UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

J.G.I.,

Petitioner,

v.

KENNETH GENALO, in his official capacity as Field Office Director of New York, Immigration and Customs Enforcement; TODD LYONS, in his official capacity as Acting Director U.S. Immigrations and Customs Enforcement; KRISTI NOEM in her official capacity as Secretary of Homeland Security; PAM BONDI, in her official capacity as Attorney General; and ANTHONY J. LAROCCO, in his official capacity as Sheriff of Nassau County, New York and Warden of the Nassau County Jail,

Respondents.

Case No. 26-cv-581

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. J.G.I.[1] is an asylum seeker from Guatemala who has been living in the United States for over 14 years. On February 1, 2026, even though J.G.I. had previously been released by an immigration judge on bond over seven years ago, and was lawfully seeking asylum in immigration court, Immigration and Customs Enforcement ("ICE") abruptly re-detained him without any notice or opportunity to be heard and in violation of the immigration court's bond order. Respondents are now unlawfully detaining Petitioner in violation of his statutory and constitutional rights.

2. There has been no change in circumstances since his prior release on bond that would warrant re-detention. Thus, J.G.I.'s arrest and detention are wholly unjustified and not based on any consideration of his individualized circumstances. Furthermore, despite the prior bond

[1] A motion to proceed via pseudonym will be concurrently filed with this Petition.

release, under Respondents' new policies, J.G.I. will be blocked from release on bond again due to Respondents' misclassification of Petitioner as subject to "mandatory detention"—a position that hundreds of district courts across the country have now found to be a violation of the Immigration and Nationality Act ("INA").

3. J.G.I. has no other remedy at law than to petition this Court and request the Court order Respondents to immediately release him from immigration custody or, in the alternative, to order an individualized bond hearing at which the government must bear the burden of proving by clear and convincing evidence that his re-detention is justified by changed circumstances. In such a bond hearing, to satisfy due process, an adjudicator must also consider the ability to pay bond and the availability of alternatives to detention, including conditions of supervision, that would mitigate any concerns as to flight risk and danger.

4. J.G.I.'s detention violates the Constitution and the Immigration and Nationality Act. This Court should grant his petition for a writ of habeas corpus and order his immediate release.

JURISDICTION AND VENUE

5. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

6. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States Constitution. This Court has authority to grant declaratory and injunctive relief. 28 U.S.C. §§ 2201, 2202. The Court has additional remedial authority under the All-Writs Act, 28 U.S.C. § 1651 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

7. Venue is proper in this District under 28 U.S.C. § 2241(d); 28 U.S.C. § 1391(b); and 28 U.S.C. § 1391(e)(1). Venue is proper in this District because J.G.I. is, upon information and belief, presently detained within this District at the Nassau County Jail.

REQUIREMENTS OF 28 U.S.C. § 2243

8. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

9. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

10. Petitioner J.G.I. is a 39-year-old national of Guatemala who has lived in the United States for 14 years and is seeking asylum. ICE arrested him while he was walking from his home in Freeport, New York to the store on February 1, 2026 and, upon information and belief, are presently detaining him at the Nassau County Jail in Nassau County, New York.

11. Respondent Kenneth Genalo is named in his official capacity as the Field Office Director of the New York Field Office for ICE within DHS. In this capacity, he is also responsible for the administration of immigration laws and the execution of detention and removal determinations and is a legal custodian of Petitioner. Respondent Genalo's address is New York ICE Field Office Director, 26 Federal Plaza, 9th Floor, Suite 9-10, New York, New York 10278.

12. Respondent Todd Lyons is sued in his official capacity as Acting Director of U.S. Immigrations and Customs Enforcement. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Mr. Petitioner.

13. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security. As the head of the Department of Homeland Security ("DHS"), the agency tasked with enforcing immigration laws, Secretary Noem is Petitioner's ultimate legal custodian.

14. Respondent Pam Bondi is sued in her official capacity as Attorney General of the United States. As head of the U.S. Department of Justice, the agency that oversees the Executive Office for Immigration Review ("EOIR"), Attorney General Bondi is responsible for administration of the immigration laws as exercised by EOIR, pursuant to 8 U.S.C. § 1103(g). She is legally responsible for the pursuit of Petitioner's detention and removal.

15. Respondent Anthony J. LaRocco is sued in his official capacity as Sheriff of Nassau County New York and warden of the Nassau County Jail. As the Warden of Nassau County Jail, he is a custodian of Petitioner. His office is located at 100 Carman Avenue, East Meadow, NY 11554.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

16. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his immigration detention. *See Louisaire v. Muller*, 758 F. Supp. 2d 229, 234 (S.D.N.Y. 2010); *Abdi v. Nielsen*, 287 F. Supp. 3d 327, 341 (W.D.N.Y. 2018). No exhaustion requirement applies to the claims raised in this petition because the Immigration Court and Board of Immigration Appeals ("BIA") lack jurisdiction to entertain constitutional challenges. *See Arango-Aradondo v. INS*, 13 F.3d 610, 614 (2d Cir. 1994); *Matter of Valdovinos*, 18 I&N Dec. 343, 345-46 (BIA 1982) (disclaiming jurisdiction to rule on constitutionality of immigration statute).

17. Nor is further action with the agency necessary when pursuing administrative remedies would be futile or the agency has predetermined a dispositive issue. *See, e.g., Araujo-Cortes*, 35 F. Supp. 3d at 538-39; *Monestime v. Reilly*, 704 F. Supp. 2d 453, 456-7 (S.D.N.Y. 2010); *Garcia v. Shanahan*, 615 F. Supp. 2d 175, 180 (S.D.N.Y. 2009); *see also Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873, 2025 WL 2670875, at *8 (C.D. Cal. July 28, 2025) (finding the exhaustion of remedies for then prospective class of petitioners who alleged unlawful detention pursuant to § 1225 would be futile and thus not required); Maldonado Bautista v. Santacruz, No. 5:25-CV-01873, ECF No. 87 at 3, Pets.' Ex Parte Application for Reconsideration and Clarification (asserting the Government and IJs are disregarding the district court's "declaratory judgment requiring bond hearings for the class").

STATEMENT OF FACTS

18. J.G.I is a 39-year-old asylum seeker from Guatemala. He fled Guatemala and came to the United States in 2012, entering without inspection.

19. On May 22, 2018, J.G.I. was previously detained by ICE and placed into removal proceedings. *See* Ex. 1 (Notice to Appear). ICE documentation at the time made clear that his detention was under 8 U.S.C. § 1226(a). Ex. 2 (Custody notice).

20. J.G.I. subsequently met with and retained attorneys with the New York Immigrant Family Unity Project (NYIFUP) at Brooklyn Defender Services to represent him. NYIFUP is the nation's first universal representation program, providing *pro bono* representation to individuals who are unable to afford a lawyer in detained removal proceedings.

21. On November 13, 2018, J.G.I. filed an I-589 Application for Asylum, Withholding of Removal, and protection under the Convention Against Torture based on his fear of returning to Guatemala where he had been previously threatened, leaving him to fear for his life.

22. On November 13, 2018, the immigration court also held a bond hearing under 8 U.S.C. § 1226(a). The immigration judge considered both parties' arguments, including the fact that J.G.I. had previously been arrested but that those charges had all been dismissed, and then granted bond in the amount of $6,000. *See* Ex. 3 (Bond order). J.G.I. was subsequently released from immigration detention after the bond was paid.

23. Since J.G.I.'s release from ICE detention in 2018, he has continued to live a peaceful life in Long Island. He continues to seek asylum in non-detained immigration court, and was preparing to attend his next master calendar hearing on July 14, 2026 with counsel from Brooklyn Defender Services. *See* Ex. 4 (Notice of Hearing).

24. In July of 2025, J.G.I. had surgery on his knee, after an injury sustained from a fall. Since the surgery, he has been attending physical therapy appointments and uses a cane to walk. He has limited mobility which has impaired his ability to return to work.

25. On the evening of February 1, 2026, at approximately 5:00 p.m., J.G.I. called his social worker with Brooklyn Defender Services. He informed her that, upon leaving his home and going to the store, he had been arrested and detained by ICE. His social worker looked up the number he had called her from, which was a number for the Nassau County Jail.

26. As of the time of filing this petition, the ICE detainee locator states that J.G.I. is in ICE custody under the control of the ICE Enforcement and Removal Operations (ERO) office at Central Islip, New York. *See* Ex. 5 (Detainee locator).

27. Upon information and belief, J.G.I. is in ICE custody at the Nassau County Jail at the time of the filing of the instant Petition.

LEGAL FRAMEWORK

I. Immigration Detention Framework

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

29. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. Section 1226(a) and the implementing regulations require an individualized determination as to the noncitizen's risk of flight and danger to the community. *See* 8 C.F.R. § 1236.1(c)(8); *id.* § 236.1(c)(8); *Velesaca v. Decker*, 458 F. Supp. 3d 224, 235 (S.D.N.Y. 2020). Noncitizens discretionarily detained pursuant to § 1226(a) are also generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. § 1003.19(a); *id.* § 1236.1(d). Whereas noncitizens who have been arrested, charged with, or convicted of certain crimes or fall under certain terrorism-related grounds of removability are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).

30. 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 to under § 1225(b)(2).

31. Third, the INA provides for detention of noncitizens who have been ordered removed. *See* 8 U.S.C. § 1231(a)–(b).

32. Various statutes in the Immigration and Nationality Act provide a basis for immigration authorities to detain noncitizens pending removal from the United States. *See* 8 U.S.C. §§ 1225, 1226. For noncitizens who are applicants for admission and seeking admission to the United States, the statute authorizes their detention under 8 U.S.C. § 1225(b)(2) during the

pendency of their removal proceedings.[2] Detention under 8 U.S.C. § 1225(b)(2) is at times called "mandatory" detention as it does not provide for a statutory right to a bond hearing.

33. However, DHS may release noncitizens subject to detention under 8 U.S.C. § 1225(b)(2) on parole following an individualized determination, "on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5).

34. Federal regulations specify that DHS may only release such noncitizens if they "present neither a security risk nor a risk of absconding." 8 C.F.R. § 212.5(b). These requirements—flight risk and danger—reflect constitutional constraints, since only individuals who pose a flight risk or danger may be civilly detained. *See Zadvydas*, 533 U.S. 690.

35. The applicable regulations further contemplate parole for specific groups of noncitizens including those "who have serious medical conditions in which continued detention would not be appropriate" and those "whose continued detention is not in the public interest." 8 C.F.R. § 212.5(d)(b)(1), (5).

36. For noncitizens who are already within the United States and who are placed in removal proceedings under 8 U.S.C. § 1229a, detention is generally governed by 8 U.S.C. § 1226, which permits a noncitizen to be "arrested and detained pending a decision on whether the [noncitizen] is to be removed from the United States." 8 U.S.C. § 1226(a); *see Jennings v. Rodriguez*, 583 U.S. 281, 288-89, (2018). Section 1226(a) provides for what is termed "discretionary" detention, as noncitizens detained under that section are permitted to ask an immigration judge to review their custody at a bond hearing. *Id.*[3]

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[2] 8 U.S.C. § 1225(b)(1) contains additional statutes authorizing detention of individuals in certain circumstances who are in expedited removal proceedings not relevant to this Petition.

[3] Some noncitizens may be ineligible for bond, *i.e.*, held in "mandatory" detention, due to specific criminal arrests and convictions not relevant to this Petition. *See* 8 U.S.C. § 1226(c).

37. Under 8 U.S.C. § 1226(a), ICE first makes an initial custody determination pursuant to 8 C.F.R. § 1236.1(c)(8), which requires that noncitizens be released from custody "if they demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." *Velesaca v. Decker*, 458 F. Supp. 3d 224, 241 (S.D.N.Y. 2020) ("8 U.S.C. § 1226(a) and its implementing regulations require ICE officials to make an individualized custody determination"); *see also Lopez Benitez*, 2025 WL 2371588, at *10.

38. At any time, a noncitizen detained under 8 U.S.C. § 1226(a) may request a bond hearing before an immigration judge to contest whether he is a danger or a flight risk and thus properly detained during the pendency of his removal proceedings. *See* 8 C.F.R. § 1236.1(d)(1).

39. Once a noncitizen is released on bond by an immigration judge, ICE may not re-detain the noncitizen unless there has been a change of circumstances, pursuant to the Board of Immigration Appeals' decision *Matter of Sugay*, 17 I&N Dec. 637 (BIA 1981). *See Savaria for A.H. v. Sessions*, 905 F.3d 1137, 1145 n.10 (9th Cir. 2018).

II. Due Process Constraints on Immigration Detention

40. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore*, 538 U.S. at 523 (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690.

41. Although civil immigration detention is authorized by statute, to comply with Due Process detention can serve only two legitimate purposes: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *Velasco Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir. 2020).

42. A person's liberty cannot be infringed upon without "adequate procedural protections." *Zadvydas*, 533 U.S. at 690-91. The Second Circuit has held that the *Matthews v. Eldridge* balancing test is applicable to determine the adequacy of process in the context of civil immigration confinement. *Velasco Lopez*, 978 F.3d at 851 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)); *see also Black v. Decker*, 103 F.4th 133, 150-51 (2d Cir. 2024). The *Mathews* factors are: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335.

43. This test requires a process sufficient to mitigate the risk of erroneous deprivation of Petitioner's liberty interest. Revocation of release from confinement, even civil immigration confinement, infringes on a protected liberty interest. The liberty interest in even conditional release is well-established in the context of parole, probation, and freedom from civil immigration confinement. *See Valdez v. Joyce*, No. 25-cv-4627 (GBD), 2025 WL 1707737, at *3 (S.D.N.Y. June 18, 2025) (finding immigration petitioner's "liberty interest is clearly established"); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) (applying case law from the probation and parole contexts to conclude that the non-citizen petitioner had a "liberty interest in remaining out of [immigration] custody").

44. Due process requires, at a minimum, notice and an opportunity to respond prior to the deprivation of liberty at a hearing before a neutral adjudicator. *See, e.g.*, *Torres-Jurado v. Biden*, No. 19-cv-3595 (AT), 2023 WL 7130898, at *4 (S.D.N.Y. Oct. 29, 2023) (explaining that, in parole revocation, "due process, at a minimum" requires the government to afford meaningful

notice and an opportunity to be heard and that the opportunity must be meaningful) (*citing to Ying Fong v. Ashcroft*, 317 F. Supp. 2d 398, 403 (S.D.N.Y. 2004)); *Valdez v. Joyce*, No. 25-cv-4627 (GBD), 2025 WL 1707737, at *4 (S.D.N.Y. June 18, 2025) (ordering release of petitioner re-detained after an immigration court hearing and concluding "respondents ongoing detention of petitioner with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights."); *Lopez v. Sessions*, No. 18-cv-4189 (RWS), 2018 WL 2932726, at *12 (S.D.N.Y. June 12, 2018) ("Petitioner's re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment."); *Singh v. Andrews*, No. 25-cv-00801, 2025 WL 1918679, at *20 (E.D. Cal. July 11, 2025) (ordering release of noncitizen re-detained after an immigration court hearing based on finding that "the *Mathews* factors show that petitioner is entitled to process, and that process should have been provided before petitioner was detained").

45. Where ICE detains individuals without conducting any individualized assessment as to their immigration status, let alone their flight risk, those individuals merit immediate release from custody. *See Quintero Campos v. Deleon*, No. 25-CV-10099 (LJL), 2025 WL 3514120, at *2 (S.D.N.Y. Dec. 8, 2025) (ordering immediate release of individual ICE detained without "any individualized assessment or flight risk assessment" but could not identify any basis under § 1226(a) for his continued detention); *see also Rocano Buestan v. McShane*, No. 25-CV-8544 (JGLC), 2025 WL 3496361, at *1, *6 (S.D.N.Y. Dec. 5, 2025) (same, for noncitizen who had lived in the U.S. approximately 15 years and "was driving around Newburgh with his partner when masked [ICE] officers surrounded them in unmarked vehicles"); *Chipantiza-Sisalema v. Francis*, No. 25 CIV. 5528 (AT), 2025 WL 1927931, at *5 (S.D.N.Y. July 13, 2025) (ordering release of

petitioner re-detained after immigration hearing, finding that her detention "violates her Fifth Amendment right to due process because ICE detained her without notice, an opportunity to respond, or an individualized determination that she poses a flight risk or a danger to the community"); *Morocho v. Jamison*, No. 5:25-CV-05930-JMG, 2025 WL 3296300, at *1–3 (E.D. Pa. Nov. 26, 2025) (same, for noncitizen who had lived in the U.S. for 24 years and was detained by ICE officers "did not provide a reason for the stop; instead, they told him they were looking for another individual and directed him to exit the car"); *Cuy Comes v. DeLeon*, No. 25 CIV. 9283 (AT), 2025 WL 3206491, at *1, *6 (S.D.N.Y. Nov. 14, 2025) (same, for noncitizen who had lived in the U.S. at least five years and was detained by over a half a dozen agents in front of his home); *Lliguicota v. Cabezas*, No. CV 25-17216, 2025 WL 3496300, at *1–2 (D.N.J. Dec. 5, 2025) (same, for noncitizen who had lived in the U.S. for nearly thirteen years and was stopped, questioned, and arrested by federal officers "while walking with his family near their residence"); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910, at *1 (E.D. Cal. Sept. 23, 2025) (same, for noncitizen who had lived in the U.S. for the last 32 years and was stopped and interrogated "while he was walking his dog near his home").

III. Petitioner's Detention under § 1225(b)(2)(A) Violates the INA

46. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

47. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection and who were not admitted were not considered detained under § 1225 and were instead detained under § 1226(a). *See*

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

48. In the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible for bond pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an immigration judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

A. ICE's Unlawful Expansion of Mandatory Detention Under § 1225(b)(2)(A)

49. On July 8, 2025, ICE, "in coordination with" the Department of Justice ("DOJ"), announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice.

50. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[4] claims that all persons who present in the United States without having been admitted shall now be subject to mandatory detention provision under § 1225(b)(2)(A).[5] The policy applies regardless of when or where a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

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

[5] On December 18, 2025, the U.S. District Court for the Central District of California in *Maldonado Bautista v. Salazar* vacated the July 8, 2025, ICE memo as not in accordance with law under the Administrative Procedure Act. *See Maldonado Bautista v. Salazar*, No. 25-cv-1873 (SSS), 2025 WL 3713987, at *22 (C.D. Cal. Dec. 18, 2025); *Maldonado Bautista v. Salazar*, No.

51. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who are present in the United States without admission are subject to detention under § 1225(b)(2)(A) and are ineligible for bond hearings. 29 I&N Dec. at 229.

B. Petitioner's Detention Under § 1225(b)(2)(A) Violates The INA

52. Since the Government adopted its new policy and the BIA issued *Matter of Yajure Hurtado*, hundreds of federal courts, including several in this District, have rejected the Government's new interpretation of the INA's detention authorities and *Matter of Yajure Hurtado*. *See, e.g.*, *Covelli-Chaparro v. Bondi*, No. 2:26-CV-118 (NJC), 2026 WL 118842 (E.D.N.Y. Jan. 15, 2026) (granting petition and ordering immediate release from ICE custody); *Crespo Tacuri v. Genalo*, No. 25-CV-06896 (NCM), 2026 WL 35569 (E.D.N.Y. Jan. 6, 2026) (same); *Ulloa Montoya v. Bondi*, No. 25-CV-06363 (JMA), 2025 WL 3718694 (E.D.N.Y. Dec. 23, 2025) (same); *Padilla Molina v. DeLeon*, No. 25-CV-06526 (JMA), 2025 WL 3718728 (E.D.N.Y. Dec. 23, 2025) (same); *Rodriguez-Acurio v. Almodovar*, No. 2:25-cv-6065 (NJC), 2025 WL 3314420 (E.D.N.Y. Nov. 28, 2025) (same); *Hyppolite v. Noem*, No. 25-CV-4304 (NRM), 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025) (same); *Artiga v. Genalo*, No. 25-CV-5208 (OEM), 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025) (same); *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); (same); *see also Sarmiento Guerrero v. Noem*, No. 25-CV-5881 (EK), 2025 WL 3214787, at *6 (E.D.N.Y. Nov. 18, 2025) (granting preliminary injunction, in part, as petitioner was likely to succeed on the merits of his argument he was improperly detained under Section

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25-cv-1873 (SSS), 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025) (entering final judgment under Federal Rule of Civil Procedure 54(b)).

1225(b)).[6] In addition, multiple judges in the neighboring district have also rejected the Government's interpretation of Section 1225(b).[7] This Court should do the same.

53. The plain text of § 1225(b)(2)(A) confirms that it cannot apply to Petitioner. Section 1225(b)(2)(A) provides that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a" removal proceeding under § 1229a. 8 U.S.C. § 1225(b)(2)(A). "[T]he language of [§ 1225(b)(2)(A)] makes clear that it applies *only* if three criteria are met. The noncitizen must be (i) an 'applicant for admission,' (ii) 'seeking admission,' and (iii) 'not clearly and beyond a doubt entitled to be admitted.'" *Barco*

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[6] To undersigned counsel's knowledge, no judge in this District has agreed with the Government's interpretation of § 1225(b). *But see Chen v. Almodovar*, No. 25-cv-8350 (MKV), 2025 WL 3484855, at *1 (S.D.N.Y. Dec. 4, 2025). Other judges have since responded to and declined to follow *Chen*. *See Goorakani v. Lyons*, No. 25-cv-9456 (DEH), 2025 WL 3632896, at *8-12 (S.D.N.Y. Dec. 15, 2025); *Yao v. Almodovar*, No. 25-cv-9982 (PAE), 2025 WL 3653433, at *8-10 (S.D.N.Y. Dec. 17, 2025); *Yang v. Almodovar*, No. 25-cv-10265 (JPO), 2025 WL 3678644, at *1 (S.D.N.Y. Dec. 18, 2025); *Castro Coneo v. Almodovar*, No. 25-cv-9850 (NSR), 2025 WL 3754079, at *3 n.1 (S.D.N.Y. Dec. 29, 2025).

Additionally, in *Maldonado Bautista v. Salazar*, the court certified a class of bond-eligible noncitizens erroneously detained under § 1225(b) and declared that the class is detained under § 1226(a), and therefore entitled to a bond hearing. *See Maldonado Bautista*, 2025 WL 3678485, at *1. The class is defined as "All 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." *Maldonado Bautista*, 2025 WL 3713987, at *32.

[7] *See, e.g., Lopez Benitez v. Francis*, 795 F. Supp. 3d 475 (S.D.N.Y. 2025) (DEH); *Tumba v. Francis*, No. 25-cv-8110 (LJL), 2025 WL 3079014, at *3 (S.D.N.Y. Nov. 4, 2025); *Romero v. Francis*, No. 25-cv-8112 (JGK), 2025 WL 3110459, at *2-3 (S.D.N.Y. Nov. 6, 2025); *Cardenas v. Almodovar*, No. 25-cv-9169 (JMF), 2025 WL 3215573, at *2 (S.D.N.Y. Nov. 18, 2025); *Barco Mercado*, 2025 WL 3295903, at *6; *Campbell v. Almodovar*, No. 25-cv-9509 (JLR), 2025 WL 3538351, at *6 (S.D.N.Y. Dec. 10, 2025); *Yao v. Almodovar*, No. 25-cv-9982 (PAE), 2025 WL 3653433, at *3 (S.D.N.Y. Dec. 17, 2025)

Mercado, 2025 WL 3295903, at *4; *Yao*, 2025 WL 3653433, at *5; *Lopez Benitez*, 795 F. Supp. 3d at 478-88.

54. While Petitioner is an "applicant for admission,"[8] he is not "seeking admission" under § 1225(b)(2)(A). "[T]he phrase 'seeking admission' 'necessarily implies some sort of present-tense action.'" *Barco Mercado*, 2025 WL 3295903, at *5 (quoting *Martinez v. Hyde*, 792 F. Supp. 3d 211, 218 (D. Mass. 2025)); *J.G.O.*, 2025 WL 3040142, at *3; *Campbell*, 2025 WL 3538351, at *6; *Lopez Benitez*, 795 F. Supp. 3d at 489; *cf. United States v. Wilson*, 503 U.S. 329, 333 (1992) ("Congress' use of a verb tense is significant in construing statutes."). The INA "defines 'admission' as 'the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.'" *J.G.O.*, 2025 WL 3040142, at *3 (quoting 8 U.S.C. § 1101(a)(13)(A)). "The requirement that an 'applicant for admission' be 'seeking admission' therefore limits the scope of [§ 1225(b)] to those noncitizens actively seeking 'lawful entry . . . into the United States after inspection and authorization by an immigration officer.'" *Barco Mercado*, 2025 WL 3295903, at *5 (quoting 8 U.S.C. § 1101(a)(13)(A)). Put differently, "'seeking admission' requires an alien to *continue* to want to *go into* the country." *J.G.O.*, 2025 WL 3040142, at *3.

55. The plain text of the statute is buttressed by its "implementing regulations—which were 'promulgated mere months after passage of the statute' and have remained consistent over time." *Lopez Benitez*, 795 F. Supp. 3d at 489 (quoting *Martinez*, 792 F. Supp. 3d at 219). "DHS's own regulations understand an 'applicant seeking admission' to be synonymous with an 'arriving

[8] An "applicant for admission" is defined as "[a]n alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters)." 8 U.S.C. § 1225(a)(1).

alien.'" *Tumba*, 2025 WL 3079014, at *4. "And an 'arriving alien' is 'an applicant for admission coming or attempting to come into the United States at a port-of-entry.'" *Id.* (quoting 8 C.F.R. § 1001.1).

56. Accordingly, § 1225(b) does not apply to Petitioner because "when DHS agents detained [him] in 2025, he was no longer seeking to enter the country. He was already in — and had been for several years." *Campbell*, 2025 WL 3538351, at *6; *see also J.G.O.*, 2025 WL 3040142, at *3 (Petitioner is not "seeking admission" because "he's already here.").

57. By holding that § 1225(b)(2)(A) applies to all applicants for admission, *Matter of Yajure Hurtado* reads the "seeking admission" requirement out of the statute. *See Campbell*, 2025 WL 3538351, at *7. If, as the BIA has now concluded and the Government urges, "§ 1225(b)(2)(A) were intended to apply to all 'applicant[s] for admission,' there would be no need to include the phrase 'seeking admission' in the statute." *Lopez Benitez*, 795 F. Supp. 3d at 488. Tellingly, the BIA in *Yajure Hurtado* did not provide any definition of "seeking admission" that would resolve this redundancy. *See* 29 I&N Dec. at 221. This interpretation of § 1225(b)(2)(A) "clearly 'violates the rule against surplusage.'" *Lopez Benitez*, 795 F. Supp. 3d at 488 (quoting *Martinez*, 792 F. Supp. 3d at 218).

58. Looking beyond § 1225(b) to the larger statutory structure, *Matter of Yajure Hurtado*'s holding creates even more surplusage problems when compared with other detention provisions. First, if § 1225(b) "mandated detention for all noncitizens who enter the country illegally, 'then it is not clear under what circumstances [§ 1226(a)'s] authorization of detention on a discretionary basis would ever apply.'" *Barco Mercado*, 2025 WL 3295903, at *6 (quoting *Lopez Benitez*, 795 F. Supp. 3d at 490); *see also Tumba*, 2025 WL 3079014, at *4 ("Respondents' reading of Section 1225 would also all but read Section 1226 off the books").

59. Second, "Respondents' reading of § 1225 would likewise render superfluous the mandatory detention provisions found in" § 1226(c). *Campbell*, 2025 WL 3538351, at *7. "Section 1226(c)(1)(A) mandates detention for 'any [noncitizen] who is inadmissible by reason of having committed an offense covered in section 1182(a)(2) of this title,' such as offenses related to controlled substances. '[T]his mandatory detention under § 1226(c) would be unnecessary if all persons who have not been admitted into the United States were already subject to § 1225(b)'s mandatory detention provisions.'" *Id.* (citations omitted) (quoting 8 U.S.C. § 1226(c)(1)(A); and *J.U. v. Maldonado*, No. 25-cv-04836 (OEM), 2025 WL 2772765, at *8 (E.D.N.Y. Sept. 29, 2025)).

60. *Matter of Yajure Hurtado* also "render[s] Congress' recent amendment to § 1226(c) redundant." *Barco Mercado*, 2025 WL 3295903, at *7; *Lopez Benitez*, 795 F. Supp. 3d at 489-90; *Tumba*, 2025 WL 3079014, at *4. "When Congress adopts a new law against the backdrop of a 'longstanding administrative construction,' [courts] generally presume[] the new provision should be understood to work in harmony with what has come before." *Monsalvo v. Bondi*, 604 U.S. 712, 725 (2025) (quoting *Haig v. Agee*, 453 U.S. 280, 297-98 (1981)). Passed in January 2025, the Laken Riley Act "makes noncitizens subject to mandatory detention if (1) they are inadmissible under certain provisions of 8 U.S.C. § 1182 and (2) are charged with, arrested for, convicted of, or admit to having committed certain crimes." *Tumba*, 2025 WL 3079014, at *4 (quoting *Artiga v. Genalo*, No. 25-cv-5208 (OEM), 2025 WL 2829434, at *7 (E.D.N.Y. Oct. 5, 2025)); *see also* Laken Riley Act, 139 Stat. at 3, *codified at* 8 U.S.C. § 1226(c)(1)(E). "By [the Government's] understanding, all noncitizens inadmissible under 8 U.S.C. § 1182(a)(6) (which states that those like Petitioner who are present without admission are inadmissible) are already subject to mandatory detention." *Tumba*, 2025 WL 3079014, at *4. Simply put, if *Matter of Yajure Hurtado*

were correct, "the Laken Riley Act would have been largely unnecessary." *Barco Mercado*, 2025 WL 3295903, at *7; *Campbell*, 2025 WL 3538351, at *7: *Yao*, 2025 WL 3653433, at *7.

61. In addition to traditional statutory interpretation tools, agency "interpretations issued contemporaneously with the statute at issue, and which have remained consistent over time, may be especially useful in determining the statute's meaning." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394 (2024). Helpfully, "[s]hortly after Congress enacted IIRIRA, [DOJ] issued an interim rule explaining IIRIRA and how it amended the INA." *Barco Mercado*, 2025 WL 3295903, at *8. "There, the DOJ stated that '[d]espite being applicants for admission, noncitizens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination.'" *Id.* (quoting 1997 Regulation). And the Government maintained this position for almost thirty years—until the July 2025 ICE Memo and *Matter of Yajure Hurtado*. Thus, "decades of practice" cuts against the BIA's novel position and supports Petitioner's interpretation and numerous district courts' rulings. *Lopez Benitez*, 795 F. Supp. 3d at 490.

62. Finally, *Matter of Yajure Hurtado* is inconsistent with precedent. In *Jennings v. Rodriguez*, the Supreme Court explained that § 1225 "applies to 'aliens seeking admission into the country,' whereas [§ 1226] applies to 'aliens already in the country pending the outcome of removal proceedings.'" *Barco Mercado*, 2025 WL 3295903, at *9 (quoting *Jennings v. Rodriguez*, 583 U.S. 28, 289 (2018)). "It went on in that same case to repeat that [§ 1226] 'applies to aliens already present in the United States,' like [Petitioner], and 'creates a default rule for those aliens by permitting—*but not requiring*—the Attorney General to issue warrants for their arrest and detention pending removal proceedings.'" *Id.* (quoting *Jennings*, 583 U.S. at 303).

63. Therefore, as several districts courts have recently concluded, reading the plain text of § 1225(b)(2)(A), employing canons of statutory interpretation, consulting contemporaneous and

longstanding agency interpretations of the statute, and applying precedent all lead to a single conclusion: noncitizens who present in the United States without having been admitted and were subsequently arrested inside the United States cannot be subject to mandatory detention under § 1225(b)(2)(A). Petitioner's detention is therefore governed by § 1226(a).

IV. Petitioner's Re-detention In the Absence of Changed Circumstances and Without Individualized Review Violates Due Process and Requires Release

64. The proper remedy for the instant habeas petition is release. *See Rodriguez-Acurio*, 2025 WL 3314420, at *32 ("ICE caused Rodriguez-Acurio to be placed in custody in violation of her rights to procedural due process. The proper remedy for that unlawful detention is release."); *Covelli-Chaparro*, 2026 WL 118842, at *9 ("As addressed at length in *Rodriguez-Acurio*, upon finding a constitutional violation, a district court 'may' grant a writ of habeas corpus and 'dispose of the matter as law and justice require.' 28 U.S.C §§ 2241(a), 2243. Release from detention is the 'typical remedy' for 'unlawful executive detention'") (quoting *Munaf v. Green*, 553 U.S. 674, 693 (2008); *see also supra* ¶ 58 (citing cases in this District similar to Petitioner's here where courts ordered immediate release).

65. The alternative, a bond hearing, cannot rectify the injury the Government has already done, and is doing now, to J.G.I.'s Fifth Amendment rights. *Lopez Benitez v. Francis*, 795 F.Supp.3d 475, 497 ("[A bond hearing is] no substitute for the requirement that ICE engage in a deliberative process prior to, or contemporaneous with, the decision to strip a person of the freedom that lies at the heart of the Due Process Clause."); *O.F.B. v. Maldonado*, No. 25-CV-6336 (HG), 2025 WL 3277677, at *8 (E.D.N.Y. Nov. 25, 2025) ("Here, the nature of the constitutional violation Petitioner sustained—i.e., the government's failure to conduct any kind of individualized assessment before detaining him, failure to make any showing of changed circumstances, and failure to provide him with an opportunity to respond—renders any post-deprivation review by an

immigration judge inadequate."); *Campbell v. Almodovar*, No. 1:25-cv-09509 (JLR), 2025 WL 3538351, at *13 (S.D.N.Y. Dec. 10, 2025) ("[B]oth DHS's failure to follow its own regulations and its failure to afford Campbell the minimal process due under the Fifth Amendment violated Campbell's due process rights. Because of those failures, Campbell is entitled to release.").

66. The harm J.G.I. has suffered is specifically DHS's failure to conduct any individualized custody determination and offer any due process *before* detaining him: "The suggestion that" the Government may detain noncitizens "without consideration of dangerousness or flight risk so long as the person will, at some unknown point in time, be allowed to ask some other official for his or her release offends the ordered system of liberty that is the pillar of the Fifth Amendment." *Chipantiza-Sisalema v. Francis*, 2025 WL 1927931, at *3 (S.D.N.Y July 13, 2025) (ordering habeas relief to noncitizen); *Rodriguez-Acurio v. Almodovar*, 2025 WL 3314420, at *2 (E.D.N.Y. Nov. 28, 2025) (ordering habeas relief where noncitizen petitioner's "parole into the United States under Section 1182(d)(5)(A) was premised by law on the determination that she did *not* pose a safety risk. Nothing in the record before this Court shows any change in circumstances. No one at DHS or ICE ever made any individualized determination that Rodriguez-Acurio poses a flight or public safety risk before she was suddenly arrested and detained...."); *O.F.B. v. Maldonado*, 2025 WL 3277677 (E.D.N.Y. Nov. 25, 2025) (ordering habeas relief after prior parole and without subsequent changed circumstances or review) *Hyppolite v. Noem*, 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025) (same).

67. Irreparable injury has occurred and will continue to occur if J.G.I. is not released. "[A]s a general matter, there is a presumption of irreparable harm when there is an alleged deprivation of constitutional rights." *Donohue v. Mangano*, 886 F. Supp. 2d 126, 150 (E.D.N.Y. 2012) (collecting cases).

68. In addition to the baseline harm of unlawful and arbitrary detention, J.G.I.'s mental health will deteriorate. He also has recently suffered physical injury to his leg and has been attending physical therapy, and his physical health will further decline in detention.

69. If this Court does not act, Petitioner's detention will continue for months or longer. Only release will remedy the constitutional harms that J.G.I. has, and will continue to, suffer.

CAUSES OF ACTION

FIRST CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution — Procedural Due Process

70. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

71. 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 (2001).

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

73. Respondent's arrest and detention of Petitioner does not comport with due process, which requires, at a minimum, notice and an opportunity to respond prior to the deprivation of liberty at a hearing before a neutral adjudicator. *See, e.g.*, *Torres-Jurado v. Biden*, No. 19-cv-3595 (AT), 2023 WL 7130898, at *4 (S.D.N.Y. Oct. 29, 2023) (explaining that, in parole revocation, "due process, at a minimum" requires the government to afford meaningful notice and an opportunity to be heard and that the opportunity must be meaningful) (*citing to Ying Fong v. Ashcroft*, 317 F. Supp. 2d 398, 403 (S.D.N.Y. 2004)); *Valdez*, 2025 WL 1707737, at *4 (ordering release of petitioner re-detained after an immigration court hearing and concluding "respondents

ongoing detention of petitioner with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights."); *Lopez v. Sessions*, No. 18-cv-4189 (RWS), 2018 WL 2932726, at *12 (S.D.N.Y. June 12, 2018) ("Petitioner's re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment."); *Singh v. Andrews*, No. 25-cv-00801, 2025 WL 1918679 at *20 (E.D. Cal. July 11, 2025) (ordering release of noncitizen re-detained after an immigration court hearing based on finding that "the *Mathews* factors show that petitioner is entitled to process, and that process should have been provided before petitioner was detained").

74. In addition, at no time did DHS conduct an individualized assessment of the need for Petitioner's detention. ICE's failure to conduct an individualized review prior to detention—particularly given the fact he was at liberty pursuant to an immigration judge's bond order—violates due process and requires release. *See, e.g.*, *O.F.B. v. Maldonado*, 2025 WL 3277677, at *8 (E.D.N.Y. Nov. 25, 2025) (ordering release of previously-paroled petitioner re-detained after immigration hearing, finding that his due process rights were violated due to "the government's failure to conduct any kind of individualized assessment before detaining him, failure to make any showing of changed circumstances, and failure to provide him with an opportunity to respond..."); *Rodriguez-Acurio v. Almodovar*, 2025 WL 3314420, at *30 (E.D.N.Y. Nov. 28, 2025) (ordering release of previously-paroled petitioner re-detained after her credible fear interview, finding that her detention "with no notice or opportunity to be heard and no showing of changed circumstances violates her due process rights"); *Campbell v. Almodovar*, No. 1:25-cv-09509 (JLR), 2025 WL 3538351 (S.D.N.Y. Dec. 10, 2025) (ordering release of previously-paroled petitioner re-detained after reporting to ICE as instructed, where detention without any individualized assessment or

change in circumstances violated petitioner's due process rights); *Chipantiza-Sisalema*, 2025 WL 1927931 at *5 (ordering release of petitioner re-detained after immigration hearing, finding that her detention "violates her Fifth Amendment right to due process because ICE detained her without notice, an opportunity to respond, or an individualized determination that she poses a flight risk or a danger to the community"); *Kelly v. Almodovar*, No. 25-cv-6448, 2025 WL 2381591 at *3 (S.D.N.Y. Aug. 15, 2025) (ordering immediate release of Petitioner and writing that "[t]he suggestion that government agents may sweep up any person they wish and hold that person in the conditions in which Kelly was held without consideration of dangerousness or flight risk so long as the person will, at some unknown point in time, be allowed to ask some other official for his or her release offends the ordered system of liberty that is the pillar of the Fifth Amendment"); *Lopez Benitez*, 2025 WL 2371588 at *14-15 (ordering immediate release of Petitioner re-detained in immigration court and noting "[i]n practice, Respondents seem to be detaining some arbitrary portion of such individuals as they leave their regularly scheduled immigration court proceedings. But treating attendance in immigration court as a game of detention roulette is not consistent with the constitutional guarantee of due process").

75. The Government's detention of Petitioner without a bond determination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

76. Respondents' misclassification of which statute Petitioner is detained under fundamentally violates his due process rights.

77. ICE's failure to conduct an individualized review prior to detention violates due process and necessitates his immediate release.

78. ICE's redetention, despite the fact that Petitioner was previously released on bond, further violates his right to procedural due process. There are no changed circumstances that would

justify redetaining Petitioner, at no time did ICE seek to rescind his bond order, or offer any notice and a hearing prior to detaining Petitioner.

SECOND CLAIM

Violation of the Fifth Amendment Right to Due Process — Substantive Due Process

79. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

80. The Due Process Clause of the Fifth Amendment protects all "person[s]" from deprivation of liberty "without due process of law." U.S. CONST AMEND. V. The only proper purposes for immigration detention are to protect against a risk of flight or danger to the community.

81. Petitioner is not a flight risk nor is he a danger to the community. He was previously found not to be a flight risk or danger and released on bond by an immigration judge. Accordingly, Petitioner's detention is punitive and he is being detained in violation of his constitutional right to Due Process under the Fifth Amendment.

82. Petitioner.'s detention without any individualized review of the need for his detention, a lack of consideration of any risk of flight risk or danger or medical issues that counsel against detention subjects him to serious risk of adverse health effects and serious harm violates substantive due process.

83. Petitioner also has a protected liberty interest to be free from detention under the 2018 Bond Order. Due process forbids Respondents from re-detaining Petitioner unless there is a change of circumstances. Respondents have not made such a determination.

THIRD CLAIM

Violation of the Immigration And Nationality Act –Unlawful Detention Under § 1225(b)(2)

84. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

85. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens present in the United States without having been admitted who are arrested within the United States. Such noncitizens are detained under § 1226.

86. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention without a bond hearing and violates the INA.

87. The appropriate remedy is Petitioner's immediate release.

FOURTH CLAIM

Violation of Administrative Procedure Act (5 U.S.C. § 706(2)) -- Detention is Arbitrary and Capricious; Contrary to Constitutional Right; In Excess of Statutory Authority; and Without Observance of Procedure Required by Law

88. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

89. The Administrative Procedure Act (APA) enables courts to "hold unlawful and set aside agency action, findings, and conclusions found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity; (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; [or] (D) without observance of procedure required by law." 5 U.S.C. § 706(2).

90. ICE putatively canceled the 2018 Bond Order without identifying any change of circumstances to justify J.G.I.'s detention as BIA precedent requires. *See Matter of Sugay*, 171 I&N Dec. 637 (BIA 1981). Respondents' action is therefore arbitrary and capricious, in violation of the constitutional right to due process, in excess of statutory jurisdiction, without observance of procedure required by law, and violates the APA.

PRAYER FOR RELIEF

WHEREFORE, the petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Immediately enjoin Respondents from transferring the Petitioner outside the jurisdiction of this Court or removing him from the United States pending the resolution of this case, pursuant to the All Writs Act;

c. Declare that the Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment and the Immigration and Nationality Act;

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner immediately, returning him to the status of liberty he enjoyed prior to the recent re-detention, without any additional restrictions on his liberty, and that he not be re-detained without notice and an opportunity to be heard at a pre-deprivation hearing, where the government will have the burden of showing that his detention is authorized under § 1226(a);

e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

f. Grant the petitioner any other relief this Court deems just and proper.

Dated: February 2, 2026
Brooklyn, New York

Respectfully submitted,

/s/ Alexandra Lampert

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