UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LUIS ANTONIO RIVERA PUERTA *Petitioner*, vs. PAMELA BONDI, United States Attorney General; KRISTI NOEM, Secretary of the United States Department of Homeland Security; TODD M. LYONS, Director of United States Immigration and Customs Enforcement; SYLVESTER ORTEGA, Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement; ROSE THOMPSON, Warden, Karnes County Detention Facility *Respondents*.	§	Civ. No. 5:26-cv-00303 DHS File Number: [redacted] **PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

TABLE OF CONTENTS

I. INTRODUCTION AND BACKGROUND 7
II. JURISDICTION AND VENUE 9
III. REQUIREMENTS OF 28 U.S.C. § 2243 10
IV. PARTIES 10
V. FACTS 12
VI. LEGAL FRAMEWORK 13
VII. ARGUMENT 14
A. Text, Practice, and Precedent Confirm § 1226(a) Applies to Interior Arrests.....14
B. Section 1226(a) governs this interior arrest. DHS's § 1225(b) theory fails on the text and in practice.....21
C. Remedy 23
VIII. CLAIMS FOR RELIEF 23
IX. RELIEF SOUGHT.....27
PRAYER FOR EXPEDITED CONSIDERATION..... 29
VERIFICATION PURSUANT TO 28 U.S.C. § 2242 30

TABLE OF AUTHORITIES

Cases

Alvarez-Chavez v. Kaiser,
No. 25-cv-06984-LB, 2025 WL 2909526 (N.D. Cal. Oct. 9, 2025)..... 16
Alvarez Martinez v. Noem,
No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025).....17
Becerra Vargas v. Bondi,
No. 5:25-CV-01023-FB-HJB (W.D. Tex. Nov. 26, 2025).....18
Belsai v. Bondi,
No. 25-cv-3862 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025) 16
Buenrostro-Mendez v. Bondi,
No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025)..... 16
Cardin-Alvarez v. Rivas,
No. CV 25-02943-PHX-GMS (CDB), 2025 WL 2898389 (D. Ariz. Oct. 7, 2025)..... 16
Cerritos-Echevarria v. Bondi,
No. CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282 (D. Ariz. Oct. 3, 2025) 16
Chávez v. Noem, j
No. 3:25-cv-02325-CAB-SBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) 16
Chanaguano Caiza v. Scott,
No. 25-cv-00500, 2025 WL 2806416 (D. Me. Oct. 2, 2025) 16
Demore v. Kim,
538 U.S. 510 (2003) 14, 21, 23
Dep't of Homeland Sec. v. Thuraissigiam,
591 U.S. 121, 130 n.2 (2020).....22
Dominguez Vega v. Thompson,
No. 5:25-cv-01439-XR (W.D. Tex. Nov. 19, 2025).....18
Erazo Rojas v. Noem,
No. 3:25-cv-443-KC (W.D. Tex. Oct. 30, 2025).....17
Fay v. Noia,
372 U.S. 391 (1963) 10
Giron Reyes v. Lyons,
No. C25-4048-LTS-MAR, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025) 16
Gomes v. Hyde,
No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025) 20, 21
Gonzalez Guerrero v. Noem,
No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025).....16
Hernandez-Fernandez v. Lyons,
No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025).....17
Hernandez-Hervert v. Bondi,
No. 1:25-cv-01763-RP (W.D. Tex. Nov. 14, 2025).....18
Hernandez-Lucero v. Bondi,
No. 4:25-cv-03981 (S.D. Tex. Oct. 23, 2025) 16
Hernandez-Ramiro v. Bondi,

No. 5:25-cv-01207-XR (W.D. Tex. Oct. 15, 2025) 17
J.U. v. Maldonado,
No. 25-cv-04836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025) 16
Jennings v. Rodriguez,
583 U.S. 281 (2018) ..... passim
Lepe v. Andrews,
No. 1:25-cv-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025) 16
Loper Bright Enters. v. Raimondo,
144 S. Ct. 2244 (2024) 20
Lopez-Arevelo v. Ripa,
No. EP-25-cv-337-KC, 2025 WL 2691828 (W.D. Tex. Aug. 26, 2025) 17
Lopez Benitez v. Francis,
No. 25-cv-5937 (S.D.N.Y. Aug. 13, 2025) 17
Lopez v. Hardin,
No. 25-cv-830, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025) 16
Luna Quispe v. Crawford,
No. 1:25-cv-1471-AJT-LRV, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025) 16
Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners) 8, 9, 18, 19
Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).....8, 9, 18, 19
Martinez v. Noem,
No. 3:25-cv-430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025).....17
Mathews v. Eldridge,
424 U.S. 319 (1976) 17, 21, 24
Monsalvo v. Bondi,
604 U.S. ___, 145 S. Ct. 1232 (2025) 22
Ortiz-Ortiz v. Bondi,
No. 5:25-cv-00132 (W.D. Tex. Oct. 15, 2025) 16
Padron-Covarrubias v. Vergara,
No. 5:25-cv-00112 (S.D. Tex. Oct. 8, 2025) 16
Palma Perez v. Berg,
No. 8:25-cv-494 (D. Neb. Sept. 3, 2025) 16
Pablo Sequen v. Kaiser,
No. 25-cv-06487, 2025 WL 2650637 (N.D. Cal. Sept. 16, 2025) 16
Pereira-Verdi v. Lyons,
No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025) 16
Pizarro Reyes v. Raycraft,
No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025) 16
Ramirez Clavijo v. Kaiser,
No. 25-cv-06248-BLF (N.D. Cal. Aug. 21, 2025)..... 16
Rivera Zumba v. Bondi,

No. 25-cv-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025) 16
Rodriguez Vazquez v. Bostock,
779 F. Supp. 3d 1239 (W.D. Wash. 2025) 19
Rojas Vargas v. Bondi,
No. 1:25-cv-01699-DAE, 2025 WL 3251728 (W.D. Tex. Nov. 5, 2025).....18
Salazar v. Dedos,
No. 1:25-cv-00835-DHU-JMR, 2025 WL 2676729 (D.N.M. Sept. 17, 2025) 16
Santiago-Santiago v. Bondi,
No. EP-25-cv-361-KC, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025) 16, 17
Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.,
559 U.S. 393 (2010) 20
Singh v. Lewis,
No. 25-cv-96, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025) 16
Souza Vieira v. De-Anda Ybarra,
No. 3:25-cv-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025).....17
Vargas-Lopez v. Trump,
No. 8:25-cv-526, 2025 WL 2780351 (D. Neb. Sept. 29, 2025) 16
Van Buren v. United States,
593 U.S. 374 (2021) 22
Vazquez v. Bostock,
No. 25-cv-05240, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) 16
Zadvydas v. Davis,
533 U.S. 678 (2001) ..... passim

Administrative & Immigration Decisions

Matter of Yajure-Hurtado,
29 I. & N. Dec. 216 (B.I.A. 2025) ..... passim
Matter of Mariscal-Hernandez,
28 I. & N. Dec. 666 (B.I.A. 2022).....22

Statutes

8 U.S.C. § 1225(b)(1) 14
8 U.S.C. § 1225(b)(2)(A) ..... passim
8 U.S.C. § 1226(a) ..... passim
8 U.S.C. § 1226(c) ..... passim
8 U.S.C. § 1229a..... passim
8 U.S.C. § 1229b.....14, 16, 20, 21
8 U.S.C. § 1231 14
28 U.S.C. § 1331 10
28 U.S.C. § 1651 10
28 U.S.C. § 2201 et seq. 10
28 U.S.C. § 2241..... 9, 10
Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025) 15, 22

Constitutional Provisions

U.S. Const. art. I, § 9, cl. 2 (Suspension Clause) 10, 27
U.S. Const. amend. V ..... passim

Regulations

8 C.F.R. § 1003.19(a) 14
8 C.F.R. § 1236.1(d) 14

Other Authorities

Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) 15
H.R. Rep. No. 104-469, pt. 1, at 229 (1996) 15

I. INTRODUCTION AND BACKGROUND

1. This petition challenges the unlawful detention of Petitioner Luis Rivera Puerta ("Mr. Rivera"), a 39-year-old native and citizen of Mexico. Mr. Rivera Puerta entered the United States without inspection on or about 2009 and has lived in the United States for over a decade and a half. He has no arrests or convictions. He is currently confined at the Karnes County Immigration Processing Center in Karnes City, TX, without meaningful opportunity to seek release. *See* Exh.1 (ICE Locator Results).

2. Mr. Rivera was detained by ICE in San Antonio, Texas, following a routine traffic stop, during which he was pulled over by the Bexar County Sheriff for a non-functioning tail light. After the stop, Mr. Rivera was placed in the custody of Immigration and Customs Enforcement, despite the absence of any criminal conduct or public-safety concerns.

3. When Petitioner's family learned of his detention, his mother, Barbarita Puerta de Rivera, a lawful permanent resident who resides with Mr. Rivera and depends on him for daily support due to conditions of health, was left to care for Mr. Rivera's minor U.S. citizen son, [redacted] age 17. Mr. Rivera's detention disrupted the caregiving and financial stability of the household.

4. Mr. Rivera has resided in the San Antonio, TX area for sixteen years. He has lived at [redacted] since approximately 2020, where he resides with his lawful permanent resident mother and his United States Citizen son. Mr. Rivera's father, Casimiro Rivera, is a United States citizen who resides in Dallas, Texas due to his employment. Mr. Rivera also has five siblings all whom are lawful permanent residents of the United States.

5. Petitioner has been steadily employed in the United States for more than a decade and has worked as a laborer with Greater Landscapes in San Antonio, Texas, helping support his household. His detention has caused immediate and ongoing hardship to his family, including the loss of income and disruption of essential caregiving responsibilities for his child and medically vulnerable mother.
6. Petitioner is currently scheduled for a master calendar removal hearing on January 27, 2026, at 8:30 a.m. Exh. 2 (Automated Case Information System and Notice of Hearing).
7. DHS contends that 8 U.S.C. § 1225(b) mandates his detention. Congress created a separate detention framework in 8 U.S.C. § 1226(a) that governs interior arrests and provides for discretionary bond and immigration judge (IJ) review. That is the statute that applies here. DHS's novel position—recently endorsed in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 2020 (B.I.A. 2025)—contradicts the INA's text and structure and Due Process. It collapses Congress's dual-track detention scheme and imposes categorical detention on long-time residents who present no danger or flight risk.
8. In a parallel nationwide challenge, the Central District of California has already held that long-resident noncitizens apprehended in the interior are entitled to custody determinations under 8 U.S.C. § 1226(a), not § 1225(b). In *Maldonado Bautista v. Santacruz*, the court granted partial summary judgment to the named plaintiffs, declaring that DHS's practice of treating such individuals as arriving aliens subject to mandatory detention under § 1225(b) is unlawful. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025). Days later, the court certified a nationwide "Bond Eligible Class" and extended that declaratory relief to all class members, confirming that they are entitled to bond

hearings under § 1226(a). *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). Petitioner is a member of that Bond Eligible Class, but immigration judges in the Pearsall Immigration Court have rejected *Maldonado Bautista*'s application.

9. The human consequences are immediate and severe. Detention has upended the family's finance and caregiving. It has deprived the household of Petitioner's income and daily support as a father to a United States citizen minor child, a primary caregiver to a medically vulnerable lawful permanent resident parent, and a long-term resident with deep family ties in the United States. Mr. Rivera is the beneficiary of an approved family-based immigrant petition filed in 2003 and is currently awaiting the availability of his priority date, which will afford him lawful permanent resident status in the near future. The Constitution, the INA, and basic principles of fairness do not permit detention under these circumstances.

10. Petitioner respectfully requests this Court grant the instant petition for a writ of habeas corpus under 28 U.S.C. § 2241, order his release or, at a minimum, a bond hearing under § 1226. In the alternative, he respectfully requests the Court order Respondents to show cause why this Petition should not be granted within three days. *See* 28 U.S.C. § 2243.

II. JURISDICTION AND VENUE

11. Petitioner is detained in civil immigration custody in Karnes County at the Karnes County Immigration Processing Center in Karnes City, Texas. *See* Exh. 1 (ICE Locator Results). He has been detained since December 13, 2025.

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

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

14. Venue is proper in the Western District of Texas under 28 U.S.C. § 1391, because at least one Respondent is in this District, Petitioner is detained in this District, and a substantial part of the events giving rise to the claims in this action took place in this District. Venue is also proper under 28 U.S.C. § 2243 because the immediate custodians of Petitioner reside in this District.

III. REQUIREMENTS OF 28 U.S.C. § 2243, WRIT OF HABEAS CORPUS ISSUANCE, RETURN, HEARING, AND DECISION

15. The Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response "within three days" unless this Court permits additional time for good cause, which is not to exceed twenty days. 28 U.S.C. § 2243.

16. 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). The writ of habeas corpus, challenging illegality of detention, is reduced to a sham if the trial courts do not act within a reasonable time. *Rhueark v. Wade*, 540 F.2d 1282, 1283 (5th Cir. 1976); *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978). Due to the nature of this proceeding, Petitioner asks this Court to expedite proceedings in this case as necessary and practicable for justice.

IV. PARTIES

17. Petitioner Luis Rivera Puerta is a 39-year-old citizen of Mexico. He entered the United States a single time on or about 2009 without inspection and has resided here continuously since his date of entry.

18. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States. She is responsible for the administration of the Executive Office for Immigration Review ("EOIR"), including policies that bear on immigration judges' jurisdiction over custody.

19. Respondent Kristi Noem is named in her official capacity as Secretary of the U.S. Department of Homeland Security ("DHS"). DHS is the department charged with administering and enforcing federal immigration laws. Secretary Noem is ultimately responsible for the actions of U.S. Immigration and Customs Enforcement ("ICE") and is a legal custodian of Petitioner.

20. Respondent Todd M. Lyons is named in his official capacity as Acting Director of ICE. He oversees ICE operations, including detention and removal, and is a legal custodian of Petitioner.

21. Respondent Sylvester Ortega is named in his official capacity as Field Office Director of the San Antonio ICE Field Office. He is responsible for ICE enforcement in this District and is a legal custodian of Petitioner.

22. Respondent Rose Thompson is named in her official capacity as Warden of the Karnes County Immigration Processing Center in Karnes City, Texas. She has immediate physical custody of Petitioner pursuant to an agreement with ICE to detain noncitizens.

23. Each Respondent is sued in his or her official capacity as a custodian and/or policymaker responsible for Petitioner's continued detention.

V. FACTS

24. Petitioner Luis Rivera Puerta ("Mr. Rivera") is a 39-year-old native and citizen of Mexico.

25. He entered the United States without inspection on or about 2009 through Laredo, Texas, and has remained in the United States continuously since that time.

26. Petitioner has no criminal history. His only interaction with law enforcement have involved minor traffic-related violations.

27. He has resided continuously in the San Antonio, Texas area since 2009.

28. Petitioner is married to Guadalupe Vazquez, a native and citizen of Mexico. He is the father of two children: [redacted], born [redacted] in El Paso, Texas, and [redacted] born [redacted] in San Luis Potosi, Mexico. Ms. Vazquez and [redacted] Rivera live in Mexico. [redacted] is a United States citizen and currently resides with the Petitioner's mother in San Antonio.

29. Petitioner has been steadily employed in the United States for more than a decade and has worked as a laborer.

30. Petitioner's family relies heavily on his daily presence and support. His mother, Barbarita Puerta de Rivera, is a lawful permanent resident who suffers from conditions of health and depends on Mr. Rivera for daily assistance and care. Since Petitioner's detention, she has been responsible for caring for Petitioner's minor U.S. citizen son without his support.

31. Mr. Rivera was detained after being stopped by a Bexar County Sherrif for a non-functioning tail light. Following the traffic stop, he was turned over to the custody of Immigration and Custom Enforcement agents ("ICE").

32. ICE transferred Petitioner into immigration custody, and he is now detained at the Karnes County Immigration Processing Center in Karnes City, Texas. Exh. 1 (ICE Locator Results). He has remained detained there since December, 2025.

33. Petitioner is currently in removal proceedings and is scheduled for his next hearing on January 27, 2026. *See* Exh. 2 (Automated Case Information Results and Notice of Hearing); Exh. 3 (DHS Form I-862, Notice to Appear).

34. Petitioner's continued detention has caused immediate hardship to his family—financially, emotionally, and medically—and has impaired his ability to prepare for the January 27, 2026 hearing, including coordinating with counsel and gathering evidence and records in support of relief and custody redetermination.

35. Petitioner is eligible to seek cancellation of removal for certain nonpermanent residents under 8 U.S.C. § 1229b(b)(1). He has been physically present in the United States for more than ten years, has maintained good moral character, has no disqualifying criminal history, and can show that his U.S. citizen minor child, and his lawful permanent resident mother, will suffer exceptional and extremely unusual hardship if he is removed to Mexico.

36. Despite these equities, DHS has classified Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b) and, on that basis, has refused to provide a custody hearing before an immigration judge under 8 U.S.C. § 1226(a). As a result, since his arrest on December, 2025, Petitioner has not received any bond hearing or other individualized determination of whether continued detention is necessary to prevent flight or protect the community.

VI. LEGAL FRAMEWORK

A. Due Process

37. The Fifth Amendment's Due Process Clause applies to "all persons" within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Id.* at 690. In the immigration context, detention is constitutionally justified only to prevent flight or protect the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

B. Statutory Scheme

38. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

39. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Noncitizens arrested, charged with, or convicted of certain crimes are subject to mandatory detention. See 8 U.S.C. § 1226(c).

40. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred under § 1225(b)(2).

41. Last, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

VII. ARGUMENT

A. Text, Practice, and Precedent Confirm § 1226(a) Applies to Interior Arrests

42. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2).

43. Congress enacted §§ 1226(a) and 1225(b)(2) in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Pub. L. No. 104–208, div. C, §§ 302–03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Congress most recently amended § 1226 in the Laken Riley Act. Pub. L. No. 119-1, 139 Stat. 3 (2025).

44. After IIRIRA, EOIR promulgated regulations clarifying that, in general, people who entered without inspection and were placed in § 240 (8 U.SC. § 1229a) proceedings are detained under § 1226(a), not § 1225. Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997).

45. For decades thereafter, noncitizens who entered without inspection and were placed in standard removal proceedings received bond hearings unless covered by § 1226(c). That practice aligned with earlier law in which non-arriving noncitizens were entitled to a custody hearing before an immigration judge or other officer. *See* 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting § 1226(a) "restates" prior detention authority).

46. In *Jennings v. Rodriguez*, DHS acknowledged that individuals already in the United States who are not apprehended near the border or immediately after entry fall under § 1226(a), not § 1225(b). *See* Transcript of Oral Argument at 7–8, *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (No. 15-1204) (Solicitor General confirming that those not detained within 100 miles or within 14 days are held under § 1226(a) and receive bond hearings). Having prevailed while advancing that position, DHS's new litigation stance to the contrary lacks persuasive force.

47. On July 8, 2025, ICE announced new "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] reversing longstanding understanding and practice.

48. That guidance asserts that all persons who entered without inspection are subject to § 1225(b)(2)(A) mandatory detention regardless of when or where apprehended and even after years of residence. *See* Todd M. Lyons, Interim Guidance Regarding Detention Authority for Applicants for Admission (July 8, 2025).

49. On September 5, 2025, the BIA adopted the same position in *Matter of Yajure-Hurtado*, holding that noncitizens who entered without admission or parole fall under § 1225(b)(2)(A) and are ineligible for immigration-judge bond hearings. 29 I. & N. Dec. 216 (B.I.A. 2025).

50. A "tsunami" of federal courts have rejected this new interpretation and have declined to follow *Yajure-Hurtado* where it conflicts with the INA's text and structure. [2]

---

[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

[2] *See, e.g.*, *Belsai v. Bondi, et al.*, No. 25-cv-3862 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, --- F.Supp.3d ---, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025); *Salazar v. Dedos*, No. 1:25- cv-00835-DHU-JMR, 2025 WL 2676729 (D. N.M. Sept. 17, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sept. 9, 2025); *Chanaguano Caiza v. Scott*, 25-cv-00500, 2025 WL 2806416, at *3 (D. Me. Oct. 2, 2025); *Luna Quispe v. Crawford, et al.*, No. 1:25-CV-1471-AJT-LRV, 2025 WL 2783799, at *6 (E.D. Va. Sept. 29, 2025); *Vazquez v. Bostock*, No. 25-cv-05240, 2025 WL 2782499, at *27 (W.D. Wash. Sept. 30, 2025); *J.U. v. Maldonado*, 25-CV-04836, 2025 WL 2772765, at *5 (E.D.N.Y. Sept. 29, 2025); *Rivera Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *7 (D.N.J. Sept. 26, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 WL 2732717, at *2 (M.D. Fla. Sept. 25, 2025); *Giron Reyes v. Lyons*, No. C25-4048, 2025 WL 2712427, at *5 (N.D. Iowa, Sept. 23, 2025); *Singh v. Lewis*, No. 25-cv-96, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 WL 2650637, at *7-8 (N.D. Cal. Sept. 16, 2025); *Alvarez-Chavez v. Kaiser*, 25-cv-06984-LB 2025 WL 2909526 (N.D. Cal., Oct. 9, 2025); *Cerritos-Echevarria v Bondi*, No. CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); *Padron-Covarrubias v. Vergara*, 5:25-cv-00112, (S.D. Tex. Oct. 8, 2025); *Santiago-Santiago v. Bondi*, EP-25-CV-361-KC, 2025 WL 2792588, (W.D. Tex. Oct. 2, 2025); *Cardin-Alvarez v. Rivas*, CV 25-02943 PHX GMS (CDB), 2025 WL 2898389 (D. Ariz. Oct. 7, 2025); *Buenrostro-Mendez v. Bondi, et al.*, No. CV H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025); *Rodriguez Lucero v. Bondi*, No. 4:25-cv-03981 (S.D. Tex Oct. 23, 2025); *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (W.D. Tex. Oct. 15, 2025). *But see Chavez v. Noem*, 3:25-cv-02325-CAB-SBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025 ("by the plain language of § 1225(a)(1) the petitioners are "applicants for admission" and thus subject to the mandatory detention provisions of "applicants for admission" under § 1225(b)(2)[.]"); *Vargas-Lopez v. Trump, et al.*, 8:25CV526 2025 WL 2780351 (D. Neb. Sept. 29, 2025) (the petitioner is an alien within the "catchall" scope of § 1225(b)(2) subject to detention without possibility of release on bond through a proceeding on removal under § 1229a, per 8 U.S.C. § 1225(b)(2)).

51. In this District, courts have repeatedly ordered relief. *See*, e.g., *Gonzalez Guerrero v. Noem*, No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025) (granting preliminary injunction, vacating the BIA's decision applying *Matter of Yajure Hurtado*, and reinstating the IJ's § 1226(a) bond order for a long-resident noncitizen arrested in the interior); *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025) (issuing a TRO requiring custody to be governed by § 1226(a) and enjoining re-detention without notice and a pre-deprivation hearing); *Hernandez-Ramiro v. Bondi*, No. 5:25-cv-01207-XR (W.D. Tex. Oct. 15, 2025) (granting a TRO and requiring a prompt § 1226(a) bond hearing with the Government bearing the burden of showing danger or flight risk, or release if no hearing is provided); *Santiago v. Noem*, No. 3:25-cv-00361-KC, 2025 WL 2606118 (W.D. Tex. Sept. 9, 2025) (granting TRO and habeas relief to a DACA recipient misclassified under § 1225(b) and directing that custody be governed by § 1226(a)); *Alvarez Martinez v. Noem*, No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025) (granting habeas, holding that the automatic stay of an IJ's bond order violates due process, and ordering compliance with the IJ's bond decision); *Lopez-Arevelo v. Ripa*, No. EP-25-cv-337-KC, 2025 WL 2691828 (W.D. Tex. Aug. 26, 2025) (granting a TRO under § 2243 and the All Writs Act, enjoining removal and transfer to preserve the court's jurisdiction over a habeas challenge to detention under § 1225(b)); *Martinez v. Noem*, No. 3:25-cv-00430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025) (even assuming § 1225(b) applies, holding under *Mathews v. Eldridge* that due process requires an individualized bond hearing with the Government bearing the burden); *Souza Vieira v. De-Anda Ybarra*, No. 3:25-cv-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025) (following *Lopez-Arevelo*'s jurisdictional analysis, rejecting §§ 1252(g) and 1252(b)(9) as bars, and granting

habeas relief); *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025) (granting habeas relief and holding that custody of a long-resident interior arrestee must be governed by § 1226 rather than § 1225(b)); *Erazo Rojas v. Noem*, No. 3:25-cv-00443-KC (W.D. Tex. Oct. 30, 2025) (granting habeas in part and requiring the Government to provide a prompt § 1226(a) bond hearing at which it bears a clear-and-convincing burden or else release Petitioner under reasonable supervision); *Dominguez Vega v. Thompson*, No. 5:25-cv-01439-XR (W.D. Tex. Nov. 19, 2025) (granting a TRO and directing a prompt individualized § 1226(a) bond hearing consistent with these precedents); *Hernandez-Hervert v. Bondi*, No. 1:25-cv-01763-RP (W.D. Tex. Nov. 14, 2025) (granting habeas relief, rejecting Respondents' reliance on *Matter of Yajure Hurtado*, and requiring § 1226(a) custody process); *Rojas Vargas v. Bondi*, No. 1:25-cv-01699-DAE, 2025 WL 3251728 (W.D. Tex. Nov. 5, 2025) (granting a TRO, holding that § 1226(a) governs detention of long-resident noncitizens, and requiring a prompt bond hearing with a clear-and-convincing Government burden or release); *Melendez Hernandez v. Bondi*, No. 1:25-cv-01811-DAE (W.D. Tex. Nov. 26, 2025) (granting a TRO and ordering a § 1226(a) bond hearing with the Government bearing the clear-and-convincing burden of flight risk or danger, or release if no timely hearing is provided); *Becerra Vargas v. Bondi,* No. 5:25-CV-01023-FB-HJB (W.D. Tex. Nov. 26, 2025) (granting habeas in part and ordering release of petition from custody) and *Navarrete Perdomo v. Bondi*, No. 5:25-cv-01398 (W.D. Tex. Nov. 25, 2025) (granting habeas relief for Petitioner with SIJ status and ordering release).

52. The nationwide relief in *Maldonado Bautista* squarely confirms Petitioner's position that his custody must be governed by § 1226(a). In granting partial summary judgment, the

court held that DHS violates the INA when it classifies long-resident noncitizens arrested in the interior as arriving aliens subject to § 1225(b) and mandatory detention, rather than as individuals entitled to discretionary bond process under § 1226(a). *Maldonado Bautista v. Santacruz*, 2025 WL 3289861, at *11. The subsequent class-certification order incorporated that declaratory judgment and certified a nationwide "Bond Eligible Class," holding that all class members are presumptively entitled to § 1226(a) bond eligibility and individualized hearings. *Id.*; *Maldonado Bautista v. Santacruz*, 2025 WL 3288403, at *9. Petitioner is a member of that Bond Eligible Class, but immigration judges in the Pearsall Immigration Court have rejected *Maldonado Bautista*'s application.[3] This refusal to honor binding class-wide relief underscores the need for this Court's intervention: DHS's continued reliance on § 1225(b) to detain Petitioner is unlawful, and this Court should order that his custody be governed by § 1226(a) and require an individualized bond hearing consistent with *Maldonado Bautista*.

53. Even before the nationwide shift, the Tacoma immigration court had ceased providing bond hearings to long-resident noncitizens who had entered without inspection (EWI). The Western District of Washington found that reading likely unlawful and held that § 1226(a), not § 1225(b), applies to noncitizens not apprehended upon arrival. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

54. These decisions reflect a clear judicial consensus that the government's reliance on § 1225(b)(2) is misplaced where § 1226(a) applies.

[3] Undersigned counsel is informed and believes that IJs in Pearsall, Texas have declined to apply the *Maldonado Bautista* class certification to a similarly situated noncitizen on the ground that no class-wide declaratory judgment or injunction is yet in effect, indicating that this is the IJ's current practice.

55. The plain text confirms that outcome. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed." Hearings to decide inadmissibility or deportability occur under § 1229a.

56. Section 1226 also expressly addresses persons charged as inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Specific mandatory carve-outs confirm that, absent those exceptions, § 1226(a) governs and bond is available. *See Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010); *Gomes*, 2025 WL 1869299, at *7.

57. Section 1226 therefore applies to people charged as inadmissible who are already in the interior, including those present without admission or parole.

58. By contrast, § 1225(b) addresses inspection at the border and recent arrivals who are "seeking admission." 8 U.S.C. § 1225(b)(2)(A). The Supreme Court has described that mandatory detention scheme as operating "at the Nation's borders and ports of entry." *Jennings v. Rodriguez*, 583 U.S. 281, 287, 846 (2018). That is not this case.

59. Section 1226(a) is the default custody authority "pending a decision on whether the alien is to be removed," which describes § 240 proceedings like Petitioner's. 8 U.S.C. § 1226(a). Section 1226(c) then carves out narrow mandatory categories, some tied to inadmissibility. 8 U.S.C. § 1226(c). Reading § 1225(b)(2) to control here would render § 1226(a)'s bond framework and § 1226(c)'s carve-outs superfluous.

60. Section 1225(b)(2)(A) uses present-tense inspection language. It applies when an officer determines a person "is seeking admission" and "is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). *Jennings* confirms this scheme operates at the border. 583 U.S. at 287, 846.

61. Deference does not salvage Respondents' reading. After *Loper Bright*, courts do not defer to agency interpretations simply because a statute is complex. They apply the best reading. *Loper Bright Enters. v. Raimondo*, 144 S. Ct. 2244, 2262–63 (2024). *Yajure-Hurtado* is unpersuasive because it treats anyone never "admitted" as forever "seeking admission," contrary to § 1225's present-tense text and § 1226's structure. 29 I. & N. Dec. at 221.

62. The constitutional backdrop points the same direction. Civil immigration detention is constrained by the Fifth Amendment. Persons facing significant restraints on liberty retain a protected interest and are entitled to meaningful process. At minimum, detention under § 1226 requires a prompt, individualized bond hearing with the Government bearing a clear and convincing burden. *See Zadvydas v. Davis*, 533 U.S. 678, 690–96 (2001); *Demore v. Kim*, 538 U.S. 510, 528–31 (2003); *Mathews v. Eldridge*, 424 U.S. 319, 333–35, 343–49 (1976).

63. The Court should hold that § 1226(a) governs Petitioner's custody and order his immediate release, or at minimum require a prompt § 1226(a) bond hearing with the Government bearing the clear-and-convincing burden. *See* 8 U.S.C. § 1226(a); *Jennings*, 583 U.S. at 297, 302–03; *Zadvydas*, 533 U.S. at 690–96.

B. Section 1226(a) governs this interior arrest. DHS's § 1225(b) theory fails on the text and in practice.

64. Mr. Rivera Puerta was arrested in the interior and is in regular removal proceedings under 8 U.S.C. § 1229a. He was taken into ICE custody in San Antonio, Texas, following a routine traffic stop during which he was pulled over by the Bexar County Sheriff for an alleged non-functioning taillight. He was not apprehended at or near the border, and he was not processed under expedited removal. Section 1226(a) therefore controls and supplies bond jurisdiction. *See Jennings*, 583 U.S. at 297, 302–03.

65. Federal courts confronting DHS's new theory have rejected it and ordered relief, concluding that § 1226(a) governs noncitizens already in the country. *See, e.g.*, *Rodriguez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 1193850, at *11–16 (W.D. Wash. Apr. 24, 2025); *Gomes*, 2025 WL 1869299, at *4–7; *Lopez Benitez*, 2025 WL 2267803, at *4–7.

66. The Laken Riley Act confirms that Congress preserved § 1226(a)'s discretionary bond regime for most inadmissible entrants arrested in the interior by adding a narrow new mandatory category under § 1226(c)(1)(E). If § 1225(b) already mandated detention for all inadmissible entrants, § 1226(c)(1)(E) would be redundant. *See Corley v. United States*, 556 U.S. 303, 314 (2009); *Van Buren v. United States*, 593 U.S. 374, 393 (2021). Congress legislated against decades of practice applying § 1226(a) to interior arrests, and courts presume amendments harmonize with that practice. *Monsalvo v. Bondi*, 604 U.S. ___, 145 S. Ct. 1232, 1242 (2025).

67. *Yajure-Hurtado* does not compel a different result. *Jennings* construed statutory text and left open constitutional claims. 583 U.S. at 303. Post-*Loper Bright*, courts interpret the INA de novo. *Loper Bright*, 144 S. Ct. at 2262–63.

68. Longstanding agency materials confirm that interior encounters without admission were treated under § 1226(a)'s predecessor, INA § 236(a), and were "eligible for bond and bond redetermination." 62 Fed. Reg. at 10,323. DHS historically limited "applicant for admission" to encounters within a short time and distance from the border. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 121, 130 n.2 (2020) (describing the 14-day/100-mile policy).

69. Arrest authority reinforces the divide. Warrantless arrests are narrowly permitted under 8 U.S.C. § 1357(a). Otherwise, interior arrests proceed on warrant (Form I-200) and fall

under § 1226(a). *See Matter of Mariscal-Rodriguez*, 28 I. & N. Dec. 666, 668–71 (B.I.A. 2022). Petitioner's interior arrest should have been, and on information and belief was, effectuated under an I-200 warrant, which places him within § 1226(a).

70. Statutes must be read in context and given effect to every clause and word. *Gundy v. United States*, 588 U.S. 128, 141 (2019); *United States ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023). Respondents' view collapses §§ 1225 and 1226, nullifies § 1226(c), and contradicts the statute's structure.

C. Remedy

71. For the reasons set out above, the Court should: (1) declare that 8 U.S.C. § 1226(a) (INA § 236(a)), not 8 U.S.C. § 1225(b)(2) (INA § 235(b)(2)), governs Petitioner's custody; (2) order Respondents to immediately release Petitioner from civil immigration detention in light of his long residence, lack of criminal convictions, and substantial community and family ties; or, in the alternative, (3) require Respondents to provide Petitioner with a prompt, recorded bond hearing under § 1226(a) before an immigration judge by a date certain, at which DHS bears the burden of proving by clear and convincing evidence that continued detention is necessary to prevent flight or danger.

VIII. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION
Violation of the Due Process Clause (Fifth Amendment)

72. Petitioner incorporates all allegations above.

73. Civil immigration detention is permissible only to ensure appearance or protect the community, and due process requires meaningful procedures commensurate with the liberty at stake. *See Zadvydas v. Davis*, 533 U.S. 678, 690–96 (2001); *Demore v. Kim*, 538 U.S. 510, 528–31 (2003).

74. Detaining Petitioner without a prompt, individualized bond hearing where the Government bears a clear-and-convincing burden violates substantive and procedural due process. *See Zadvydas*, 533 U.S. at 690–96; *Mathews v. Eldridge*, 424 U.S. 319, 333–35, 343–49 (1976).

75. The Fifth Amendment protects "all persons" in the United States, including long-resident noncitizens. *Zadvydas,* 533 U.S. at 693. Continued detention since December 13, 2025, without the required process or justification violates that protection.

SECOND CAUSE OF ACTION
Violation of the Immigration and Nationality Act (INA)

76. Petitioner incorporates all allegations above.

77. Petitioner's interior arrest places his custody under 8 U.S.C. § 1226(a), not § 1225(b)(2). *See Jennings v. Rodriguez*, 583 U.S. 281, 297, 302–03 (2018) (distinguishing detention of persons "already in the country" under § 1226 from border inspection under § 1225).

78. Section 1226(a) authorizes discretionary detention with bond; Congress created narrow mandatory carve-outs in § 1226(c). Applying § 1225(b)(2) here would render § 1226(a) and § 1226(c) superfluous, which the Court must avoid. *See Jennings*, 583 U.S. at 297, 302–03.

79. DHS's application of § 1225(b)(2) to Petitioner contradicts the INA's text, structure, and long-standing practice reflected in post-IIRIRA regulations recognizing bond eligibility for interior EWI respondents. *See* Inspection & Expedited Removal of Aliens, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997).

THIRD CAUSE OF ACTION
Procedural Due Process — Denial of Opportunity to Contest Misclassification

80. Petitioner incorporates all allegations above.

81. By foreclosing IJ bond jurisdiction through a blanket § 1225(b)(2) designation, Respondents denied Petitioner a meaningful opportunity to contest mandatory detention and to receive the individualized bond process Congress preserved in § 1226(a). *See Mathews*, 424 U.S. at 333–35; *Jennings*, 583 U.S. at 303 (constitutional challenges preserved).

82. This denial of meaningful process violates the Fifth Amendment.

FOURTH CAUSE OF ACTION
ADMINISTRATIVE PROCEDURE ACT

83. Petitioner re-alleges and incorporates by reference the paragraphs above.

84. Respondents' continued efforts to deny him bond violate the INA, Administrative Procedures Act (APA), and the U.S. Constitution.

85. As set forth in Count Two and Three, federal regulations and case law provide the procedure for a respondent in removal proceedings like him to seek a bond redetermination by an immigration judge and be given a meaningful opportunity to present his claim.

86. In being denied the opportunity to return to his family, and pursue Cancellation of Removal in a non-detained court setting where he is free to gather the necessary hardship and good moral character evidence, Petitioner would be deprived of the right to freedom to lawfully pursue his rights in this civil matter. The Government's "no-review" provisions are a violation of his procedural and substantive due process and without any statutory authority. There is no time-frame or procedure for requesting DHS to itself review its custody decision, and removal proceedings in this case will proceed during that time while Petitioner remains in custody.

87. The actions by Respondents would improperly alter the substantive rules concerning mandatory custody status without the required notice-and-comment period and would be

in violation of the INA and its regulations. These actions by Respondents violate the APA. Under the APA, this Court may hold unlawful and set aside an agency action which is "contrary to constitutional right, power, privilege or immunity." 5 U.S.C. § 706(2)(B). The regulations at 8 C.F.R. §§ 1003.19(h)(1)(B) and 1003.19(h)(2)(B) providing no review of DHS custody decision for arriving aliens in removal proceedings are in violation of substantive and procedural due process as guaranteed by the Fifth Amendment to the United States Constitution. It is ultra vires because it exceeds the authority granted ICE by Congress at 8 U.S.C. § 1226(a). For these reasons, this Honorable Court should hold that Petitioner is detained under § 1226(a) not § 1225(b), and order his immediate release or, in the alternative, direct the Immigration Court to conduct a custody redetermination hearing under § 1226(a) in which Petitioner has a meaningful opportunity to show that he is not a danger or flight risk. Any contrary reliance on *Matter of Yajure-Hurtado* would unlawfully misapply the statute and deprive Petitioner of his rights under the INA, the APA, and the Due Process Clause.

FIFTH CAUSE OF ACTION
SUSPENSION CLAUSE CLAIM

88. Petitioner re-alleges and incorporates by reference the paragraphs above.

89. If 8 U.S.C. § 1252 stripped the Court jurisdiction from this matter, it would be unconstitutional as applied because it would deny Petitioner the opportunity for meaningful review of the unlawfulness of his detention and removal.

90. To invoke the Suspension Clause, a petitioner must satisfy a three-factor test: "(1) the citizenship and status of the detainee and the adequacy of the process through which that status determination was made; (2) the nature of the sites where apprehension and then detention took place; and (3) the practical obstacles inherent in resolving the prisoner's

entitlement to the writ." *Boumediene v. Bush*, 553 U.S. 723, 766 (2008). Petitioner satisfies these three requirements and may invoke the Suspension Clause.

91. First, although Petitioner is not a United States citizen or lawful permanent resident, he has resided in the United States for sixteen years and is statutorily eligible to seek Cancellation of Removal under the Immigration and Nationality Act. He has no disqualifying criminal history, has accrued more than ten years of continuous physical presence, can establish ten years of good moral character, and can demonstrate that his removal would result in exceptional and extremely unusual hardship to his United States citizen son and his lawful permanent resident mother if he were removed to Mexico. Petitioner has substantial family ties in the United States, including his United States citizen son, his lawful permanent resident mother, his United States Citizen father, and his five lawful permanent resident siblings, establishing a significant and ongoing legal relationship with this country.

92. Petitioner satisfies the second factor because he was apprehended by DHS and remains detained in the United States.

93. Finally, there are no serious, practical obstacles to resolving this present matter. This Court is equipped to deciding whether Petitioner is entitled to the writ.

94. There is no adequate alternative to a habeas petition. The refusal of the immigration court to grant Petitioner the right to show he is mis-classified and that he is not subject to mandatory detention, such that he may return to his family and pursue cancellation, without proper notice or due process, deprives him of his constitutional rights. The BIA cannot adequately and expeditiously review these issues.

IX. RELIEF SOUGHT

WHEREFORE, Petitioner respectfully requests that this Court:

(1) Assume jurisdiction over this matter;

(2) Declare that ICE's December 13, 2025, apprehension and detention of Mr. Rivera was an unlawful exercise of authority because the ICE officer provided no reason that he presents a danger to the community or is flight risk;

(3) Issue an order directing Respondents to show cause why the writ should not be granted;

(4) Order Respondents to file with the Court a complete copy of the administrative file from the Department of Justice and the Department of Homeland Security;

(5) Retain jurisdiction over this Petition notwithstanding any change in Petitioner's place of detention or immediate custodian and, pending final resolution of this case, direct Respondents to refrain from transferring Petitioner outside the Western District of Texas without prior leave of Court and to ensure that the Court can effectuate any relief ultimately granted, including by returning Petitioner to this District if necessary;

(6) Grant the writ and order Petitioner's immediate release on recognizance, parole, or reasonable supervision; or, in the alternative, order a prompt custody redetermination under § 1226(a) before an Immigration Judge within three days, with the Government bearing a clear-and-convincing burden of flight risk or danger on the record and with findings consistent with *Matter of Guerra* and *Matter of Siniauskas*; and, if Respondents continue to assert mandatory detention, order a Joseph-type hearing to test the legal and factual predicates, with release if such hearing is not held by the deadline;

(7) Award costs and, if permissible, attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, preserving Petitioner's position that EAJA may apply in habeas notwithstanding *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023), and noting contrary authority, including *Vacchio v. Ashcroft*, 404 F.3d 663, 670–72 (2d Cir. 2005); *In re Petition of Hill*,

775 F.2d 1037, 1040–41 (9th Cir. 1985); *Daley v. Ceja*, No. 24-1191, — F.4th —, 2025 WL 3058588 (10th Cir. Nov. 3, 2025) (holding that habeas actions challenging immigration detention are unambiguously "civil actions" within EAJA's "any civil action" language and affirming an EAJA award where the habeas petition materially altered the parties' legal relationship by securing a bond hearing and release); *Abioye v. Oddo*, 2024 U.S. Dist. LEXIS 174205 (W.D. Pa. 2024); and *Arias v. Choate*, 2023 U.S. Dist. LEXIS 119907 (D. Colo. 2023);

(8) Grant such other and further relief as the Court deems just and proper.

PRAYER FOR EXPEDITED CONSIDERATION

Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests expedited consideration. Each day of unlawful detention inflicts irreparable harm on Petitioner and his family, depriving them of his care, stability, and support. Prompt judicial intervention is necessary to protect Petitioner's constitutional rights and his family's well-being.

Respectfully submitted on January 21, 2025,

/s/ CM Boston Cote
CM Boston Cote
Counsel for Petitioner
Tex. Bar No. 24069539
Cote Legal PLLC
808 West 11th Street
Austin, Texas 78701
Tel: (512) 900-9999
Boston@CGLegal.com

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

I represent Petitioner, Luis Antonio Rivera Puerta, 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 21st day of January 2026.

/s/ CM Boston Cote
CM Boston Cote
Counsel for Petitioner
Tex. Bar No. 24069539
Cote Legal PLLC
808 West 11th Street
Austin, Texas 78701
Tel: (512) 900-9999
Boston@CGLegal.com