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I. INTRODUCTION

1. Petitioner Mobarak Hossen respectfully petitions for a writ of habeas corpus under 28 U.S.C. § 2241 because he is being held in civil immigration detention without a meaningful, individualized custody hearing and without any workable mechanism to seek release, in violation of the Fifth Amendment.
2. Petitioner is detained at the Limestone County Detention Center in Groesbeck, Texas. *See* Exh. 1 (ICE Locator Results).
3. Petitioner is in removal proceedings and is charged, inter alia, as inadmissible for having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i); *see also* Exh. 3 (DHS Form I-862, Notice to Appear).
4. Petitioner is currently scheduled for an individual calendar hearing on March 2, 2026, at 1:00 p.m. *See* Exh. 2 (EOIR Automated Case Information Results).
5. Petitioner is a young Bangladeshi asylum seeker with no criminal history. He held a valid Employment Authorization Document at the time of his arrest. *See* Exh. 4 (EAD). He also has a United States citizen sponsor ready to house and support him immediately upon release.
6. ICE arrested Petitioner on November 10, 2025, when he appeared for a routine ICE check in. An Immigration Judge (IJ) denied bond on December 18, 2025, not on the merits, but for lack of jurisdiction, leaving Petitioner in continued civil confinement with no neutral adjudication of danger, flight risk, or conditions of release. *See* Exh. 5 (IJ Order Denying Bond).
7. Respondents have denied Petitioner release based on a new legal position announced in DHS guidance dated July 8, 2025, which instructs ICE to treat individuals charged under

8 U.S.C. § 1182(a)(6)(A)(i) as detained under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for bond.

8. Consistent with that approach, on September 5, 2025, the Board of Immigration Appeals (BIA) issued a precedential decision holding that immigration judges lack authority to consider bond requests for individuals who entered without admission, reasoning that such individuals are detained under 8 U.S.C. § 1225(b)(2)(A). *See Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
9. Petitioner contends that detention under 8 U.S.C. § 1225(b)(2)(A) is unlawful as applied here. Section 1225(b)(2)(A) does not govern individuals like Petitioner who previously entered and are now residing in the United States in full removal proceedings. Instead, Congress provided a different custody framework in 8 U.S.C. § 1226(a), which authorizes release on bond or conditional parole.
10. Respondents' current position is also an abrupt reversal from positions the Government previously advanced, including in litigation where it acknowledged that individuals who entered without inspection and later reside in the interior are generally detained under § 1226(a), not § 1225(b)(2)(A). *Under New Hampshire v. Maine*, 532 U.S. 742 (2001), Respondents should not be permitted to adopt an inconsistent position to foreclose bond process here.
11. In all events, the Due Process Clause constrains civil immigration detention and requires, at minimum, meaningful procedures before depriving a person within the United States of liberty. *See Mathews v. Eldridge*, 424 U.S. 319, 333–35 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690, 693 (2001).

12. In *Buenrostro-Mendez v. Bondi*, the Fifth Circuit reversed district court habeas orders that had required bond hearings under 8 U.S.C. § 1226(a) for long-term interior residents who entered without inspection. The panel held that a noncitizen “present in the United States who has not been admitted” is deemed an “applicant for admission” under 8 U.S.C. § 1225(a)(1) and therefore may be detained under 8 U.S.C. § 1225(b)(2)(A) without an Immigration Judge bond hearing during pending § 1229a proceedings, unless the noncitizen establishes that he is “clearly and beyond a doubt entitled to be admitted.” The court remanded for further proceedings consistent with that interpretation. *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026). *Buenrostro-Mendez* did not decide whether the Constitution permits DHS to detain an interior resident for civil immigration purposes with no meaningful, individualized custody process. The statutory label DHS invokes does not eliminate Petitioner’s protected liberty interest. *Zadvydas*, 533 U.S. at 690.
13. This Court may grant relief on due process grounds without deciding any statutory detention-authority dispute. Courts in this District have done so in materially similar cases. *See Escobar-Arauz v. Noem*, No. EP-25-CV-00619-DB, 2025 WL 3543648, at *5–6 (W.D. Tex. Dec. 10, 2025) (Briones, J.) (granting relief on as-applied procedural due process and holding that even assuming the Government’s statutory position, the petitioner was entitled to procedural due process).
14. Courts in this District have also expressly held that *Buenrostro-Mendez* does not alter the procedural due process analysis where the court assumed, without deciding, that DHS’s § 1225(b) theory applied. *See Maya-Contreras v. Warden of ERO El Paso East Montana Camp*, et al., No. 3:26-cv-00290-DB (W.D. Tex. Feb. 9, 2026) (Briones, J.) (holding that

Buenrostro-Mendez did not change the outcome on procedural due process grounds because the court had already accepted without deciding Respondents' statutory interpretation in its due process analysis).

15. *Likewise, in Zafrá v. Noem*, No. EP-25-cv-00541-DB, 2025 WL 3239526, at *3 (W.D. Tex. Nov. 20, 2025) (Briones, J.), the court assumed without deciding Respondents' statutory interpretation and declined to reach the statutory dispute because the petitioner was entitled to procedural due process on an as-applied challenge.
16. *Clemente Ceballos v. Garite*, No. 3:26-cv-00312-DB (W.D. Tex. Feb. 10, 2026), further confirms that procedural due process claims remain independently viable after *Buenrostro-Mendez* and may warrant relief notwithstanding DHS's invocation of § 1225(b).
17. These decisions confirm the critical point here: even where DHS invokes § 1225(b)(2) and even where courts assume that statutory framework applies, Petitioner may still prevail on an as-applied procedural due process claim, and this Court may grant relief on that constitutional basis without revisiting the statutory detention-authority dispute.
18. Upon information and belief, DHS previously treated Petitioner as a § 1226(a) detainee by releasing him without bond under an Order of Release on Recognizance, commonly documented on Form I-220A. Having made that discretionary, fact-based custody determination and supervised Petitioner in the community, DHS cannot lawfully re-label Petitioner's custody under a different statute to foreclose the custody process Congress provided in § 1226(a).
19. Accordingly, Petitioner seeks a writ of habeas corpus ordering his immediate release from unlawful detention or, in the alternative, an order requiring a prompt custody hearing before

an Immigration Judge under constitutionally adequate procedures, including a Government burden to justify continued detention.

II. JURISDICTION AND VENUE

20. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody in violation of the Constitution and laws of the United States. 28 U.S.C. § 2241(c)(3).
21. This Court also has jurisdiction under 28 U.S.C. § 1331 and the Fifth Amendment.
22. Petitioner is detained at the Limestone County Detention Center in Groesbeck, Texas, within the Western District of Texas. Venue is proper in this District.
23. The immediate custodian and at least one legal custodian exercise custody and control over Petitioner within this District for purposes of habeas relief.

III. REQUIREMENTS OF 28 U.S.C. § 2243

24. The Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response “within three days” unless this Court permits additional time for good cause, which is not to exceed twenty days. 28 U.S.C. § 2243.
25. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). The writ of habeas corpus, challenging illegality of detention, is reduced to a sham if the trial courts do not act within a reasonable time. *Rhueark v. Wade*, 540 F.2d 1282, 1283 (5th Cir. 1976); *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978). Due to the nature of this proceeding, Petitioner asks this Court to expedite proceedings in this case as necessary and practicable for justice.

IV. PARTIES

26. Petitioner is detained in civil immigration custody in Limestone County Detention Center in Groesbeck, Texas. *See* Exh. 1 (ICE Locator Results). He has been detained since or about, November 10, 2025.
27. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States. She is responsible for the administration of the Executive Office for Immigration Review (“EOIR”), including policies that bear on immigration judges’ jurisdiction over custody.
28. Respondent Kristi Noem is named in her official capacity as Secretary of the U.S. Department of Homeland Security (“DHS”). DHS is the department charged with administering and enforcing federal immigration laws. Secretary Noem is ultimately responsible for the actions of U.S. Immigration and Customs Enforcement (“ICE”) and is a legal custodian of Petitioner.
29. Respondent Todd M. Lyons is named in his official capacity as Acting Director of ICE. He oversees ICE operations, including detention and removal, and is a legal custodian of Petitioner.
30. Respondent Bret Bradford is named in his official capacity as Field Office Director of the Houston ICE Field Office. He is responsible for ICE enforcement in this District and is a legal custodian of Petitioner.
31. Respondent Warden of the Limestone Detention Center in Groesbeck, Texas. They have immediate physical custody of Petitioner pursuant to an agreement with ICE to detain noncitizens.

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

V. FACTS

33. Petitioner entered the United States on or about May 7, 2024, near Tecate, California, and DHS issued a Notice to Appear initiating proceedings under 8 U.S.C. § 1229a. *See* Exh. 5 (Notice To Appear).

34. Petitioner has an asylum application pending before the Immigration Court.

35. Petitioner is currently scheduled for an individual calendar hearing on March 2, 2026, at 1:00 p.m. *See* Exh. 2 (EOIR Automated Case Information Results).

36. DHS issued Mr. Hossen an Employment Authorization Document, which was valid and unexpired at the time of his November 10, 2025 arrest. Exh. 3.

37. Petitioner has no criminal history.

38. Upon information and belief, after DHS encountered Mr. Hossen in 2024, DHS released him from custody without a monetary bond under an Order of Release on Recognizance (Form I-220A), which is the standard supervision mechanism used in such cases when DHS elects to release without setting bond and without granting parole. Petitioner does not currently possess a copy of the I-220A, and will supplement the record when available. The form is in DHS's possession in the A file.

39. From his release until his arrest, Petitioner complied with immigration requirements and supervision.

40. On November 10, 2025, ICE arrested Petitioner at a routine ICE check in and placed him in detention. He has remained detained continuously since that date.

41. Petitioner requested a bond hearing. On December 18, 2025, an IJ denied bond for lack of jurisdiction, without reaching the merits and without making findings regarding flight risk, danger, or conditions of release.
42. As a result, Petitioner has no meaningful, individualized custody determination by a neutral decisionmaker and no workable custody forum to present evidence of release eligibility.
43. Petitioner suffers from hyperlipidemia and generalized anxiety disorder, and he receives medication. Continued detention worsens these conditions and causes ongoing mental and physical harm.
44. Petitioner has a United States citizen sponsor, Iqbal Hossan, residing at , , who is willing to house and support him upon release.
45. Petitioner poses no danger to the community and is not a flight risk. Less restrictive alternatives, including release on recognizance, reporting, or other conditions, are readily available.

VI. LEGAL FRAMEWORK

A. Due Process

46. 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

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

48. 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).

49. 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).

50. 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. This Court has Habeas Jurisdiction to Remedy Unlawful Detention

51. Petitioner challenges only the legality of his present civil detention and the absence of constitutionally adequate custody procedures. He does not seek review of a final removal order and does not challenge the merits of removability.

52. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) and § 2243 to determine whether Petitioner “is in custody in violation of the Constitution or laws . . . of the United States” and to order release or other appropriate relief where detention is unlawful. *See Zadvydas v. Davis*, 533 U.S. 678, 687–88, 699–700 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 292–95 (2018).

53. The INA's jurisdiction channeling provisions do not bar review because Petitioner does not seek review of a final order and does not challenge the commencement or adjudication of removal proceedings. He challenges only ongoing detention authority and the absence of constitutionally adequate custody process. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999); *Cardoso v. Reno*, 216 F.3d 512, 516–17 (5th Cir. 2000); *Duron v. Johnson*, 898 F.3d 644, 647 (5th Cir. 2018).
54. Courts in this District have repeatedly exercised habeas jurisdiction over materially similar challenges to DHS's attempt to detain noncitizens in full § 1229a proceedings under § 1225 without bond. *See Reyes Perez v. Bondi*, No. SA-25-CV-1302-XR (W.D. Tex. Nov. 26, 2025); *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025).
55. Respondents' recurring threshold arguments confirm, rather than defeat, jurisdiction. Reading 8 U.S.C. § 1252(b)(9) to bar habeas review of categorical no-hearing detention would render unlawful detention effectively unreviewable, particularly where the agency's position is that immigration judges lack authority to even entertain bond requests. *See Jennings*, 583 U.S. at 293; *Reyes Perez*, No. SA-25-CV-1302-XR, at 6–7 (W.D. Tex. Nov. 26, 2025).
56. Respondents likewise cannot rely on 8 U.S.C. § 1225(b)(4) to defeat jurisdiction. Section 1225(b)(4) concerns review of admission determinations and does not limit the federal courts' habeas jurisdiction to adjudicate challenges to detention authority or the absence of constitutionally adequate custody process. *See Reyes Perez*, No. SA-25-CV-1302-XR, at

7; accord *Erazo Rojas v. Noem*, No. EP-25-CV-443-KC, 2025 WL 3038262, at *2 (W.D. Tex. Oct. 30, 2025).

B. *Buenrostro-Mendez* does not foreclose Petitioner's procedural due process claim

57. In *Buenrostro-Mendez v. Bondi*, the Fifth Circuit addressed statutory detention authority and held that certain noncitizens who entered without inspection may be treated as “applicants for admission” such that DHS may invoke INA § 235(b)(2), 8 U.S.C. § 1225(b)(2), during pending § 1229a proceedings. *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330, at *1–9 (5th Cir. Feb. 6, 2026).

58. *Buenrostro-Mendez* did not decide whether the Constitution permits DHS to detain an interior resident for civil immigration purposes with no meaningful, individualized custody process. The statutory label DHS invokes does not eliminate Petitioner's protected liberty interest. *Zadvydas*, 533 U.S. at 690.

59. This Court may grant relief on procedural due process grounds without deciding any statutory detention-authority dispute. Courts in this District have done so in materially similar cases, including where the Government invoked § 1225(b)(2) and immigration judges declined bond jurisdiction. See *Escobar-Arauz v. Noem*, No. EP-25-CV-00619-DB, 2025 WL 3543648, at *5–6 (W.D. Tex. Dec. 10, 2025) (Briones, J.); *Zafra v. Noem*, No. EP-25-cv-00541-DB, 2025 WL 3239526, at *3 (W.D. Tex. Nov. 20, 2025) (Briones, J.).

60. Courts in this District have also expressly held that *Buenrostro-Mendez* does not alter the procedural due process analysis where a court accepted, without deciding, the Government's § 1225(b) position and granted relief on due process grounds. See *Maya-Contreras v. Warden of ERO El Paso East Montana Camp, et al.*, No. 3:26-cv-00290-DB (W.D. Tex. Feb. 9, 2026) (Briones, J.); *Clemente Ceballos v. Garite*, No. 3:26-cv-00312-

DB (W.D. Tex. Feb. 10, 2026) (Briones, J.); *Duran-Aguila v. Bondi*, No. EP-26-CV-241-KC, Order (W.D. Tex. Feb. 9, 2026) (Cardone, J.).

C. Petitioner states a meritorious as-applied procedural due process claim requiring a meaningful, individualized custody hearing

61. The Fifth Amendment prohibits deprivation of liberty without due process of law. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 690.

62. Due process requires, at minimum, a meaningful opportunity to be heard before a neutral decisionmaker when the Government seeks to continue a serious restraint on liberty. *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004).

63. The controlling framework is *Mathews v. Eldridge*, which balances (1) the private interest affected, (2) the risk of erroneous deprivation under existing procedures and the value of additional safeguards, and (3) the Government's interests and the burdens of additional procedures. 424 U.S. 319, 335 (1976).

i. Private Interest

64. Petitioner's interest is substantial. He is confined in a secure facility, separated from his community and sponsor, and detention impairs access to counsel and the ability to pursue his pending asylum case. The liberty deprivation is acute and ongoing.

ii. Risk of Erroneous Deprivation and Value of Safeguards

65. The risk of erroneous deprivation is especially high where there is no neutral, individualized custody determination at all. Here, the Immigration Judge declined jurisdiction and did not reach the merits. There are no findings, no allocation of burden, no record of individualized analysis, and no meaningful opportunity for Petitioner to present evidence or seek conditions of release tailored to the Government's legitimate interests.

66. A custody hearing before an immigration judge is the minimal safeguard that allows both sides to present evidence, permits a neutral adjudicator to determine whether detention is actually necessary, and ensures less restrictive alternatives are considered where appropriate. *See Escobar-Arauz*, 2025 WL 3543648, at *4–6.

iii. Government Interest and Burden

67. The Government’s interests in ensuring appearance and protecting the community are legitimate, but they are served by individualized custody determinations and conditions of supervision where appropriate. The additional burden is minimal because custody hearings are routine and Respondents already litigate risk and conditions in ordinary immigration custody proceedings.

68. For these reasons, courts in this District have granted procedural due process relief even where the Government insisted § 1225(b)(2) controlled. *See Escobar-Arauz*, 2025 WL 3543648, at *5–6; *Zafra*, 2025 WL 3239526, at *3. Courts have continued to grant due process relief after *Buenrostro-Mendez*. *See Duran-Aguila*, No. EP-26-CV-241-KC, Order (W.D. Tex. Feb. 9, 2026); *Clemente Ceballos*, No. 3:26-cv-00312-DB (W.D. Tex. Feb. 10, 2026); *Maya-Contreras*, No. 3:26-cv-00290-DB (W.D. Tex. Feb. 9, 2026).

69. Remedy. Where a procedural due process violation is established, the appropriate remedy is an individualized custody hearing before an immigration judge within a prompt, court-ordered deadline, or release under reasonable conditions of supervision if Respondents cannot provide a workable hearing mechanism. *See Escobar-Arauz*, 2025 WL 3543648, at *6; *Duran-Aguila*, No. EP-26-CV-241-KC, Order (W.D. Tex. Feb. 9, 2026).

70. At that custody hearing, due process requires the Government to bear the burden to justify continued detention. Because the loss of liberty is severe, the detainee should not share the

risk of error equally. *Addington v. Texas*, 441 U.S. 418, 425–27 (1979). Consistent with recent decisions in this District, the Court should require the Government to prove dangerousness or flight risk by clear and convincing evidence. *See Escobar-Arauz*, 2025 WL 3543648, at *5–6.

D. Respondents’ procedural objections do not bar relief

71. To the extent Respondents invoke 8 U.S.C. § 1252 as a bar to review, Petitioner challenges his detention and the absence of constitutionally adequate custody process, not a discretionary decision to commence proceedings and not a final order of removal. Courts in this District have repeatedly rejected materially identical jurisdictional arguments in immigration habeas cases challenging detention and seeking release or a constitutionally adequate custody hearing. *See Escobar-Arauz*, 2025 WL 3543648, at *2–3.

72. No statute imposes exhaustion as a prerequisite to relief under 28 U.S.C. § 2241. Where no statute or rule mandates exhaustion, any exhaustion requirement is prudential and subject to the Court’s discretion. *See Anwar v. INS*, 116 F.3d 140, 144 n.4 (5th Cir. 1997).

73. Exhaustion is futile here. Respondents’ position, adopted in practice through *Matter of Yajure-Hurtado*, is that the Immigration Court lacks bond jurisdiction for individuals DHS labels as detained under INA § 235(b)(2), 8 U.S.C. § 1225(b)(2). Requiring Petitioner to pursue an unavailable administrative remedy would be futile and would risk the effectively unreviewable detention problem identified in *Jennings*. *See Jennings*, 583 U.S. at 293; *Escobar-Arauz*, 2025 WL 3543648, at *3–4.

74. Delay also means hardship. Bond review through administrative channels can take months, while the injury is occurring now through continued confinement without a meaningful custody forum. Courts may waive prudential exhaustion when the question is fit for

immediate resolution and delay would impose hardship. *See Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000).

E. Respondents violated governing custody procedures by revoking release on recognizance without the required predicates and process, and DHS's prior I-220A custody determination bars retroactive re-labeling

75. Upon information and belief, DHS previously released Petitioner into the community on an Order of Release on Recognizance, documented on Form I-220A, and then re-arrested him at a routine check in. That sequence is consistent with DHS's established supervision mechanism for individuals released without bond and without parole.
76. DHS does have authority to revoke release and re-arrest in limited circumstances, but that authority is not unbounded. It is constrained by statute, regulation, and due process. *See* INA § 236(b), 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9).
77. The Board has long recognized that re-arrest and revocation of release must be grounded in changed circumstances. *See Matter of Sugay*, 17 I. & N. Dec. 647 (BIA 1981).
78. Here, Respondents have provided no meaningful process, findings, or evidentiary record establishing any changed circumstances that would justify revoking Petitioner's release and continuing his civil incarceration, particularly where Petitioner has been denied any workable mechanism to obtain a merits custody determination. There is no allegation, much less proof, that anything material has changed since DHS released him on his own recognizance. To the contrary, Petitioner complied with every condition of release, appeared as required, did not abscond, and has incurred no arrests or criminal conduct. On this record, re-arrest and continued detention cannot be justified as necessary to address flight risk or danger.

79. Respondents' failure to follow binding detention procedures and their own regulations independently supports habeas relief. Longstanding administrative law principles require agencies to follow their own binding rules and procedures. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954).
80. Separately, DHS's own issuance of an I-220A reflects a discretionary, fact-based custody determination that Petitioner fell under the discretionary detention framework of INA § 236, 8 U.S.C. § 1226(a), rather than mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b). That custody determination is not a ministerial act. It is a formal adjudication of custody status made at the outset of proceedings based on the information available to DHS and Petitioner's admissions.
81. Having made that custody determination, supervised Petitioner in the community, and then re-arrested him without identifying any material change in circumstances, DHS cannot lawfully retroactively re-label Petitioner's custody under a different statutory scheme for the purpose of foreclosing the bond process Congress provided in § 1226(a). This type of after-the-fact reclassification undermines the integrity and finality of agency adjudications and reinforces why meaningful custody procedures are constitutionally required here.
82. The Supreme Court has recognized a strong presumption in favor of applying traditional preclusion principles to final administrative determinations made in a judicial capacity. *See Astoria Fed. Sav. & Loan Ass'n v. Solimino*, 501 U.S. 104, 108 (1991); *United States v. Utah Constr. & Mining Co.*, 384 U.S. 394, 422 (1966). Consistent with that framework, DHS's prior § 1226(a) custody determination, memorialized on the I-220A, cannot be disregarded absent materially changed circumstances or new facts.

83. At minimum, due process requires a prompt custody hearing to test whether revocation and continued detention are necessary, to require the Government to justify continued incarceration with evidence, and to impose less restrictive conditions where appropriate.

F. Petitioner preserves the statutory detention-authority argument under §§ 1225 and 1226 and does not waive it

84. Petitioner maintains that the INA's text, structure, and implementing regulations draw a clear line between § 1225 detention associated with inspection and admission determinations and § 1226 detention for noncitizens already present in the United States in full § 1229a proceedings. *See Jennings*, 583 U.S. at 287, 303; *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).

85. Courts in this District have rejected that expanded § 1225 detention theory and granted habeas relief¹ on materially similar facts. *See e.g. Reyes Perez*, No. SA-25-CV-1302-XR,

¹ *See, e.g., Gonzalez Guerrero v. Noem*, No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025); *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025); *Hernandez-Ramiro v. Bondi*, No. 5:25-cv-01207-XR (W.D. Tex. Oct. 15, 2025); *Santiago v. Noem*, No. 3:25-cv-00361-KC, 2025 WL 2606118 (W.D. Tex. Sept. 9, 2025); *Alvarez Martinez v. Noem*, No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025); *Martinez v. Noem*, No. 3:25-cv-00430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025) (even assuming § 1225(b) applies, holding under *Mathews v. Eldridge* that due process requires an individualized bond hearing with the Government bearing the burden); *Souza Vieira v. De-Anda Ybarra*, No. 3:25-cv-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025) (following *Lopez-Arevelo*'s jurisdictional analysis, rejecting §§ 1252(g) and 1252(b)(9) as bars, and granting habeas relief); *Dominguez Vega v. Thompson*, No. 5:25-cv-01439-XR (W.D. Tex. Nov. 19, 2025); *Hernandez-Hervert v. Bondi*, No. 1:25-cv-01763-RP (W.D. Tex. Nov. 14, 2025); *Rojas Vargas v. Bondi*, No. 1:25-cv-01699-DAE, 2025 WL 3251728 (W.D. Tex. Nov. 5, 2025); *Melendez Hernandez v. Bondi*, No. 1:25-cv-01811-DAE (W.D. Tex. Nov. 26, 2025) (granting a TRO and ordering a § 1226(a) bond hearing with the Government bearing the clear-and-convincing burden of flight risk or danger, or release if no timely hearing is provided); *Becerra Vargas v. Bondi*, No. 5:25-CV-01023-FB-HJB (W.D. Tex. Nov. 26, 2025); *Navarrete Perdomo v. Bondi*, No. 5:25-cv-01398 (W.D. Tex. Nov. 25, 2025); *Paredes Quintero v. Bondi*, No. 5:25-cv-01697-JKP (W.D. Tex. Dec. 18, 2025) (granting habeas and ordering release within 24 hours); *Trejo Enriquez v. Bondi*, No. 1:25-cv-02012-ADA-DH (W.D. Tex. Dec. 19, 2025) (granting habeas and ordering release); *Rodriguez Rivera v. Bondi*, No. 1:25-cv-01979-RP (W.D. Tex. Dec. 19, 2025) (granting habeas and ordering immediate release); *Narvaez San Elias v. Bondi*, No. 5:25-cv-01736-JKP (W.D. Tex. Dec. 22, 2025); *Rodriguez Miranda v. Bondi*, No. 1:25-cv-02005-RP (W.D. Tex. Dec. 23, 2025); *Siac Guzman v. Bondi*, No. 1:25-cv-02055-RP (W.D. Tex. Dec. 23, 2025); *Belsai v. Bondi, et al.*, No. 25-cv-3862 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, --- F.Supp.3d ---, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025); *Salazar v. Dedos*, No. 1:25-cv-00835-DHU-JMR, 2025 WL 2676729 (D. N.M. Sept. 17, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sept. 9, 2025); *Chanaguano Caiza v. Scott*, 25-cv-00500, 2025 WL 2806416, at *3 (D. Me. Oct. 2, 2025); *Luna Quispe v. Crawford*,

at 8–13; *Santiago*, 2025 WL 2792588, at *3; *Lopez-Arevelo*, 2025 WL 2691828, at *5; *Erazo Rojas*, 2025 WL 3038262, at *2; *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025), *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025).

86. Those decisions reflect a straightforward conclusion, which is that Respondents may not use an internal policy shift (and a bond-jurisdiction precedent) to rewrite Congress’s detention scheme, convert long-resident noncitizens in full proceedings into § 1225 detainees, and deny the statutory custody framework that applies “pending a decision on whether the alien is to be removed.” 8 U.S.C. § 1226(a); *see Reyes Perez*, No. SA-25-CV-1302-XR, at 11–13.

A. Section 1225(b) Does Not Apply to Petitioner; Section 1226(a) Governs

87. Section 1225(b)(2)(A) applies only to an “applicant for admission” who is “seeking admission,” after inspection-based determinations at the threshold of entry. 8 U.S.C. § 1225(b)(2)(A). That text cannot be stretched to cover a noncitizen already living in the United States, placed in full removal proceedings under § 1229a, and detained “pending a decision” in those proceedings. *See* 8 U.S.C. §§ 1226(a), 1229a; *Jennings*, 583 U.S. at 287.

et al., No. 1:25-CV-1471-AJT-LRV, 2025 WL 2783799, at *6 (E.D. Va. Sept. 29, 2025); *Vazquez v. Bostock*, No. 25-cv-05240, 2025 WL 2782499, at *27 (W.D. Wash. Sept. 30, 2025); *J.U. v. Maldonado*, 25-CV-04836, 2025 WL 2772765, at *5 (E.D.N.Y. Sept. 29, 2025); *Rivera Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *7 (D.N.J. Sept. 26, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 WL 2732717, at *2 (M.D. Fla. Sept. 25, 2025); *Giron Reyes v. Lyons*, No. C25-4048, 2025 WL 2712427, at *5 (N.D. Iowa, Sept. 23, 2025); *Singh v. Lewis*, No. 25-cv-96, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 WL 2650637, at *7-8 (N.D. Cal. Sept. 16, 2025); *Alvarez-Chavez v. Kaiser*, 25-cv-06984-LB 2025 WL 2909526 (N.D. Cal., Oct. 9, 2025); *Cerritos-Echevarria v. Bondi*, No. CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282 (D. Az. Oct. 3, 2025); *Padron-Covarrubias v. Vergara*, 5:25-cv-00112, (S.D. Tex. October 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. Az. Oct. 7, 2025). *Buenrostro-Mendez v. Bondi, et al.*, No. CV H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025). *But see Chavez v. Noem*, 3:25-cv-02325-CAB-SBC, 2025 WL 2730228 (S.D. Cal. Sept. 24); *Vargas-Lopez v. Trump, et al.*, 8:25CV526 2025 WL 2780351 (D. Neb. Sept. 29, 2025).

88. Congress’s own drafting confirms § 1226(a)’s default applicability to inadmissible noncitizens in full proceedings, including EWIs. Section 1226(c) creates specific mandatory-detention exceptions and expressly includes certain noncitizens inadmissible under § 1182(a)(6)(A)(i). 8 U.S.C. § 1226(c)(1)(E). That targeted carve-out presupposes that § 1226(a) otherwise applies absent a mandatory-detention trigger.
89. Respondents also cannot justify detention under § 1225(b)(1) where the statutory predicates are absent and DHS is proceeding in “full” removal proceedings rather than expedited removal. *See Reyes Perez*, No. SA-25-cv-1302-XR, at 12 (rejecting detention under § 1225(b)(1) where petitioner was in full removal proceedings and Respondents could not detain “based on expedited removal proceedings that do not exist”); *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025).
90. Where § 1225(b) does not apply, Respondents’ remaining option is § 1226. But in *Reyes Perez*, the Court held that because the Government did not claim it was detaining the petitioner under § 1226, “the Court sees no reason to consider” § 1226 as a basis for the petitioner’s current detention; the detention was unlawful and release was required. *Reyes Perez*, No. SA-25-CV-1302-XR, at 12 (*quoting Martinez v. Hyde*, 792 F. Supp. 3d 211, 223 n.23 (D. Mass. 2025)).
91. The same logic applies here. Respondents’ asserted § 1225(b) authority is inapplicable, and the Government’s effort to deny any meaningful custody forum by treating Petitioner as a categorical § 1225(b)(2) detainee renders her ongoing detention unlawful.
92. Petitioner acknowledges that *Buenrostro-Mendez* currently forecloses the statutory detention-authority argument in this Circuit for purposes of immediate relief to the extent

the Government invokes § 1225(b)(2). *Buenrostro-Mendez*, No. 25-20496, 2026 WL 323330, at *1–9.

93. Petitioner nevertheless expressly preserves the statutory argument, including for further review, for any distinguishing factual or legal developments, and to avoid waiver. Petitioner’s request for relief rests independently on procedural due process and Respondents’ failure to provide a workable custody forum, and the Court may grant relief on those grounds without resolving the statutory dispute. *See Escobar-Arauz*, 2025 WL 3543648, at *5–6; *Maya-Contreras*, No. 3:26-cv-00290-DB (W.D. Tex. Feb. 9, 2026); *Clemente Ceballos*, No. 3:26-cv-00312-DB (W.D. Tex. Feb. 10, 2026).

VIII. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

Violation of the Due Process Clause (Fifth Amendment)

94. Petitioner incorporates by reference all allegations above as if fully set forth herein.
95. Civil immigration detention is permissible only to serve legitimate regulatory purposes and must remain tethered to flight risk or danger through meaningful process. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690–93 (2001). The process due is assessed under *Mathews v. Eldridge*, 424 U.S. 319, 333–35 (1976).
96. As applied here, Respondents are detaining Petitioner without any meaningful, individualized custody hearing before a neutral decisionmaker and without findings regarding danger, flight risk, or less restrictive alternatives. That categorical denial of a workable custody forum violates procedural due process. *See Zadvydas*, 533 U.S. at 690–93; *Mathews*, 424 U.S. at 333–35; *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004).

97. Even if Respondents invoke INA § 235(b)(2), 8 U.S.C. § 1225(b)(2), that statutory label does not eliminate Petitioner's protected liberty interest or the Constitution's procedural requirements. Courts in the Western District of Texas have granted relief on materially similar as-applied procedural due process claims, including where the Government invoked § 1225(b)(2) and immigration judges declined bond jurisdiction. *See Escobar-Arauz v. Noem*, No. EP-25-cv-00619-DB, 2025 WL 3543648, at *5–6 (W.D. Tex. Dec. 10, 2025) (Briones, J.); *Zafra v. Noem*, No. EP-25-cv-00541-DB, 2025 WL 3239526, at *3 (W.D. Tex. Nov. 20, 2025) (Briones, J.); *Maya-Contreras v. Warden of ERO El Paso East Montana Camp, et al.*, No. 3:26-cv-00290-DB (W.D. Tex. Feb. 9, 2026) (Briones, J.); *Clemente Ceballos v. Garite*, No. 3:26-cv-00312-DB (W.D. Tex. Feb. 10, 2026) (Briones, J.); *Duran-Aguila v. Bondi*, No. EP-26-CV-241-KC, Order (W.D. Tex. Feb. 9, 2026) (Cardone, J.).

98. Due process also requires the Government to bear the burden to justify continued civil detention. Given the severe loss of liberty and the heightened risk of error absent safeguards, the Government should be required to prove danger or flight risk by clear and convincing evidence. *Addington v. Texas*, 441 U.S. 418, 425–27 (1979).

99. Petitioner has been detained since November 10, 2025, without a meaningful, individualized custody determination. Continued detention without the required process violates the Fifth Amendment. Petitioner is entitled to relief ordering a prompt custody hearing under constitutionally adequate procedures within a fixed deadline, or release if Respondents cannot provide a workable hearing mechanism.

SECOND CAUSE OF ACTION

Unlawful Revocation of Release on Recognizance and Failure to Follow Governing Custody Procedures (8 U.S.C. § 1226(b); 8 C.F.R. § 236.1; *Accardi*)

100. Petitioner incorporates by reference all allegations above as if fully set forth herein.
101. Petitioner was previously released by DHS into the community without bond and without parole, under conditions requiring reporting and compliance. On information and belief, that release was memorialized on an Order of Release on Recognizance, commonly documented on Form I-220A. Respondents possess the operative release, revocation, and rearrest records in Petitioner's A-file and ERO custody file.
102. DHS rearrested Petitioner at a required ICE check-in and revoked his release, yet Petitioner has been denied any workable mechanism for a merits custody determination. DHS's authority to "revoke a bond or parole" and "rearrest" is limited by statute and regulation. *See* 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9).
103. Revocation and re-arrest must be grounded in an appropriate predicate, including changed circumstances, and must be implemented through lawful procedures consistent with the governing custody framework. *See Matter of Sugay*, 17 I. & N. Dec. 647 (BIA 1981).
104. As applied here, Respondents have provided no meaningful process, findings, or evidentiary record establishing any changed circumstances that would justify revoking Petitioner's release and continuing his civil incarceration. There is no allegation, much less proof, that anything material has changed since DHS released him on his own recognizance. To the contrary, Petitioner complied with every condition of release, appeared as required, did not abscond, and has incurred no arrests or criminal conduct.
105. Separately, longstanding administrative law principles require agencies to follow their own binding regulations and procedures. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266–68 (1954). Respondents' re-arrest and continued

detention—combined with the denial of a meaningful custody forum—constitute a failure to follow binding custody procedures and warrant habeas relief.

106. Petitioner is entitled to relief requiring production of the relevant custody records and a prompt, individualized custody hearing under constitutionally adequate procedures, or release if Respondents cannot provide a workable hearing mechanism by a court-ordered deadline.

THIRD CAUSE OF ACTION

Unlawful Detention Not Authorized by the INA as Applied (Preserved Statutory Claim)

107. Petitioner incorporates by reference all allegations above as if fully set forth herein.
108. The INA establishes a custody framework governing noncitizens in removal proceedings. In ordinary removal proceedings under 8 U.S.C. § 1229a, the default custody statute for noncitizens already present in the United States is 8 U.S.C. § 1226(a), which authorizes discretionary detention with the possibility of release on bond or conditional parole, subject to narrow mandatory detention carve-outs in 8 U.S.C. § 1226(c). *See Jennings v. Rodriguez*, 583 U.S. 281, 287, 303 (2018).
109. Respondents have employed a categorical approach that forecloses Immigration Judge bond jurisdiction and eliminates any meaningful custody forum for Petitioner. As applied, that position denies Petitioner the custody framework Congress provided and results in continued detention without the process and review mechanisms that accompany § 1226(a) detention.
110. Petitioner recognizes that *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026), currently constrains statutory detention-authority arguments in this Circuit to the extent Respondents invoke § 1225(b)(2). Petitioner

nevertheless expressly preserves his statutory claim that § 1225(b) does not authorize categorical no-forum detention for an interior detainee in full § 1229a proceedings and that § 1226(a) governs his custody, in order to avoid waiver and for further review.

111. Regardless of the statutory label, detention that forecloses any meaningful custody adjudication is unlawful as applied and warrants habeas relief.

FOURTH CAUSE OF ACTION

Judicial Estoppel (Inconsistent Government Positions Used to Foreclose Custody Process)

112. Petitioner incorporates by reference all allegations above as if fully set forth herein.
113. Judicial estoppel applies where a party adopts a position, succeeds in persuading a court to accept that position, and later seeks to take a clearly inconsistent position to gain an unfair advantage, undermining the integrity of the judicial process. *New Hampshire v. Maine*, 532 U.S. 742, 749–51 (2001).
114. The Government has previously represented that noncitizens who entered without inspection and later reside in the interior are generally held under 8 U.S.C. § 1226(a) and receive bond hearings. *See Jennings v. Rodriguez*, 583 U.S. 281 (2018) (government position reflected in the oral argument record).
115. Respondents should not be permitted to reverse course in a manner that eliminates any workable custody forum, forecloses individualized custody process, and results in categorical no-hearing detention for Petitioner. That inconsistent position is unfairly prejudicial and supports habeas relief to restore a workable custody process consistent with due process.

116. Petitioner is entitled to relief requiring a prompt custody hearing under constitutionally adequate procedures or release if Respondents cannot provide a workable hearing mechanism within a deadline set by this Court.

IX. RELIEF SOUGHT

WHEREFORE, Petitioner respectfully requests that this Court:

- (1) Assume jurisdiction and grant the petition for writ of habeas corpus;
- (2) Issue an order to show cause and set an expedited schedule under 28 U.S.C. § 2243;
- (3) Order Respondents to release petitioner under conditions no more restrictive prior to his re-detention, in the alternative, provide Petitioner with a prompt, individualized custody hearing before an Immigration Judge within a fixed deadline set by this Court;
- (4) Require that at the custody hearing the Government bears the burden to prove by clear and convincing evidence that continued detention is necessary because Petitioner is a danger to the community or a flight risk, and that no less restrictive conditions will suffice;
- (5) Order that if Respondents contend the Immigration Judge lacks jurisdiction or if Respondents fail to provide a workable hearing mechanism by the Court's deadline, Petitioner must be immediately released under reasonable conditions of supervision;
- (6) Order that Petitioner not be deported or transferred outside the Western District of Texas while this petition is pending, absent further order of this Court;
- (7) Grant any other and further relief the Court deems just and proper.

PRAYER FOR EXPEDITED CONSIDERATION

Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests expedited consideration. Each day of unlawful detention inflicts irreparable harm on Petitioner and his family, depriving

them of his care, stability, and support. Prompt judicial intervention is necessary to protect Petitioner's constitutional rights and his family's well-being.

Respectfully submitted on February 13, 2026

/s/ Andres Pacheco

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

I represent Petitioner, Mobarak Hossen, 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 February 13, 2026

/s/ Andres Pacheco

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