8 U.S.C. 1226 and living in the U.S. for over three years.

34. This position has been resoundingly and repeatedly rejected by federal district courts across the country, including courts in the Fifth Circuit and the Western District of Texas. *See e.g. Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314 (W.D. Tex. Nov. 26, 2025), *Diaz Perez v. Thompson et al*, No. 5:25-CV-1664-JKP, 2025 WL 3654333 (W.D. Tex. Dec. 15, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-CV-326-LM-AJ, 2025 WL 2639390, at *10 n.9 (D.N.H. Sept. 8, 2025); *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278, at *5 (W.D. La. Sept. 11, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, (W.D. Tex. Sept. 22, 2025); *Becerra Vargas v. Bondi*, No. SA-25-CV-1023-FB (HJB), 2025 WL 3300446 (W.D. Tex. Nov. 12, 2025), (report and recommendation adopted *sub nom*); *Vieira v. De*

Anda-Ybarra, No. EP-25-CV-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025); *Parada-Hernandez v. Johnson*, No. 3:25-CV-2729-K-BN, 2025 WL 3465958, (N.D. Tex. Oct. 29, 2025), *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *8 n.5 (E.D. Mich. Aug. 29, 2025) (collecting twelve such decisions); *Puerto-Hernandez, Petitioner, v. Lynch et al.*,, No. 1:25-CV-1097, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025); *Castellanos v. Kaiser,* No. 25-CV-07962, 2025 WL 2689853, at *3 (N.D. Cal. Sept. 18, 2025); *Cardin Alvarez v. Rivas*, No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389, at *21 (D. Ariz. Oct. 7, 2025); *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Perez Pina, v. Stamper*, No. 2:25-CV-00509-SDN, 2025 WL 2939298 (D. Me. Oct. 16, 2025); *Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779, at *5 (N.D. Ill. Oct. 16, 2025).

35. Respondents' own documents and actions, the plain text of the statute, traditional canons of statutory construction, and DHS' longstanding practices all establish that 1226(a) governs Petitioner's detention.

36. When Petitioner was initially detained and released in August 2022, the Order of Release on Recognizance authorizing his release provided that he was released "[i]n accordance with section 236 of the [INA] and the applicable provisions of Title 8 of the Code of Federal Regulations." **Exh. B, Form I-220A, Order of Release on Recognizance.** While 8 U.S.C. § 1226(a) authorizes release on recognizance, § 1225(b) prohibits it. He was then re-detained on October 27, 2025, after residing in the United States since his entry.

37. In all, "the government's treatment of Petitioner since his arrival in the United States in [August 2022], establishes that Petitioner was detained pursuant to the government's

discretionary authority under § 1226(a)." *See J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765, at *5 (E.D.N.Y. Sept. 29, 2025).

38. The plain text of Section 1225(b) and Section 1226(a) also clearly establishes 1225(b) does not apply to noncitizens like Petitioner who are arrested while residing in the U.S. Following a noncitizen's arrest and detention "[o]n a warrant," and pending the completion of removal proceedings, Section 1226(a) provides that the Attorney General: (1) "may continue to detain the arrested alien"; (2) "may release the alien on ... bond"; or (3) "may release the alien on ... conditional parole." 8 U.S.C. §§ 1226(a)(1), (a)(2)(A), (a)(2)(B). "The thrice-used permissive word 'may' indicates Congress's intent to establish a discretionary, rather than mandatory, detention framework for noncitizens arrested on a warrant." *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *6 (D. Mass. July 7, 2025)

39. As district courts across the country have repeatedly concluded, Respondents' "interpretation of the statute (1) disregards the plain meaning of § 1225(b)(2)(A); (2) disregards the relationship between §§ 1225 and 1226; (3) would render a recent amendment to § 1226(c) superfluous; and (4) is inconsistent with decades of prior statutory interpretation and practice." *Ochoa Ochoa v. Noem*, No. 25-CV-10865, 2025 WL 2938779, at *5 (N.D. Ill. Oct. 16, 2025) (citing *Alejandro v. Olson*, 2025 WL 2896348, at *6 (S.D. Ind. Oct. 11, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588, at *8 (S.D.N.Y. Aug. 13, 2025) ("[T]he line historically drawn between sections 1225 and 1226, which makes sense of their text and the overall statutory scheme, is that section 1225 governs detention of non-citizens 'seeking admission into the country,' whereas section 1226 governs detention of non-citizens 'already in the country.' ") (cleaned up)

Diaz Martinez v. Hyde, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) ("The idea that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission into the country,' is consonant with the core logic of our immigration system.") (cleaned up) (citing *Jennings*, 583 U.S. at 289).

40. In addition, "CBP's decision to conditionally parole [Petitioner] under Section 1226(a) is consistent with its longstanding practice of conditionally paroling noncitizens arrested near the border. *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *3, f.7 (D. Mass. July 7, 2025) (citing Transcript of Oral Argument, at 44:24-45:2, *Biden v. Texas,* 597 U.S. 785 (2022) (No. 21-954) (Solicitor General representing that "DHS's long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended.").

41. "Because Petitioner cannot be detained under Section 1225(b)(2)" and "Respondents do not claim that Petitioner is being detained under Section 1226," Petitioner's detention is plainly "unlawful, and habeas relief is proper" through an order requiring immediate release. *See Perez v. Noem*, No. SA-25-CA-01534-XR, 2025 WL 3654262, at *7 (W.D. Tex. Dec. 5, 2025). *See also Granados v. Noem, No.* SA-25-CA-01464-XR, 2025 WL 3296314, at *7 (W.D. Tex. Nov. 26, 2025) (same); *F.R.R. v. Rodriguez*, No. SA-25-CA-01564-XR, 2025 WL 3654266, at *8 (W.D. Tex. Dec. 5, 2025) (same); *Mercado v. Lyons*, No. 5:25-CV-1623-JKP, 2025 WL 3654268, at *6 (W.D. Tex. Dec. 11, 2025) (same); *Diaz Perez v. Thompson*, No. 5:25-CV-1664-JKP, 2025 WL 3654333, at *7 (W.D. Tex. Dec. 15, 2025) (same); *AMM v. Thompson*, No. SA-25-CV-01210-FB, 2025 WL 3296315, at *3 (W.D. Tex. Nov. 26, 2025) (same).

42. Finally, Respondents' actions implicate constitutional due process. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003). "To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976)." *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025). Those factors are: (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*, 424 U.S. at 335, 96 S.Ct. 893.

43. As to the first element, "'[t]he interest in being free from physical detention' is 'the most elemental of liberty interests.' " *Martinez v. Noem,* 2025 WL 2598379, at *2 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004)). Petitioner possesses a cognizable interest in his freedom from detention because he spent over three years at liberty in the United States. *See Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *11 (W.D. Tex. Sept. 22, 2025) ("Because he spent nearly three years at liberty in the United States, Lopez-Arevelo possesses a cognizable interest in his freedom from detention.")

44. Under the second *Mathews* factor, the Court considers "whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Martinez v. Noem*, 2025 WL 2598379, at *3 (quoting *Gunaydin v. Trump*, 784 F.Supp.3d 1175, 1187 (D. Minn. 2025)).

Because the immigration judge declined to exercise jurisdiction at Petitioner's bond hearing, this hearing "'did not in fact provide ... an opportunity to contest the existence, nature, or significance of [any] supervision violations' or otherwise make an individualized assessment of the need to re-detain him." *Lopez-Arevelo*, 2025 WL 2691828, at *11 (citing *Espinoza v. Kaiser,* No. 1:25-CV-01101 JLT SKO, 2025 WL 2581185, at *11 (E.D. Cal. Sept. 5, 2025). Further, given "the BIA's interpretation of mandatory detention in *Yajure Hurtado* [and *Q. Li*], that appeal is almost certainly a futile exercise. " *Id.* "Thus, there is a high risk that [Petitioner] has been and will continue to be erroneously deprived of his liberty." *Id.*

45. On the final factor, Respondents cannot identify any meaningful countervailing interest, other than perhaps their generalized interest in enforcing the INA as they interpret it. "But the decision to release [Petitioner] on his own recognizance [over three] years ago, in and of itself, 'reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.'" *Lopez-Arevelo*, 2025 WL 2691828, at *11 (citing *Saravia v. Sessions,* 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), aff'd 905 F.3d 1137 (9th Cir. 2018)). The Petitioner diligently pursued relief and complied with all conditions of his initial release. Nor has he committed any crimes or endangered anyone during his three years at liberty in the United States.

46. "The appropriate relief for an immigration detainee held in violation of their right to due process is their immediate release from custody, and to be provided with relief returning them to *status quo ante*, i.e., the last uncontested status which preceded the pending controversy." *Cardin Alvarez v. Rivas*, No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389, at *21 (D. Ariz. Oct. 7, 2025). "With regard to the specifics of the relief that

might be ordered, in recent weeks many federal district courts" –including the Western District of Texas– "have ordered the immediate release of immigration habeas petitioners held in custody in violation of their due process rights." *Id; See Santiago v. Noem*, No. 25-cv-361, 2025 WL 2792588, at *13 (W.D. Tex. Oct. 1, 2025); *See also J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *11 (D.N.J. Sept. 26, 2025); *Sampiao v. Hyde*, No. 25-cv-11981, 2025 WL 2607924, at *12 (D. Mass. Sept. 9, 2025); *Rosado v. Figueroa*, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267, at *1(D. Or. Aug. 21, 2025); *Bermeo Sicha v. Bernal*, No. 1:25-CV-00418-SDN, 2025 WL 2494530, at *7 (D. Me. Aug. 29, 2025).

47. Indeed, Courts across the country have ordered the immediate release of individuals who, like Petitioner, were placed in 1229a proceedings, released on their own recognizance, then improvidently placed in expedited removal proceedings years later, while an appeal of an order dismissing their 1229a proceedings was pending. *See e.g. Ramirez-Clavijo v. Kaiser,* No. 25-CV-06248-BLF, 2025 WL 2097467, at *4 (N.D. Cal. July 25, 2025); *Cordero Pelico v. Kaiser*, No. 25-CV-07286-EMC (EMC), 2025 WL 2494426, at *3 (N.D. Cal. Aug. 29, 2025); *Munoz Materano v. Arteta*, No. 25 CIV. 6137 (ER), 2025 WL 2630826, at *20 (S.D.N.Y. Sept. 12, 2025); *Sira-Hurtado, v. Hermosillo, et al.,* No. C25-2173-KKE, 2025 WL 3294986, at *4 (W.D. Wash. Nov. 26, 2025); *Alvarez v. Rivas*, No. CV-25-02943-PHX-GMS, 2025 WL 2899092, at *2 (D. Ariz. Oct. 10, 2025).

48. Alternatively, the court should order a bond hearing as a habeas remedy where the burden is on the government to show that the Petitioner is a flight risk or a danger to the community. Indeed "as of 2020, the 'vast majority'—an 'overwhelming consensus'—of

courts granting immigration detainees' habeas petitions have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk." *Lopez-Arevelo*, 2025 WL 2691828, at *12 (citing *Velasco Lopez,* 978 F.3d at 855 n.14 (citations omitted). "Allocating the burden in this manner reflects the concern that '[b]ecause the alien's potential loss of liberty is so severe ... he should not have to share the risk of error equally.'" (citing *German Santos*, 965 F.3d at 214). "And the consensus appears to be holding, with many courts in recent days ordering a bond hearing, at which the Government bears the burden of justifying the immigration habeas petitioner's continued detention by clear and convincing evidence." *Escobar-Arauz v. Noem,* No. EP-25-CV-00619-DB, 2025 WL 3543648 (W.D. Tex. Dec. 10, 2025); *Espinoza v. Noem*, No. EP-25-CV-00618-DB, 2025 WL 3543646 (W.D. Tex. Dec. 10, 2025); *Velasquez Salazar v. Dedos,* No. 25-cv-835, 2025 WL 2676729, at *9 (D.N.M. Sept. 17, 2025); *Morgan v. Oddo,* No. 24-cv-221, 2025 WL 2653707, at *1 (W.D. Pa. Sept. 16, 2025); *J.M.P. v. Arteta*, No. 25-cv-4987, 2025 WL 2614688, at *1 (S.D.N.Y. Sept. 10, 2025); Espinoza, 2025 WL 2581185, at *14. Nevertheless, though this Court has the authority to order relief as the Court sees fit, Petitioner maintains that his immediate release from custody is the most appropriate remedy for his unlawful detention because the Respondents had no valid reason to re-detain him on October 27, 2025, given that his circumstances had not changed in any way that would indicate that he has become a danger to the community or a flight risk. *See e.g. Matter of Sugay*, 17 I&N Dec. 637 (BIA 1981).

CAUSES OF ACTION

COUNT ONE
Violation of Fifth Amendment Right to Due Process

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

50. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment— from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

51. Petitioner has a fundamental interest in liberty and being free from official restraint.

52. The government's arbitrary subjection of Petitioner to mandatory detention pursuant to 8 U.S.C. 1225, after three years of release on his own recognizance under § 1226 and without affording him any opportunity to contest his detention within the agency, violates his right to Due Process pursuant to the Fifth Amendment.

COUNT TWO
Violation of the Immigration and Nationality Act
Unlawful Re-detention after being released under 8 U.S.C. 1226

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

54. The mandatory detention provision at 8 U.S.C. § 1225(b) does not apply to noncitizens residing in the United States who have already been determined by DHS to be subject to discretionary detention under 8 U.S.C. 1226(a). The application of § 1225(b) to mandatorily detain Petitioner and bar him from receiving a bond redetermination hearing before a neutral arbiter violates the Immigration and Nationality Act.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter and maintain jurisdiction to the extent necessary to ensure Respondents' compliance with any order this Court may issue;

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

(3) Declare that the refusal to allow Petitioners a bond redetermination hearing before an immigration judge violates the INA and the Due Process clause of the Fifth Amendment;

(4) Issue a Writ of Habeas Corpus requiring that Respondents immediately release the Petitioner, or, in the alternative, provide a custody redetermination hearing before this District Court where the Government bears the burden to prove by clear and convincing evidence that the Petitioner poses a danger to the community or is a flight risk;

(5) Maintain jurisdiction over the Petitioner until the Respondents have properly complied with any Order of this Court;

(6) Order further relief as this Court deems just and appropriate.

Respectfully submitted,

/s/ Mark Kinzler
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Attorney for Petitioner

Dated: January 16, 2026

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

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

Dated this 16th day of January of 2026.

/s/ Mark Kinzler
Mark Kinzler, Esq.
Oregon State Bar No. 05298-8
Attorney for Petitioner

CERTIFICATE OF SERVICE
Ramirez-Cordero v. Thompson et al
Case no. 5:26-cv-00221

I hereby certify that on January 16, 2026, I have mailed by United States Postal Service the Petition for Writ of Habeas Corpus by certified mail to the following:

Stephanie Rico
Civil Process Clerk Office of the United States Attorney for the Western District of Texas
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216-5597

Rose Thompson, Warden of Karnes County Immigration Processing Center
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Karnes City, TX 78117

Miguel Vergara
San Antonio Field Office Director of Enforcement and Removal Operations
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2707 Martin Luther King Jr., Ave., SE
Washington, DC 20528-0485

U.S. Attorney General Pamela Bondi
950 Pennsylvania Ave NW
Washington, DC 20530

The above respondents were also named in the CM/ECF habeas corpus filing with the Western District of Texas court

/s/ Mark Kinzler