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I. INTRODUCTION

1. Petitioner Santiago Guachun is currently detained at ERO Camp East Montana Detention Center in El Paso, Texas in the custody of Immigration and Customs Enforcement. He has been detained since January 12, 2026 and has been incorrectly deemed ineligible for bond and subject to mandatory detention under current Department of Homeland Security (“DHS”) policy. Accordingly, to vindicate Petitioner’s statutory and constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

2. Absent an order from this Court, Petitioner will remain unlawfully detained for the duration of his removal proceedings.

3. Petitioner asks this Court to find that Petitioner was misclassified as a noncitizen seeking admission under 8 U.S.C. § 1225(b)(2), assume jurisdiction over this matter, and order bond for Petitioner so that he may be released from unlawful detention.

II. JURISDICTION

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

5. 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).

6. 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.

VENUE

7. Venue is proper because Petitioner is detained at ERO Camp East Montana Detention Center in El Paso, Texas, which is within the jurisdiction of this District.

III. REQUIREMENTS OF 28 U.S.C. § 2243

8. 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).

9. 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).

IV. PARTIES

10. Petitioner is a noncitizen. Currently, Petitioner is detained at ERO Camp East Montana Detention Center in El Paso, Texas. He is in the custody, and under the direct control, of Respondents and their agents.

11. Respondent Warden, ERO Camp East Montana Detention Center in El Paso, Texas, is the head of the ERO Camp East Montana Detention Center in El Paso, Texas where Petitioner is detained. They have immediate physical custody of Petitioner. He is sued in his official capacity. Respondent Warden is a legal custodian of Petitioner.

12. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. As such, Respondent Lyons is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is sued in his official capacity.

13. Respondent Joel Garcia is named in his official capacity as ICE Field Office Director for U.S. Immigration and Customs Enforcement. He is responsible for ICE enforcement in this District and is a legal custodian of Petitioner.

14. 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 oversee U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

15. 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.

V. FACTUAL ALLEGATIONS

16. Petitioner Santiago Guachun Cardenas is a 36-year-old citizen of Ecuador. Mr. Guachun Cardenas has resided peacefully in the U.S. since 2024 when he entered the U.S. without inspection. Mr. Guachun Cardenas lives with his wife and three young children, whom he works to support.

17. Upon Petitioner's entry to the U.S. in April 2024, he was detained. However, Mr. Guachun Cardenas was then released on his own recognizance under 8 U.S.C. § 1226.

18. Respondent was served with a Notice to Appear initiating removal proceedings against him, alleging that he is “an alien present in the United States who has not been admitted or paroled.”

19. U.S. Immigration and Customs Enforcement (“ICE”) and/or other federal agents acting on ICE’s behalf arrested Mr. Guachun Cardenas on January 12, 2026 in Minnesota while attending an Intensive Supervision Appearance Program (ISAP) check in. He was arrested and then taken into ICE custody.

20. Petitioner was quickly transported from Minnesota to ERO Camp East Montana Detention Center in El Paso, Texas. Exh. 1 (Alien Locator)

21. Mr. Guachun Cardenas is currently being held in the ERO Camp East Montana Detention Center in El Paso, Texas in ICE custody pending full removal proceedings. Mr. Guachun Cardenas currently has a pending I-589, Application for Asylum and Withholding of Removal, filed in December 2024.

22. Mr. Guachun Cardenas is currently scheduled for a Master Calendar Hearing on February 2, 2026 at 8:30 am before Immigration Judge Lucic at the El Paso Immigration Court. Exh. 2 (EOIR Case Status)

23. As a person arrested inside the United States and held in civil immigration detention for pending removal proceedings, Petitioner is subject to detention, if at all, pursuant to 8 U.S.C. §

1226. However, under current DHS and EOIR policy, Petitioner has been misclassified as subject to mandatory detention under 8 U.S.C. § 1125(b)(2), making him ineligible for bond.

24. Petitioner thus seeks a declaratory judgment prompting the correct classification of his detention, making him bond-eligible, and thus releasing him from custody pending his full removal proceedings.

VI. LEGAL FRAMEWORK

A. Due Process

25. 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

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

27. 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).

28. 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).

29. 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

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

31. 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).

32. After IIRIRA, EOIR promulgated regulations clarifying that, in general, people who entered without inspection and were placed in § 240 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).

33. 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).

34. 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.

35. On July 8, 2025, ICE announced new “Interim Guidance Regarding Detention Authority for Applicants for Admission,”¹ reversing longstanding understanding and practice.

¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applicants-for-admission>.

36. 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).

37. 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).

38. 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 In this District, courts have repeatedly rejected Respondents’ new reading of the detention statutes and held that § 1226(a), not § 1225(b)(2), governs custody for long-resident noncitizens arrested in the interior, including those charged with entry without inspection. See *Gonzalez Guerrero v. Noem*,

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, (E.D. Mich. Sept. 9, 2025); *Chanaguano Caiza v. Scott*, 25-cv-00500, 2025 WL 2806416, (D. Me. Oct. 2, 2025); *Luna Quispe v. Crawford, et al.*, No. 1:25-CV-1471-AJT-LRV, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025); *Vazquez v. Bostock*, No. 25-cv-05240, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025); *J.U. v. Maldonado*, 25-CV-04836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Rivera Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025); *Giron Reyes v. Lyons*, No. C25-4048, 2025 WL 2712427 (N.D. Iowa, Sept. 23, 2025); *Singh v. Lewis*, No. 25-cv-96, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 WL 2650637 (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, (S.D. Tex. Oct. 7, 2025); *Hernandez Lucero v. Bondi*, No. 4:25-cv-03981 (S.D. Tex. Oct. 23, 2025); *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)).

No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025) (preliminary injunction holding that § 1226, not § 1225(b)(2), governs custody for interior arrests because a broad reading of § 1225(b)(2) would render § 1226 superfluous); *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025) (TRO requiring § 1226 process 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) (TRO requiring a prompt § 1226 bond hearing with the Government bearing the burden, or release if no hearing is set); *Santiago-Santiago v. Noem*, No. 3:25-cv-361-KC, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025) (granting habeas relief for a DACA recipient misclassified under § 1225(b)); *Alvarez Martinez v. Noem*, No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025) (granting habeas and holding that the automatic stay of an IJ's bond order violates due process); *Lopez-Arevelo v. Ripa*, No. 3:25-cv-00337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025) (rejecting §§ 1252(g) and 1252(b)(9) as jurisdictional bars and ordering a bond hearing with a clear-and-convincing burden on the Government); *Martinez v. Noem*, No. 3:25-cv-00430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025) (holding that even assuming § 1225(b) applies, Mathews requires an individualized bond hearing); *Souza Vieira v. De-Anda Ybarra*, No. 3:25-cv-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025); *Erazo Rojas v. Noem*, No. 3:25-cv-00443-KC (W.D. Tex. Oct. 30, 2025); *Dominguez Vega v. Thompson*, No. 5:25-cv-01439-XR (W.D. Tex. Nov. 19, 2025); *Zahid v. Garite*, No. 3:25-cv-00563-KC (W.D. Tex. Nov. 20, 2025).

39. Those decisions uniformly recognize that applying § 1225(b)(2) to long-resident interior arrests would render § 1226 superfluous and violate due process, and they order either immediate release or a prompt bond hearing at which the Government bears the burden.

40. Courts elsewhere in the Fifth Circuit, particularly in the Southern District of Texas, have reached the same conclusion and provided detailed reasoning that strongly supports Petitioner's position here. *See e.g. Buenrostro-Mendez v. Bondi*, No. 4:25-cv-03726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112 (S.D. Tex. Oct. 8, 2025); *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (S.D. Tex. 2025); *Hernandez Lucero v. Noem*, No. 4:25-cv-03981 (S.D. Tex. 2025); *Granados Gonzalez v. Bondi*, No. 4:25-cv-04756 (S.D. Tex. 2025); *Barrera Martinez v. Noem*, No. 5:25-cv-00164 (S.D. Tex. 2025); *Lopez de Leon v. Harlingen Field Office of Immigration & Customs Enforcement and Removal Operations Div.*, No. 5:25-cv-00165 (S.D. Tex. 2025). 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.

41. 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.

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

43. 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.

44. 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.

45. 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.

46. 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.

47. 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).

48. The Court should hold that § 1226(a) governs Petitioner’s custody and order her immediate release, or at minimum require a prompt § 1226(a) bond hearing with the Government

bearing the clear-and-convincing burden to prove flight risk or danger. 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.

49. Petitioner was arrested in the interior and is in § 240 proceedings. Section 1226(a) controls and supplies bond jurisdiction. *Jennings*, 583 U.S. at 297, 302–03.

50. 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); *Martinez v. Noem*, No. 3:25-cv-430-KC, 2025 WL 2965859; *Gonzalez Guerrero v. Noem*, No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025).

51. 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).

52. *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.

53. Longstanding agency materials confirm that interior encounters without admission were treated under § 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).

54. 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 § 236(a). *See Matter of Mariscal-Hernandez*, 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).

55. 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.

56. Because Petitioner was arrested in the interior and (on information and belief) under warrant authority, § 236(a) governs his detention. The DHS’s attempt to shoehorn him into § 235(b)(2) is contrary to the statutory text, structure, and constitutional principles. He is entitled to release or, at minimum, a prompt bond hearing before an IJ applying the correct legal standard.

VIII. CLAIMS FOR RELIEF

COUNT ONE

Violation of the Due Process Clause of the Fifth Amendment of the United States

Constitution

57. The allegations in the above paragraphs are realleged and incorporated herein.

58. Because Petitioner is subject to detention, if at all, under 8 U.S.C. § 1226(a), yet current DHS policy has Petitioner classified as a mandatory detainee under 8 U.S.C. § 1225(b)(2), the Due Process Clause of the Fifth Amendment to the United States Constitution requires that he be released on bond.

59. Thus, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of 8 U.S.C. § 1226(a) and Implementing Regulations

60. The allegations in the above paragraphs are realleged and incorporated herein.

61. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

62. Under 8 U.S.C. § 1226(a) and its associated regulations, Petitioner is entitled to bond, and any bond determination would be denied solely based on a purported lack of jurisdiction by the immigration court. *See* 8 C.F.R. §§ 236.1(d), 1236.1, 1003.19(a)-(f); *see also Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

63. For these reasons, Petitioner's detention is therefore unlawful.

COUNT THREE

Violation of Administrative Procedure Act (5 U.S.C. § 706)

64. The allegations in the above paragraphs are realleged and incorporated herein.

65. Petitioner is being detained without a bond hearing pursuant to the BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

66. The BIA's decision in *Matter of Yajure Hurtado* is unlawful because it violates the Administrative Procedure Act because the BIA's decision is arbitrary, capricious, and contrary to law.

67. Petitioner's detention is therefore unlawful.

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 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 Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1226, and/or 5 U.S.C. § 706;
- 4) Issue a Writ of Habeas Corpus ordering Respondents to set bond for Petitioner and release Petitioner immediately;
- 5) Enjoin respondents from removing, transferring, or otherwise facilitating the removal of Petitioner from the Western District of Texas before the ordered bond hearing;
- 6) Once bond is set, the Department of Homeland Security is prohibited from filing Form EOIR-43 staying the bond;
- 7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- 8) Grant any further relief this 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. Prompt judicial intervention is necessary to protect Petitioner's constitutional rights and his family's well-being.

Respectfully submitted,

Dated: January 30, 2026

/s/ Cam Nguyen

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

I represent Petitioner, Santiago Guachun Cardenas, 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 30 day of January, 2026

/s/ Cam Nguyen

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