

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW, Petitioner Eriberto Ramirez Hernandez, through undersigned counsel, respectfully submits this Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 and states the following.

I. INTRODUCTION

1. Petitioner Eriberto Ramirez Hernandez is currently in the physical custody of Respondents at the T. Don Hutto Detention Center in Taylor, Texas. Petitioner first came into contact with Immigration and Customs Enforcement (“ICE”) on November 14, 2025, nearly twenty-five years after his entry into the United States. During the intervening decades, Petitioner lived in the interior of the United States and did not present himself before an immigration officer for inspection or admission. Now, Respondents contend that Petitioner is seeking admission into the United States.

2. Following his arrest, the Department of Homeland Security (“DHS”) initiated removal proceedings and has treated Petitioner as an applicant for admission subject to mandatory detention under 8 U.S.C. § 1225(b). Relying on that classification, DHS asserted that Petitioner is ineligible for a bond hearing. The Immigration Court adopted this position and denied Petitioner’s request for custody redetermination.

3. Petitioner challenges Respondents’ reliance on 8 U.S.C. § 1225(b) as a matter of law. Section 1225 governs the inspection and detention of noncitizens seeking admission to the United States. Federal district courts have overwhelmingly held that this provision does not apply to noncitizens encountered in the interior of the country long after entry, and that detention in such circumstances must proceed, if at all, under 8 U.S.C. § 1226, which provides for discretionary detention and individualized bond determinations.

4. Petitioner brings this action pursuant to 28 U.S.C. § 2241 to challenge the legality of his continued civil immigration detention. Because Respondents are detaining Petitioner under a statutory provision that does not authorize his custody, **and** are denying him an individualized bond determination required by federal law, habeas relief is warranted.

PARTIES

5. **Petitioner Eriberto Ramirez Hernandez** is a noncitizen currently in the custody of the United States Department of Homeland Security (“DHS”), Immigration and Customs Enforcement (“ICE”). Petitioner is detained at the T. Don Hutto Detention Center in Taylor, Texas, within the jurisdiction of this Court. Petitioner brings this action pursuant to 28 U.S.C. § 2241 to challenge the legality of his continued civil immigration detention.

6. **Respondent Charlotte Collins** is the Warden of the T. Don Hutto Detention Center and is sued in her official capacity as Petitioner’s immediate physical custodian.

7. **Respondent Kristi Noem** is the Secretary of the United States Department of Homeland Security and is sued in her official capacity. As Secretary, she has ultimate authority over immigration detention policies and the custody of noncitizens detained by DHS.

8. **Respondent Todd M. Lyons** is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. He is responsible for the administration and enforcement of immigration detention and removal operations nationwide.

9. **Respondent Miguel Vergara** is the San Antonio Field Office Director of Enforcement and Removal Operations (“ERO”) for ICE and is sued in his official capacity. He is responsible for the supervision and custody of noncitizens detained within the San Antonio Field Office area of responsibility, including Petitioner.

10. **Respondent Sirce E. Owen** is the Acting Director of the Executive Office for Immigration Review (“EOIR”), the agency within the Department of Justice that administers the

immigration courts and the Board of Immigration Appeals. Immigration Judges are bound by precedential decisions of the Board of Immigration Appeals, including *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which Respondents rely upon to deny bond jurisdiction and which renders administrative relief unavailable to Petitioner. Respondent Owen is sued in her official capacity.

JURISDICTION

11. This action arises under the Constitution and laws of the United States, including the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*, and the Fifth Amendment to the United States Constitution.

12. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 *et seq.* (habeas corpus), U.S. Const. art. I, § 9, cl. 2 (Suspension Clause), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1346 (United States as Respondent), and 28 U.S.C. § 1651 (All Writs Act). Sovereign immunity is waived for purposes of this suit. 5 U.S.C. §§ 702, 706.

13. The Court may hear petitions for relief under the habeas corpus statutes, 28 U.S.C. § 2241, *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*; the All Writs Act, 28 U.S.C. § 1651; and the Court’s inherent equitable powers.

14. This Court has authority to grant relief pursuant to 28 U.S.C. § 2243, including ordering Petitioner’s immediate release or directing Respondents to provide a constitutionally adequate custody determination under the correct statutory framework.

15. Federal district courts have consistently held that these jurisdictional bars do not preclude habeas review of the proper application of INA detention provisions. See *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); *Mo-Rales v. Thompson*, No. SA-25-CV-01391-JKP, 2025 WL 3470871, at *2-4 (W.D. Tex. Nov. 21, 2025) (same); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *4 (D. Mass. July 7, 2025) (same); *Castellanos v. Kaiser*, No. 25-CV-07962, 2025 WL 2689853, at *4 (N.D. Cal. Sept. 18, 2025) (same). 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

16. Venue is proper in this Court pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(e) because Petitioner is currently detained at the T. Don Hutto Detention Center in Taylor, Texas, which lies within this judicial district, and his immediate custodian is located within the jurisdiction of this Court.

REQUIREMENTS OF 28 U.S.C. § 2243

17. The writ of habeas corpus is “available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004)(citing U.S. Const., Art I, § 9, cl. 2). “The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and ... the traditional function of the writ is to secure release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). “A district court's habeas jurisdiction,” therefore, “includes challenges to immigration-related detention.” *Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082, at *3–6 (D. Nev. Sept. 17, 2025) (quoting *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001)).

18. The Court must grant the petition for Writ of Habeas Corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an 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).

STATEMENT OF FACTS

19. Petitioner Eriberto Ramirez Hernandez is a native and citizen of Mexico, born on [REDACTED] in [REDACTED] Mexico. Exh. 1. He is currently 46 years old.

20. Petitioner entered the United States without inspection on or about November 20, 2000, through Laredo, Texas. At the time of entry, Petitioner was 21 years old. He was not apprehended at or near the time of entry and thereafter resided continuously in the interior of the United States.

21. For approximately twenty-five years, Petitioner lived in the United States without contact with immigration authorities. During this period, he established a family, long-term residence, and steady employment. At no point during those decades did Petitioner present himself at a port of entry for inspection or admission.

22. Petitioner is married and is the father of four children, all of whom are United States citizens by birth. Exh. 2. Each of Petitioner’s children was born in the United States and resided with Petitioner prior to his detention.

23. Prior to his arrest, Petitioner resided with his wife and children at [REDACTED] [REDACTED] Pasadena, Texas [REDACTED] where he had lived for many years.

24. Petitioner has maintained continuous employment in the United States for more than a decade. He has been employed as a Plaster Mason Lead at RMI Services since approximately November 1, 2010, and was employed at the time of his arrest. Exh. 3.

25. Petitioner has no criminal history. He has no arrests, no convictions, and no pending criminal charges. His detention does not arise from any allegation of criminal conduct.

26. According to the Department of Homeland Security's Form I-213 (Record of Deportable/Inadmissible Alien), Petitioner was encountered and arrested on November 14, 2025, in Austin, Texas, during a Fugitive Operations enforcement action. Petitioner was not the target of the operation and was arrested following a non-custodial traffic stop conducted by state and federal officers. Exh. 4.

27. The Form I-213 reflects that Petitioner admitted to being a citizen of Mexico and to lacking immigration documents authorizing him to enter or remain in the United States. The form states that Petitioner did not present himself at a port of entry, was not inspected, admitted, or paroled, and allegedly entered the United States at or near an unknown location on an unknown date.

28. The Form I-213 further reflects that Petitioner has no criminal history, no aggravated felony convictions, and no outstanding wants or warrants. It also states that Petitioner denied any gang affiliation and did not express fear of return.

29. The Form I-213 indicates that DHS processed Petitioner administratively and determined that he would be detained pending removal proceedings, and that Petitioner was transferred to ICE custody following the encounter.

30. On November 14, 2025, the Department of Homeland Security issued a Notice to Appear ("NTA") charging Petitioner with removability. Exh. 5. The NTA was filed with the Executive Office for Immigration Review on November 17, 2025, thereby initiating removal proceedings.

31. The NTA alleges that Petitioner is not a citizen or national of the United States, that he is a native and citizen of Mexico, that he entered the United States at or near an unknown location

on or about an unknown date, and that he was not admitted or paroled after inspection by an immigration officer. Petitioner is charged as removable under 8 U.S.C. § 1182(a)(6)(A)(i).

32. Following issuance and filing of the NTA, Petitioner was detained and transferred to the T. Don Hutto Detention Center in Taylor, Texas, where he remains in custody. Exh. 6.

33. While detained and in removal proceedings before the Pearsall Immigration Court, Petitioner filed Application for Cancellation of Removal and of Adjustment Status for Certain Non-Permanent Residents, Form EOIR 42(b). Exh. 7. Attached to his claim for relief were numerous supporting documents including documents which show 10 years of presence in the United States and 15 years of employment, and residential history. Exh. 8.

34. On December 30, 2025, Petitioner requested a custody redetermination (bond hearing). Exh. 9.

35. The Immigration Court conducted an in-custody bond hearing on January 8, 2026, before Immigration Judge Eric Tijerina. Exh. 10.

36. On January 8, 2026, the Immigration Judge issued a written order denying bond, concluding that Petitioner was subject to detention as an applicant for admission and therefore ineligible for release on bond. *See* Immigration Judge Eric Tijerina, Order on Custody Redetermination (Jan. 8, 2026). As a result of that decision, Petitioner remains detained without bond. Exh. 11.

37. Petitioner remains in removal proceedings before the Pearsall Immigration Court, but the Court has yet to schedule a date or time for his next hearing. Exh. 12.

LEGAL FRAMEWORK

38. Noncitizens are entitled to due process of law under the Fifth Amendment to the United States Constitution. *Demore v. Kim*, 538 U.S. 510, 523 (2003). While the Constitution applies to all persons within the United States, the breadth and scope of substantive and procedural due

process afforded to noncitizens depends in part on the applicable statutory context in which the government acts.

39. The Supreme Court has long distinguished between the constitutional rights of noncitizens seeking initial admission and those who are already present in the United States. *See Landon v. Plasencia*, 459 U.S. 21, 32 (1982). Noncitizens physically present in the United States, even without lawful status, are “persons” protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 693; *Kwong Hai Chew v. Colding*, 344 U.S. 590, 596–98 (1953); *Yamataya v. Fisher*, 189 U.S. 86, 101 (1903).

40. This distinction is embedded in the structure of the Immigration and Nationality Act (“INA”) as amended by the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996¹ and, more recently, by the Laken Riley Act of 2025.² The INA authorizes civil immigration detention through separate statutory provisions that apply to different categories of noncitizens. Where detention is authorized—or even required—by statute, it must also comport with the Due Process Clause. Courts evaluate the constitutionality of civil detention procedures under the balancing framework set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). That analysis requires consideration of the private interests affected by the government’s action, the risk of erroneous deprivation of those interests under the procedures used and the probable value of additional safeguards, and the government’s interests, including fiscal and administrative burdens.

41. In the immigration context, courts recognize that detention implicates not only physical liberty, but also family integrity, employment, and the ability to meaningfully participate in removal proceedings, particularly for noncitizens who have established long-term residence in

¹ Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a).

² Pub. L. No. 119–1, 139 Stat. 3 (2025)

the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 690–93 (2001); *Landon v. Plasencia*, 459 U.S. 21, 32–34 (1982)

42. Federal immigration law contains four principal statutory provisions governing the detention of noncitizens by the Department of Homeland Security. 8 U.S.C. § 1226(a) governs the discretionary detention of noncitizens arrested pursuant to a warrant pending a determination of removability and authorizes release on bond or conditional parole. 8 U.S.C. § 1226(c) mandates detention for a narrowly defined class of noncitizens who are removable based on specified criminal convictions or terrorism-related grounds.

43. 8 U.S.C. § 1225(b) governs the mandatory detention of applicants for admission, including certain noncitizens apprehended at or near the border or otherwise treated as applicants for admission, pending removal proceedings. Finally, 8 U.S.C. § 1231(a) governs detention following the entry of a final order of removal during the statutory removal period and authorizes continued detention beyond that period in limited circumstances.

44. Two of these provisions are plainly inapplicable to Petitioner's detention. Section 1226(c) does not apply because Petitioner has never been convicted of a crime, has never been charged with any criminal offense, and is not alleged to be removable on any criminal or terrorism-related ground. No party contends that Section 1226(c) governs Petitioner's custody. Section 1231(a) is likewise inapplicable because Petitioner is not subject to a final order of removal and remains in pending removal proceedings. No party contends that Section 1231(a) applies here.

45. Accordingly, the question presented is which of the two remaining detention provisions, 8 U.S.C. § 1225(b) or 8 U.S.C. § 1226(a), governs Petitioner's custody. As set forth below, Petitioner's detention is governed by 8 U.S.C. § 1226(a), not Section 1225(b).

46. Noncitizens detained under Section 1226(a) are entitled to an individualized custody determination, including a bond hearing at the outset of detention. See 8 C.F.R. §§ 1003.19(a), 1236.1(d). Section 1226(c) provides the sole exception to this discretionary detention framework, and, as noted above, it is not applicable to Petitioner.

47. Respondents' efforts to subject Petitioner to mandatory detention therefore rest on a misapplication of the detention statutes that collapses the distinction Congress drew between applicants for admission and noncitizens apprehended in the interior of the United States, contradicts Respondents' own custody framework, and deprives Petitioner of the individualized custody determination required by federal law and the Fifth Amendment.

ARGUMENT

48. As set forth above, 8 U.S.C. § 1226(a) governs Petitioner's detention. Respondents' continued detention of Petitioner without an individualized custody determination violates the Due Process Clause of the Fifth Amendment under *Mathews v. Eldridge*, 424 U.S. 319 (1976), and controlling district court authority. Immediate release is therefore the appropriate habeas remedy. In the alternative, at a minimum, Petitioner must be afforded an individualized custody determination that provides a meaningful opportunity to be heard before a neutral adjudicator.

(A)

§ 1225(b) Inapplicable

49. Respondents rely on 8 U.S.C. § 1225(b) to justify Petitioner's mandatory detention. Section 1225(b) governs the mandatory detention of applicants for admission, a category Congress defined to encompass noncitizens seeking entry at the border or otherwise undergoing the admission process. Respondents' position has been resoundingly and repeatedly rejected by federal district courts across the country, including courts in the Fifth Circuit and Texas District Courts. See e.g., *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); *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), No. 3:25-CV-2729-K-BN, 2025 WL 3463682 (N.D. Tex. Dec. 2, 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); *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*, o. 25-CV-04836 (OEM), 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *PÉREZ 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); *Bermeo Sicha v. Bernal*, No. 1:25-CV-00418-SDN, 2025 WL 2494530 (D. Me. Aug. 29, 2025).

50. Characterizing Petitioner as an applicant for admission stretches § 1225(b) beyond its text, structure, and historical application. The INA does not contemplate that a noncitizen who has resided openly in the United States for years remains perpetually *seeking admission*. As a matter of statutory interpretation and settled detention practice, § 1225(b) cannot govern Petitioner's detention.

51. In *Vazquez*, the court held that applying § 1225(b)(2)(A) to interior residents contravenes the statutory structure, legislative history, and decades of agency practice under § 1226(a).

Vazquez, 2025 WL 2676082, at *3–6. The court further explained that such an interpretation would erase the statutory distinction between arriving noncitizens and those already present in the United States, subjecting long-term residents to mandatory detention without individualized process and undermining core due process protections. *Id.*

52. In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d --, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), amended and superseded by reconsideration by --F. Supp. 3d--, 2025 WL 3713987 (Dec. 18, 2025), the court certified a nationwide class action for “Bond Eligible” noncitizens. *Id.* at 15. Specifically, the Court found that

“[a]ll noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.”

Id. at 15.

53. Petitioner, through undersigned counsel, raised the *Maldonado Bautista v. Santacruz* litigation before Immigration Judge who presided over the Petitioner’s bond hearing and asserted that the Petitioner was a *Maldo nado Bautista* class member.

54. The Immigration Judge refused to comply with the orders contained in *Maldonado Bautista v. Santacruz* and found that the Petitioner was not eligible for a bond.

55. The Immigration Judge’s refusal to comply with the orders in *Maldonado Bautista v. Santacruz* confirms that administrative remedies are unavailable or futile in this case. Accordingly, the Court should grant habeas relief by ordering Petitioner’s release from ICE custody rather than directing further bond proceedings.

(B)

DHS Documents Undercut DHS’ Own Position

56. Respondents' reliance on mandatory detention is further undermined by their own charging and processing documents. The Department of Homeland Security's Form I-213 expressly states that Petitioner has no aggravated felony convictions and no criminal history. As a matter of law, this forecloses any reliance on 8 U.S.C. § 1226(c), which mandates detention only for a narrowly defined class of noncitizens who are removable based on specified criminal convictions or terrorism-related grounds. See 8 U.S.C. § 1226(c)(1). Because Petitioner has never been convicted of any offense, mandatory detention under Section 1226(c) is categorically inapplicable.

57. The Form I-213 further undermines Respondents' position by confirming the manner in which DHS itself processed Petitioner. Under the section labeled "Processing Disposition," DHS recorded that Petitioner was issued a Warrant of Arrest and a Notice to Appear. That designation is significant. Congress expressly tied discretionary immigration detention to the issuance of warrants of arrest in 8 U.S.C. § 1226(a), which authorizes the arrest and detention of a noncitizen "on a warrant issued by the Attorney General" pending a decision on removability and provides for release on bond or conditional parole.

58. By contrast, 8 U.S.C. § 1225(b) contains no reference to detention pursuant to a warrant of arrest. Section 1225(b) governs the inspection and detention of applicants for admission during the admission process, typically at or near the border, and contemplates contemporaneous determinations made by examining immigration officers in that context. DHS's own documentation reflects that Petitioner was not processed in this manner.

59. Instead, DHS affirmatively chose to proceed by issuing a warrant of arrest and initiating removal proceedings through a Notice to Appear, the procedural pathway prescribed by Section 1226(a).

60. The record establishes that Petitioner was encountered on November 14, 2025, during a Fugitive Operations enforcement action in Austin, Texas, following a non-custodial traffic stop. He was not the target of the operation. He was not apprehended at or near the border, was not attempting to enter the United States, and was not undergoing inspection or admission at a port of entry. He had resided in the United States for decades before this encounter. These facts foreclose application of Section 1225(b).

61. DHS cannot reconcile its own records with its litigation position. Having documented that Petitioner has no criminal convictions and having processed him through a warrant-based arrest under Section 1226(a), Respondents cannot now recharacterize his detention as mandatory under Section 1225(b) to avoid providing the individualized custody determination that federal law requires. The Form I-213 therefore confirms that Petitioner's detention is justified pursuant to 8 U.S.C. § 1226(a) and that continued detention without a bond hearing is unlawful.

(C)

Due Process Violations

62. Respondents' actions implicate significant constitutional due process concerns. Noncitizens are entitled to due process of 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 affected by the official action; (2) the risk of an erroneous deprivation of that interest through the procedures used, and the probable value of additional or substitute procedural safeguards; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens that additional or substitute procedures would entail. *Mathews*, 424 U.S. at 335. Each is taken in turn.

(i)
Substantial Liberty Interest

63. The private interest at stake is profound. “The interest in being free from physical detention is the most elemental of liberty interests.” *Martinez*, 2025 WL 2598379, at *2 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). Petitioner is a long-term resident of the United States who lived openly in the interior of the country for approximately twenty-five years before his collateral arrest. Courts have repeatedly recognized that long-term residence in the United States gives rise to a cognizable liberty interest in freedom from immigration detention. See *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *11 (W.D. Tex. Sept. 22, 2025).

64. Petitioner’s interest is not limited to freedom from physical confinement. His detention disrupts family life, employment, and his ability to meaningfully participate in his removal proceedings. These interests are particularly acute where, as here, detention follows decades of residence and occurs not at the border but through an interior enforcement action.

(ii)
High Risk of Erroneous Deprivation

65. The second *Mathews* factor strongly favors Petitioner. The procedures used here create a substantial risk of erroneous deprivation because Petitioner was denied a meaningful individualized custody determination. At his bond hearing, the Immigration Judge declined to exercise jurisdiction and denied bond solely on the ground that Petitioner was allegedly subject to mandatory detention as an applicant for admission. As a result, the hearing did not provide Petitioner with an opportunity to contest the legal basis for his detention or to obtain an individualized assessment of flight risk or danger.

66. Courts have repeatedly found a high risk of erroneous deprivation where an immigration judge declines to conduct an individualized custody analysis based on an asserted lack of authority. See *Lopez-Arevelo*, 2025 WL 2691828, at *11; *Espinoza v. Kaiser*, No. 1:25-CV-01101, 2025 WL 2581185, at *11 (E.D. Cal. Sept. 5, 2025). That risk is heightened here because Respondents' detention theory rests on a contested and widely rejected interpretation of mandatory detention under § 1225(b), and because the Board of Immigration Appeals' decision in *Matter of Yajure-Hurtado* renders administrative appeal virtually futile. See *Lopez-Arevelo*, 2025 WL 2691828, at *11.

67. Absent habeas review, Petitioner faces a substantial likelihood of continued detention based on an erroneous statutory classification, with no meaningful opportunity to challenge that deprivation.

(iii)

The Government's Interests Do Not Justify Categorical Detention Without Process

68. The final *Mathews* factor also favors Petitioner. Respondents cannot identify a meaningful countervailing interest beyond their generalized interest in enforcing the immigration laws as they interpret them. That interest does not outweigh Petitioner's liberty interest, particularly where detention is based on a disputed legal theory rather than any individualized finding of danger or flight risk.

69. Providing an individualized custody determination imposes minimal administrative or fiscal burden. Indeed, Congress expressly contemplated such hearings under 8 U.S.C. § 1226(a) and the implementing regulations. By contrast, categorical detention under § 1225(b) for long-term interior residents imposes severe liberty costs while offering no corresponding public safety benefit.

70. Considered together, the *Mathews v. Eldridge* factors demonstrate that Petitioner's continued detention without an individualized custody determination violates the Due Process Clause of the Fifth Amendment. Petitioner's substantial liberty interest, the high risk of erroneous deprivation created by Respondents' procedures, and the absence of any countervailing governmental interest sufficient to justify categorical detention compel the conclusion that the process afforded here is constitutionally inadequate. Because Petitioner remains detained based on an erroneous statutory classification and without meaningful procedural safeguards, Respondents' conduct gives rise to actionable constitutional violations, as set forth below.

CLAIMS FOR RELIEF

COUNT I: Violation of Fifth Amendment Right to Due Process

71. The above paragraphs are realleged and incorporated herein.

72. 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).

73. The Department of Homeland Security is detaining Petitioner under "mandatory detention" authority reserved for aliens who are in the process of entering the United States, 8 U.S.C. § 1225. Respondents have determined that Petitioner is not eligible for bond and must be detained due to a recent change in policy, despite having resided in the United States for more than three years without being detained.

74. The Executive Office for Immigration Review issued a precedential decision holding that immigration judges unequivocally have no jurisdiction to entertain granting bond in Petitioner's exact circumstances, *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

75. Petitioner was not arriving in the United States at the time of detention and he had been in the United States for more than three years. His detention is therefore unlawful because he is being subjected to mandatory detention provisions which did not apply to him at the time of his detention.

76. Petitioner's detention is unlawful and his immediate release is appropriate.

COUNT II: Violation of 8 U.S.C. § 1226(a)

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

78. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens who have been residing in the United States and who were previously released from custody under 8 U.S.C. § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231

79. The application of § 1225(b)(2) to bar Petitioner from release and from receiving a bond redetermination hearing before an immigration judge violates the Immigration and Nationality Act.

COUNT III: Violation of the Administrative Procedure Act Unlawful Denial of Bond

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

81. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who originally entered the United States and were granted release under §1226. Such noncitizens are detained under § 1226(a), unless they are specifically subject to another detention provision, such as § 1225, § 1226(c) or § 1231.

82. The application of § 1225(b)(2) to bar Petitioner from receiving a bond redetermination hearing before an immigration judge is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

PRAYER

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 re-detention of the Petitioner after his release under 8 U.S.C. § 1226 and the deprivation of any meaningful way for him to challenge his detention violates the INA, APA, and the Due Process Clause of the Fifth Amendment;
- (4) Issue a Writ of Habeas Corpus requiring that Respondents immediately release the Petitioner in order to preserve the status quo ante, or, in the alternative, provide a custody redetermination hearing before an impartial Immigration Judge within 14 days in which the government bears the burden of showing that 1) there has been a change of circumstances that required the re-detention of Petitioner, and 2) the Petitioner is a flight risk or a danger to the community at large.
- (5) Set aside Respondents' unlawful detention policy under the APA, 5 U.S.C. § 706(2);
- (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"); and,
- (7) Order further relief as this Court deems just and appropriate.

RESPECTFULLY SUBMITTED,

/s/ Jesus Dario Elizondo

Jesus Dario Elizondo, Esq.

OK Bar#: 32987

TX Bar#: 24145421

Admission to the Western District of Texas: PENDING

Attorney for Plaintiff

The Law Office of Vernal Farnum Mejia

13809 Research Blvd #755,

Austin, Texas, 78750

T: 682-888-5755

F: 682-888-1555

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

I represent the Petitioner, and 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 14th Day of January 2026

/s/ Jesus Dario Elizondo

Jesus Dario Elizondo, Esq.

OK Bar#: 32987

TX Bar#: 24145421

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Attorney for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on January 14, 2026, I served a true and correct copy of the foregoing **Petition for Writ of Habeas Corpus and Exhibits** by **United States Postal Service, certified mail**, upon the following:

Charlotte Collins

Warden
T. Don Hutto Detention Center
1001 Welch Street
Taylor, Texas 76574

Kristi Noem

Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Avenue SE
Washington, DC 20528

Todd M. Lyons

Acting Director
U.S. Immigration and Customs Enforcement
500 12th Street SW
Washington, DC 20536

Miguel Vergara

San Antonio Field Office Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
1777 NE Loop 410, Floor 15
San Antonio, Texas 78217

United States Attorney

Western District of Texas
601 NW Loop 410, Suite 600
San Antonio, Texas 78216

I further certify that the above-named Respondents were also served through the Court's **CM/ECF system** in connection with the electronic filing of this habeas corpus action in the United States District Court for the Western District of Texas.

Dated this 14th Day of January 2026

/s/ Jesus Dario Elizondo

Jesus Dario Elizondo, Esq.

OK Bar#: 32987

TX Bar#: 24145421

Admission to the Western District of Texas: PENDING

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