UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RAUL FIGUEROA OCAMPO,

Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security;

JUDITH ALMODOVAR, in her official capacity as Acting Field Office Director, New York City Field Office, U.S. Immigration & Customs Enforcement;

PAMELA BONDI, in her official capacity as Attorney General, U.S. Department of Justice; and

RAUL MALDONADO, in his official capacity as Metropolitan Detention Center Warden,

Respondents.

Civil Action No.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Raul Figueroa Ocampo is a Latino man who was arrested by Respondent U.S. Immigration and Customs Enforcement ("ICE") and who is being unlawfully detained by ICE under an immigration statute that does not apply to him. Mr. Figueroa Ocampo is currently incarcerated at the Metropolitan Detention Center ("MDC"), a federal incarceration facility located in this District, in violation of his statutory and constitutional rights.

2. Mr. Figueroa Ocampo is a 54 year old Mexican national who has lived in the United States for over 30 years. His family in the United States includes his 9 year old U.S. citizen daughter. (Ex. A, Declaration of Robert Bell, dated February 20, 2026 ("Bell Decl."), at ¶ 3).

3. On or around November 18, 2025, Mr. Figueroa Ocampo was detained and arrested in Sunset Park, Brooklyn by three masked and unidentified ICE agents while walking home from work. Agents showed Mr. Figueroa Ocampo photographs of individuals who Mr. Figueroa Ocampo did not recognize. After further questioning, agents demanded Mr. Figueroa Ocampo show his identification. He was frightened, and did not feel that he could do anything beyond respond, and so he provided them with his identification card, a Consular ID from Mexico. Thereafter the agents arrested Mr. Figueroa Ocampo. The agents never presented him with a warrant or provided any indication that Mr. Figueroa Ocampo was the target that they were seeking in their apparent operation. (*Id.*, at ¶¶ 4-6).

4. ICE has not conducted any individualized assessment as to whether Mr. Figueroa Ocampo should be indefinitely detained during his removal proceedings other than to argue that he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). He did not receive a bond hearing.

5. Respondents are unlawfully relying upon an interpretation of the Immigration and Nationality Act ("INA") that has been overwhelmingly and repeatedly rejected by district courts in this District and around the country in hundreds of cases and that subjects individuals like Mr. Figueroa Ocampo to mandatory detention under 8 U.S.C. § 1225(b)(2).[1] Mr. Figueroa Ocampo is bringing this habeas petition to challenge his unlawful detention.

[1] *See Palacios v. Francis*, No. 26-cv-00847 (NCM), 2026 WL 415449, at *2 (E.D.N.Y. Feb. 14, 2026) (Merle, J.); *Pliego v. Noem*, No. 26-CV-719, 2026 WL 380836, at *2-3 (E.D.N.Y. Feb. 11, 2026) (Morrison, J.); *Sumit v. Maldonado*, No. 26-CV-650 (AMD), 2026 WL 371132, at *3 (E.D.N.Y. Feb. 10, 2026) (Donnelly, J.); *Ambroladze v. Maldonado*, No. 26-CV-00474 (HG), 2026 WL 280182, at *3 (E.D.N.Y. Feb. 3, 2026) (Gonzalez, J.); *Singh v.*

6. Mr. Figueroa Ocampo is currently in removal proceedings. His final hearing is currently scheduled for March 30, 2026.

7. Mr. Figueroa Ocampo cannot seek release before the Immigration Judge ("IJ") overseeing those removal proceedings. In September 2025, the Board of Immigration Appeals ("BIA") reversed decades of precedent to hold that IJs lack authority to hear bond requests from non-citizens like Mr. Figueroa Ocampo who are present in the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In spite of nationwide class action litigation resulting in declaratory relief completely rejecting the BIA's reasoning, *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3713987, at *32 (C.D. Cal. Dec. 18, 2025), the Executive Office for Immigration Review ("EOIR"), which houses both the immigration courts and the BIA, has not changed this position. Instead, the Chief Immigration Judge issued guidance on January 13, 2026 instructing all IJs that *Yajure Hurtado* was not vacated or enjoined and must be followed. (Ex. B, *Practice Alert: EOIR Issues Nationwide Guidance on*

Maldonado, No. 26-CV-00019 (OEM), 2026 WL 233216, at *8, *10 (E.D.N.Y. Jan. 29, 2026) (Merchant, J.); *Minarcaja Concha v. Lyons*, No. 2:25-cv-6695 (NJC), --- F. Supp. 3d ---, 2026 WL 215417, at *14, *19 (E.D.N.Y. Jan. 28, 2026) (Choudhury, J.); *Lira Caceres v. Shanahan*, No. 26-CV-00016 (OEM), 2026 WL 233215, at *8, *11 (E.D.N.Y. Jan. 28, 2026) (Merchant, J.); *Puerto v. Leeper*, No. 26-CV-405, 2026 WL 206485, at *2 (E.D.N.Y. Jan. 27, 2026) (Morrison, J.); *Covelli-Chaparro v. Bondi*, No. 2:26-cv-118 (NJC), 2026 WL 118842, at *6, *9 (E.D.N.Y. Jan. 15, 2026) (Choudhury, J.); *Ndiaye v. Francis*, No. 26-CV-0069 (HG), 2026 WL 99930, at *3 (E.D.N.Y. Jan. 14, 2026) (Gonzalez, J.); *Crespo Tacuri v. Genalo*, No. 25-CV-06896 (NCM), 2026 WL 35569, at *5, *8 (E.D.N.Y. Jan. 6, 2026) (Merle, J.); *Iza by Iza v. Larocco*, No. 2:25-cv-6915 (NJC), --- F. Supp. 3d ---, 2026 WL 31378, at *13, *16 (E.D.N.Y. Jan. 5, 2026) (Choudhury, J.); *Galeas Miranda v. Maldonado*, No. 25-CV-6882 (PKC), 2026 WL 25405, at *2 & n.1 (E.D.N.Y. Jan. 5, 2026) (Chen, J.); *Arizmendi v. Noem*, No. 25-CV-7056, 2025 WL 3723960, at *1–2 (E.D.N.Y. Dec. 24, 2025) (Morrison, J.); *Padilla Molina v. DeLeon*, No. 25-CV-06526 (JMA), 2025 WL 3718728, at *2–5 (E.D.N.Y. Dec. 23, 2025) (Azrack, J.); *Ulloa Montoya v. Bondi*, No. 25-CV-06363 (JMA), 2025 WL 3718694, at *3–6 (E.D.N.Y. Dec. 23, 2025) (Azrack, J.); *Pesantez Castro v. Maldonado*, No. 25-CV-06844 (JMA), 2025 WL 3723966, at *1–2 (E.D.N.Y. Dec. 23, 2025) (Azrack, J.); *Y- C- v. Genalo*, No. 25-cv-06558 (NCM), 2025 WL 3653496, at *3–5, *8 (E.D.N.Y. Dec. 17, 2025) (Merle, J.); *Ye v. Maldonado*, No. 25-CV-06417 (AMD), 2025 WL 3521298, at *3–6, *9 (E.D.N.Y. Dec. 8, 2025) (Donnelly, J.); *Rodriguez-Acurio v. Almodovar*, No. 2:25-cv-6065 (NJC), --- F. Supp. 3d ---, 2025 WL 3314420, at *21, *33 (E.D.N.Y. Nov. 28, 2025) (Choudhury, J.); *O.F.B. v. Maldonado*, No. 25-CV-6336 (HG), --- F. Supp. 3d ---, 2025 WL 3277677, at *3–5, *8 (E.D.N.Y. Nov. 25, 2025) (Gonzales, J.); *Sarmiento Guerrero v. Noem*, No. 25-CV-5881 (EK), 2025 WL 3214787, at *3–7 (E.D.N.Y. Nov. 18, 2025) (Komitee, J.); *Hyppolite v. Noem*, No. 25-CV-4304 (NRM), --- F. Supp. 3d ---, 2025 WL 2829511, at *7–12, *16 (E.D.N.Y. Oct. 6, 2025) (Morrison, J.); *Artiga v. Genalo*, No. 25-CV-5208 (OEM), 2025 WL 2829434, at *4–9 (E.D.N.Y. Oct. 5, 2025) (Merchant, J.); *J.U. v. Maldonado*, 805 F. Supp. 3d 482, 490-98 (E.D.N.Y. 2025) (Merchant, J.).

Maldonado Bautista, AILA (Jan. 14, 2026) (setting forth screenshot of guidance sent to IJs via email)).[2]

8. Mr. Figueroa Ocampo seeks immediate and unconditional release from detention, or, at a minimum, a bond hearing at which the government bears the burden of proof to justify his ongoing detention by clear and convincing evidence. In addition, Mr. Figueroa Ocampo seeks an emergency stay of his transfer from the District and an order to show cause why he should not be released immediately.

9. Habeas corpus "stands as a safeguard against imprisonment of those held in violation of the law." *Harrington v. Richter*, 562 U.S, 86, 91 (2011); *see also United States v. Salerno*, 481 U.S. 739, 755 (1987) ("In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.").

10. Mr. Figueroa Ocampo has suffered – and continues to suffer – irreparable harm from his unlawful detention, as has his family, including his young U.S. citizen daughter. He has not only been deprived of his freedom, but he has also been deprived of his ability to provide for his family, his ability to be with his family and his community, and his ability to meaningfully contribute to the defense of his removal proceedings.

PARTIES

11. Petitioner Raul Figueroa Ocampo is a resident of New York State. ICE arrested him on or about November 18, 2025, and he is currently detained at the MDC in Brooklyn, New York, which is located in this District. Petitioner is under the direct care, custody, and control of Respondents and their agents. (Bell Decl., at ¶¶ 3, 11).

[2] *See* https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista.

12. Respondent Kristi Noem is named in her official capacity as the Secretary of the United States Department of Homeland Security ("DHS"). In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in this District, and is legally responsible for the pursuit of Petitioner's detention and removal. As such, she is the legal custodian of Petitioner. Respondent Noem's office is located at the United States Department of Homeland Security, Washington, DC 20528.

13. Respondent Judith Almodovar is named in her official capacity as the Acting Field Office Director of the New York Field Office for Immigration and Customs Enforcement ("ICE") within DHS. In this capacity, she is responsible for the administration of immigration laws and the execution of detention and removal determinations, and routinely transacts business in this District. As such, she is the legal custodian of Petitioner. Respondent Almodovar's office is located at 26 Federal Plaza, New York, NY 10278.

14. Respondent Pamela Bondi is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws as exercised by EOIR pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in this District and is legally responsible for administering Petitioner's removal and bond proceedings and the standards used in those proceedings. As such, she is the legal custodian of Petitioner. Respondent Bondi's office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530.

15. Respondent Raul Maldonado Jr. is named in his official capacity as the warden of MDC. In this capacity, he is responsible for the administration of MDC, which is located in this District. As such, he is the legal custodian of Petitioner. Respondent Maldonado's office is located at 80 29th Street, Brooklyn, NY 11232.

JURISDICTION AND VENUE

16. This action arises under the Constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 3009, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq.

17. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause); and 28 U.S.C. § 1651 (All Writs Act).

18. The Court has jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness of their detention by DHS. *See, e.g.*, *Demore v. Kim*, 538 U.S. 510, 516-17 (2003).

19. Venue is proper in this district under 28 U.S.C. § 2241 & § 1391. *See Braden v. 30th Judicial Cir. Ct. of Ky.*, 410 U.S. 484, 493-500 (1973). Mr. Figueroa Ocampo is incarcerated at MDC, within this District; his immigration proceedings and the ICE office that controls the location of his detention are based in New York City; and a substantial part of the events giving rise to the claims and relevant facts occurred in this District.

STATEMENT OF FACTS

20. Mr. Figueroa Ocampo is a Latino man who resides in New York State. He has lived in the United States since 1993. He is the loving and supportive partner and father for his family, including [redacted] U.S. citizen daughter. (Bell Decl., at ¶ 3).

21. On or around November 18, 2025, ICE detained Mr. Figueroa Ocampo in Sunset Park, Brooklyn, New York. (*Id.*, at ¶ 4).

22. That night, Mr. Figueroa Ocampo was walking home from work when three unidentified ICE agents swarmed him in the street—one in front of him and two from behind him.

He was physically unable to leave the interaction let alone the area. The agents did not identify themselves and were all wearing bulletproof vests with bandanas covering their faces. One agent showed him photographs of individuals that he did not recognize and spoke to Mr. Figueroa Ocampo in English. Mr. Figueroa Ocampo, who speaks little English, but he understood that the man was asking whether he knew the individual in the photograph. Mr. Figueroa Ocampo did not recognize the individuals and attempted to communicate as much in English. (*Id.*, at ¶ 5).

23. The agents then asked him how long he has been living in the United States and demanded he show them his identification. He was frightened and did not feel free to do anything other than respond, so he answered their questions and retrieved his identification card—a Consular ID from Mexico. After following their instructions, the agents took his Consular ID away from him. Immediately after the agents handcuffed and arrested him. Mr. Figueroa Ocampo did not see or receive an arrest warrant at any point. (*Id.*, at ¶ 6).

24. After his arrest, he was placed into a SUV with two other men who had already been arrested. While he was in the vehicle, he spoke with them and learned that they had been arrested in the same way—by being asked if they recognized the people in the photographs. As the SUV remained right where he was arrested, Mr. Figueroa Ocampo observed the agents looking for additional people to arrest, as different groups of people approached the vehicle. He noticed on multiple occasions that when individuals who appeared Hispanic walked past the SUV, the agents attempted to get out of the car and approach them. However, when individuals who appeared white walked past the SUV, the agents did nothing at all. They did not open their doors, move, or attempt to approach them. It was clear to him that the agents only reacted to people who

appeared Hispanic. After unsuccessful attempts to approach other individuals, the agents then transported Mr. Figueroa Ocampo to the ICE field office in Manhattan. (*Id.*, at ¶ 7).

25. ICE has detained Mr. Figueroa Ocampo at the MDC since approximately November 18, 2025, without a bond hearing. (*Id.*, at ¶¶ 8-9).

26. ICE argues that Mr. Figueroa Ocampo is not eligible for an immigration court bond hearing because he entered the United States without inspection and is therefore subject to unreviewable mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 225 (BIA 2025).

27. Since living in the United States, Mr. Figueroa has been an upstanding member of society. He does not have any criminal convictions. He had a contact with the criminal justice system 30 years ago in or around 1995, which resulted in a non-criminal plea for a violation for disorderly conduct (jumping a subway turnstile) under N.Y.P.L. § 240.20(1). He completed his community service and paid the fine. ICE has not alleged that that this plea is the basis for his detention. (Bell Decl., at ¶ 12).

28. As a result of Mr. Figueroa Ocampo's detention, his family has suffered significant hardship. His [redacted] U.S. citizen daughter suffers from [redacted] and has had increasing difficulties at home and at school. She has been more isolated since her father's detention. In addition, Mr. Figueroa Ocampo is the primary source of financial support for the family. (*Id.*, at ¶ 13).

29. Mr. Figueroa Ocampo has also faced immense stress during his detention at MDC, impacting his mental and physical health, and affecting his ability to contribute in a meaningful way to the defense of his removal proceedings. (*Id.*, at ¶¶ 14-15).

30. The conditions at MDC are dire, and ICE detainees are held alongside criminal detainees. As has been publicly reported, MDC has "barbaric" conditions that are violent, unsanitary, and inhumane. *See* Katie Rose Quandt and Maeve Brennan, *Lockdowns, Violence, and "Barbaric Conditions" in a Federal Jail Known for its Famous Detainees*, The Appeal (June 30, 2025), https://theappeal.org/brooklyn-metropolitan-detention-center-solitary-watch/. It has been reported that, among other things, guards routinely mistreat the detainees and ignore requests for medical attention.

31. Mr. Figueroa Ocampo continues to be unlawfully held in these appalling conditions at MDC for an indefinite duration.

LEGAL FRAMEWORK

I. MR. FIGUEROA OCAMPO'S DETENTION IS UNLAWFUL

32. Mr. Figueroa Ocampo's statutory and constitutional rights have been violated. *See e.g.*, *J.U.*, 805 F. Supp. 3d at 497-98 (ruling that, in a similar case, petitioner's detention was illegal based on both theories).

A. Mr. Figueroa Ocampo's Detention Is Unlawful Under The INA

33. Under the INA, civil immigration detention is authorized under 8 U.S.C. § 1225 and 8 U.S.C. § 1226.[3] *See Jennings v. Rodriguez*, 583 U.S. 281, 287-89 (2018). These provisions are mutually exclusive.

34. Under 8 U.S.C. § 1225(b)(2), "applicants for admission" at the border who are "seeking admission" into the United States are placed into expedited removal proceedings and are subject to mandatory detention without a bond hearing. *See Jennings*, 583 U.S. at 287 (8 U.S.C.

[3] The INA also provides for detention of non-citizens who are subject to final orders of removal. *See* 8 U.S.C. § 1231. A removal order is not final until the BIA has dismissed any appeal of an IJ's decision. 8 C.F.R. § 1241.1(a). This provision does not apply to this petition.

§ 1225 relates to "borders and ports of entry"). These applicants may request release through humanitarian parole under 8 U.S.C. § 1182(d)(5)(A).

35. Under 8 U.S.C. § 1226, non-citizens who are present in the United States and who are arrested inside the United States and placed in removal proceedings may be detained after an individualized determination to determine the individual's potential for posing a flight risk or a danger to the community. *See Jennings*, 583 U.S. at 288-89 (8 U.S.C. § 1226 relates to persons "inside the United States" and "present in the country."). Many of these individuals are therefore eligible for release under 8 U.S.C. § 1226(a), which entitles them to a custody redetermination hearing (also known as a bond hearing) before an IJ who decides whether to release the non-citizen pending the adjudication of their removal proceedings. *See* 8 C.F.R. §§ 1003.19(a), 236.1(d).

36. The Supreme Court and Second Circuit have recognized only one exception to the constitutional requirement for a bond hearing for Section 1226 detainees. In 2003, the Supreme Court held that 8 U.S.C. § 1226(c) provides for a narrow category of people who can be subjected to mandatory detention for a short time period provided they have conceded removability and have been convicted of certain crimes after been afforded due process for that criminal adjudication. *See Demore*, 538 U.S. at 513; *see also Jennings*, 583 U.S. at 303.

37. Section 1226 was most recently amended in 2025 by the Laken Riley Act ("LRA"), Pub. L. No. 119-1, 139 Stat. 3 (2025) (codified at 8 U.S.C. § 1226(c)(1)(E)). The LRA expands mandatory detention under 8 U.S.C. § 1226(c) to non-citizens who have been, among other thing, arrested for, charged with, or convicted of certain crimes. These provisions necessarily and expressly include people who entered the country without inspection and were subsequently arrested within the country. *Id.*; *see also Sampiao v. Hyde*, No. 1:25-cv-11981-JEK, 2025 WL 2607924, at *8 (D. Mass. Sept. 9, 2025).

38. To be clear, none of those exceptions related to criminal charges applies here. Mr. Figueroa Ocampo had a contact with the criminal justice system 30 years ago in or around 1995 from jumping a subway turnstile, which resulted in a non-criminal plea for a violation for disorderly conduct. This is not a criminal conviction that would form the basis for mandatory detection. ICE has not even so alleged.

39. Accordingly, as the Supreme Court has noted, Section 1225(b) governs "aliens seeking admission into the country" whereas Section 1226(a) governs "aliens already in the country." *Jennings*, 583 U.S. at 289.

40. This system of civil immigration detention, which provides that people who are arrested inside the United States are generally eligible for bond hearing and release during immigration proceedings, has existed in essentially this form for 30 years, since the passage of the IIRIRA.

41. Here, ICE is improperly arguing that it has detained Mr. Figueroa Ocampo pursuant to Section 1225(b). This position is baseless. Mr. Figueroa Ocampo has lived in the United States for over 30 years prior to his arrest, and it is Section 1226 that applies to non-citizens "already present in the United States." *Jennings*, 583 U.S. at 303. Indeed, DHS's own language on Mr. Figueroa Ocampo's Notice to Appear designated him as a non-citizen "*present in the United States* who has not been admitted or paroled" as opposed to an "arriving" non-citizen. (Ex. C, Notice to Appear (emphasis added)).

42. ICE's misclassification follows the recent DHS policy rejecting the long-standing precedent regarding INA's detention framework in a reversal of decades of practice.[4] Under this

[4] *See Interim Guidance Regarding Detention Authority for Applications for Admission*, Immigration Policy Tracking Project (July 8, 2025), https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents.

policy, ICE's representatives in the immigration courts began to request that IJs misclassify individuals eligible for bond under Section 1226(a) as mandatorily detained under 8 U.S.C. § 1225(b)(2) and that IJs refuse to conduct bond hearings.

43. The BIA ratified this policy on September 5, 2025 in a published decision that held that all non-citizens who entered the United States without parole were "seeking admission" and therefore subject to 8 U.S.C. § 1226(b)(2) and ineligible for bond. *Matter of Yajure Hurtado*, 29 I. & N. Dec. at 217-20. In spite of nationwide class action litigation resulting in declaratory relief completely rejecting the BIA's reasoning, *Maldonado Bautista*, 2025 WL 3713987, at *32, the EOIR (including both the immigration courts and the BIA) has not changed this position. Instead, the Chief Immigration Judge issued guidance on January 13, 2026 instructing all IJs that *Yajure Hurtado* was not vacated or enjoined and must be followed. (Ex. B).

44. Since Respondents adopted their new policy, nearly "[e]very district court to address this question has concluded that the government's [new] position belies the statutory text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice." *Rodriguez v. Bostock*, 802 F. Supp. 3d 1297, 1303-04 (W.D. Wash. 2025) (collecting cases).

45. The Respondent's new policy and misinterpretation fails for four reasons.

46. First, the policy belies the text of the INA. If, as Respondent's claim, "§ 1225(b)'s mandatory detention provision applies to all noncitizens who remain applicants for admissions to the United States, this would render superfluous the mandatory detention provisions found in § 1226(c)(1), (D), and (E)." *J.U.*, 805 F. Supp. 3d. at 496 (holding that "Respondent's interpretation of the statutory scheme does not square with more than a century of Supreme Court's holdings interpretating the relationship between §§ 1225(b) and 1226(a)"). These provisions "would be

unnecessary if all persons who have not been admitted in the United States were already subject to § 1225(b)'s mandatory detention provisions." *Id.* at 495 (quoting *Hasan v. Crawford*, 800 F. Supp. 3d 641, 656 (E. D. Va. 2025)).

47. Second, the policy would negate any effect of the recently-passed LRA. The LRA "makes noncitizens subject to mandatory detention if (1) they are inadmissible under certain provisions in 8 U.S.C. § 1182 and (2) are charged with, arrested for, convicted of, or admit to having committed certain crimes." *J.U.*, 805 F. Supp. 3d at 495. Under the LRA, "only when the inadmissibility and the criminal conduct criterion are both satisfied did Congress intend for mandatory detention to be triggered." *Id.* Adopting the Government's interpretation of § 1225(b) would render the LRA's "criminal conduct requirement superfluous, thereby 'nullify[ing] a statute that Congress enacted [just last] year.'" *Id.* (quoting *Gomes v. Hyde*, 804 F. Supp. 3d 265, 275 (D. Mass. 2025)).

48. Third, the policy ignores the clear text of 8 U.S.C. § 1225(b)(2), which requires an examining immigration officer to determine that a person is (1) an applicant for admission; (2) seeking admission; and (3) not clearly and beyond a doubt entitled to be admitted. An "applicant for admission" is defined as "[a noncitizen] present in the United States who has not been admitted or who arrives in the United States." 8 U.S.C. § 1225(a)(1). While "seeking admission" is not defined by statute, "courts have repeatedly held that the term requires 'some active desire of process toward admission.'" *Rodriguez-Acurio*, 2025 WL 3314420, at *22 (quoting *Huamani v. Francis*, No. 25-cv-8110 (LJL), 2025 WL 3079014, at *3 (S.D.N.Y. Nov. 4, 2025)). If all inadmissible individuals are "seeking admission," then, under the Respondent's view, that term has an identical meaning as "applicant for admission." This is contrary to well-established canons of statutory interpretation that call for the plain language to control and that advise an interpretation

that contains surplusage. *See Hyppolite*, 2025 WL 2829511, at *9; *see also Huamani*, 2025 WL 3079014, at *4 ("[T]he canon against surplusage is strongest when an interpretation would render superfluous another part of the same statutory scheme.") (quoting *Marx v. Gen. Rev. Corp.*, 568 U.S. 371, 386 (2013)).

49. Fourth, the legislative history also supports that 8 U.S.C. § 1226(a) was intended to codify existing provisions regarding the "authority of the Attorney General to arrest, detain, and release on bond a [noncitizen] who is not lawfully in the United States." *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (quoting H.R. Rep. No. 104-569, at 229 (1996)). Indeed, following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without admission or parole were not considered detained under § 1225 and that they 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).

50. Accordingly, for 30 years, all participants in the immigration system have understood that noncitizens arrested inside the United States generally fall within 8 U.S.C. § 1226 for detention purposes and, unless subject to bars inapplicable here, are required to receive a bond hearing, even if they initially entered the country without authorization. This Court is not required to defer to the BIA's contrary interpretation. *See Loper Bright Enters. v. Raimondo,* 603 U.S. 369, 412-13 (2024).

51. It is not surprising that in the months since Respondents initiated this improper policy to justify mandatory detention, district courts around the country have rejected the Respondent's legal arguments in hundreds of cases. *See, e.g.*, *Palacios v. Francis*, No. 26-cv-00847 (NCM), 2026 WL 415449, at *2 (E.D.N.Y. Feb. 14, 2026) (Merle, J.); *Pliego v. Noem*, No.

26-CV-719, 2026 WL 380836, at *2-3 (E.D.N.Y. Feb. 11, 2026) (Morrison, J.); *Sumit v. Maldonado*, No. 26-CV-650 (AMD), 2026 WL 371132, at *3 (E.D.N.Y. Feb. 10, 2026) (Donnelly, J.); *Ambroladze v. Maldonado*, No. 26-CV-00474 (HG), 2026 WL 280182, at *3 (E.D.N.Y. Feb. 3, 2026) (Gonzalez, J.); *Singh v. Maldonado*, No. 26-CV-00019 (OEM), 2026 WL 233216, at *8, *10 (E.D.N.Y. Jan. 29, 2026) (Merchant, J.); *Minarcaja Concha v. Lyons*, No. 2:25-cv-6695 (NJC), --- F. Supp. 3d ---, 2026 WL 215417, at *14, *19 (E.D.N.Y. Jan. 28, 2026) (Choudhury, J.); *Lira Caceres v. Shanahan*, No. 26-CV-00016 (OEM), 2026 WL 233215, at *8, *11 (E.D.N.Y. Jan. 28, 2026) (Merchant, J.); *Puerto v. Leeper*, No. 26-CV-405, 2026 WL 206485, at *2 (E.D.N.Y. Jan. 27, 2026) (Morrison, J.); *Covelli-Chaparro v. Bondi*, No. 2:26-cv-118 (NJC), 2026 WL 118842, at *6, *9 (E.D.N.Y. Jan. 15, 2026) (Choudhury, J.); *Ndiaye v. Francis*, No. 26-CV-0069 (HG), 2026 WL 99930, at *3 (E.D.N.Y. Jan. 14, 2026) (Gonzalez, J.); *Crespo Tacuri v. Genalo*, No. 25-CV-06896 (NCM), 2026 WL 35569, at *5, *8 (E.D.N.Y. Jan. 6, 2026) (Merle, J.); *Iza by Iza v. Larocco*, No. 2:25-cv-6915 (NJC), --- F. Supp. 3d ---, 2026 WL 31378, at *13, *16 (E.D.N.Y. Jan. 5, 2026) (Choudhury, J.); *Galeas Miranda v. Maldonado*, No. 25-CV-6882 (PKC), 2026 WL 25405, at *2 & n.1 (E.D.N.Y. Jan. 5, 2026) (Chen, J.); *Arizmendi v. Noem*, No. 25-CV-7056, 2025 WL 3723960, at *1–2 (E.D.N.Y. Dec. 24, 2025) (Morrison, J.); *Padilla Molina v. DeLeon*, No. 25-CV-06526 (JMA), 2025 WL 3718728, at *2–5 (E.D.N.Y. Dec. 23, 2025) (Azrack, J.); *Ulloa Montoya v. Bondi*, No. 25-CV-06363 (JMA), 2025 WL 3718694, at *3–6 (E.D.N.Y. Dec. 23, 2025) (Azrack, J.); *Pesantez Castro v. Maldonado*, No. 25-CV-06844 (JMA), 2025 WL 3723966, at *1–2 (E.D.N.Y. Dec. 23, 2025) (Azrack, J.); *Y- C- v. Genalo*, No. 25-cv-06558, 2025 WL 3653496 (NCM), at *3–5, *8 (E.D.N.Y. Dec. 17, 2025) (Merle, J.); *Ye v. Maldonado*, No. 25-CV-06417 (AMD), 2025 WL 3521298, at *3–6, *9 (E.D.N.Y. Dec. 8, 2025) (Donnelly, J.); *Rodriguez-Acurio v. Almodovar*, No. 2:25-cv-6065 (NJC), --- F. Supp. 3d ---, 2025 WL 3314420, at *21, *33

(E.D.N.Y. Nov. 28, 2025) (Choudhury, J.); *O.F.B. v. Maldonado*, No. 25-CV-6336, --- F. Supp. 3d ---, 2025 WL 3277677 (HG), at *3–5, *8 (E.D.N.Y. Nov. 25, 2025) (Gonzales, J.); *Sarmiento Guerrero v. Noem*, No. 25-CV-5881 (EK), 2025 WL 3214787, at *3–7 (E.D.N.Y. Nov. 18, 2025) (Komitee, J.); *Hyppolite v. Noem*, No. 25-CV-4304 (NRM), --- F. Supp. 3d ---, 2025 WL 2829511, at *7–12, *16 (E.D.N.Y. Oct. 6, 2025) (Morrison, J.); *Artiga v. Genalo*, No. 25-CV-5208 (OEM), 2025 WL 2829434, at *4–9 (E.D.N.Y. Oct. 5, 2025) (Merchant, J.); *J.U. v. Maldonado*, 805 F. Supp. 3d 482, 490-98 (E.D.N.Y. 2025) (Merchant, J.); *see also Barco Mercado v. Francis*, No. 25-CV-6582, 2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025) ("[T]he administration's new position . . . has been challenged in at least 362 cases in federal district courts. The challengers have prevailed, either on a preliminary or final basis, in 350 of those cases decided by over 160 different judges sitting in about fifty different courts spread across the United States.").

52. For the limited number of decisions that have reached a differing conclusion supporting the Government's position, *see, e.g.*, *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 2540701, slip op. (5th Cir. Feb. 6, 2026); *Saamishvili v. Flanagan*, No. 25-cv-6178 (E.D.N.Y. Feb. 11, 2026) (Cogan, J.), the statutory interpretation in those cases "risks rendering substantial portions of the statutory scheme superfluous and internally inconsistent." *Ernesto Avila Hernandez v. Pamela Bondi*, et al., 26-CV-01215, D.N.J. (Feb. 8, 2026). These decisions are not binding precedent, are inconsistent with the plain language of the statute, and run contrary to the vast majority of courts who have considered this precise issue.

53. In addition, it should be noted that the Government is not entitled to "unlawfully detain an individual under § 1225(b) and later attempt to justify that detention under § 1226 through alternative, retrospective, or post hoc reasoning advanced during litigation." *Ernesto Avila Hernandez v. Pamela Bondi*, et al., 26-CV-01215, D.N.J. (Feb. 8, 2026); *see also Lopez Benitez v.*

Francis, 795 F. Supp. 3d 475, 486 (S.D.N.Y. 2025) (releasing petitioner and explaining that the court "cannot credit Respondents' new position as to the basis for . . . detention, which was adopted post hoc and raised for the first time in this litigation").

54. In summary, Mr. Figueroa Ocampo, who has lived in the United States for more than 30 years, was arrested while walking home from work in Sunset Park, Brooklyn, not while "seeking admission." His detention is therefore governed by 8 U.S.C. § 1226(a) and his continued detention under 8 U.S.C. § 1225(b)(2) is contrary to statutory authority. Mr. Figueroa Ocampo's continued detention, with no end in sight, is unlawful. ICE's novel interpretation of the INA is contrary to binding precedent, numerous other cases rejecting their same argument, and basic principles of statutory interpretation. This Court should join the overwhelming majority of district courts and reject ICE's argument.

B. Mr. Figueroa Ocampo's Detention Violates Due Process Rights

55. The Due Process Clause of the Fifth Amendment entitles noncitizens to due process of law. *See Reno v. Flores*, 507 U.S. 292, 306 (1993). This constitutional protection applies to noncitizens in the United States "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis,* 533 U.S. U.S. 678 693 (2001).

56. Changes in presidential administrations do not and cannot modify the due process protections afforded by the Constitution. While a "new administration can change the rules . . . it cannot change them and make up new rules as it goes along when the new rules abridge constitutional rights." *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at *14 (W.D.N.Y. July 16, 2025).

57. The Second Circuit has adopted the three-factor balancing test set forth in *Matthews v. Eldridge*, 424 U.S. 319 (1976), to determine what due process requires: (i) "the private interest

that will be affected by the official action"; (ii) "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 (iii) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (Vilardo, J.).

58. This requires an individualized determination. *See, e.g., Singh*, 2026 WL 233216, at *9–10; *Minarcaja Concha*, 2026 WL 215417, at *17–18. Mr. Figueroa Ocampo amply meets the *Matthews* test.

59. First, freedom from imprisonment is the "most significant liberty interest there is – the interest in being free from imprisonment." *Velasco Lopez*, 978 F.3d at 851; *see also Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. Nov. 22, 2019) (finding that noncitizens in immigration custody had arguably an even greater liberty interest in remaining out of detention than criminal parolees who required due process protection).

60. Second, given the strong liberty interest at stake here, due process requires an opportunity to be heard before a person can be placed in immigration detention. *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025). Due process requires that "notice must be afforded within a reasonable time and in such manner as will allow [noncitizens] to actually seek . . . relief[.]" *Id.*

61. Third, the recognized government interests in immigration detention are "ensuring the appearance of [noncitizens] at future immigration proceedings" and "preventing danger to the community." *Zadvydas*, 533 U.S. at 690. Absent evidence in the record that a noncitizen is dangerous or a flight risk, district courts have held that the government cannot demonstrate a significant interest in their detention. *See, e.g., Singh*, 2026 WL 233216, at *9; *Minarcaja Concha*, 2026 WL 215417, at *18.

62. Recent decisions considering this issue confirm that due process requires Respondents to make individualized determinations to detain non-citizens and given them notice and a meaningful opportunity to be heard when challenging their detention. *See Iza by Iza*, 2026 WL 31378, at *2 ("Respondents' detention of Mr. Iza without providing any notice or opportunity to be heard before a DHS officer or immigration judge is a violation of his right to procedural due process."); *Y-C-*, 2025 WL 3653496, at *7 ("The Court therefore concludes, consistent with the view of many other district courts in analogous cases, that the '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.'").

63. Respondents deprived Mr. Figueroa Ocampo of his due process rights. Mr. Figueroa Ocampo has resided in the United States for over 30 years, meaning that he had a right to an individualized bond hearing under Section 1226(a). ICE detained and arrested Mr. Figueroa Ocampo while he was walking home from work, while they were apparently looking for some other Hispanic individuals. No individualized hearing was held, and Mr. Figueroa Ocampo has been imprisoned at MDC since then. The violation of INA and due process is clear.

64. Moreover, Mr. Figueroa Ocampo's personal circumstances further demonstrate that there is an "extremely high" risk of erroneous deprivation. *See, e.g., Hyppolite*, 2025 WL 2829511, at *14 (finding "extremely high" risk of erroneous deprivation based on similar considerations). He is financially responsible for, and a caregiver for, his family, including for his 9 year old U.S. citizen daughter. He is an upstanding member of society. His strong local ties means that he is not a flight risk or a danger to the community. Respondents have provided no individualized justification to deny Mr. Figueroa Ocampo his liberty, and no such justification could be provided. His detention is arbitrary and a blatant violation of his rights.

65. If a non-citizen does not receive individualized consideration pre-deprivation, his due process rights are irrevocably violated. No amount of process provided post-detention can remedy that violation. *See, e.g.*, *Ye*, 2025 WL 3521298, at *9 ("Here, the constitutional violation the petitioner suffered—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 postdeprivation review by an immigration judge inadequate."); *Rodriguez-Acurio v. Almodovar*, No. 2:25-CV-6065 (NJC), 2025 WL 3314420, at *30 (E.D.N.Y. Nov. 28, 2025) (Choudhury, J.) ("Respondents' detention of [petitioner] with no notice or opportunity to be heard and no showing of changed circumstances violates her due process rights."); *J.U.*, 805 F. Supp. 3d at 490 ("ICE's detention of Petitioner did not comport with the implementing regulations and § 1226(a); thus, a bond hearing for post-deprivation review is wholly inadequate to remedy that unlawful detention.").

66. Accordingly, courts in this District have ordered a non-citizen's immediate release where their pre-detention due process rights have been violated. *See, e.g.*, *Crespo Tacuri*, 2026 WL 35569, at *7; *Y-C-*, 2025 WL 3653496, at *7; *Ye*, 2025 WL 3521298, at *9; *Rodriguez-Acurio*, 2025 WL 3314420, at *31; *O.F.B.*, 2025 WL 3277677, at *8; *Artiga*, 2025 WL 2829434, at *9; *J.U.*, 805 F. Supp. 3d at 489-90.

C. In the Alternative, Mr. Figueroa Ocampo Must Be Afforded A Bond Hearing At Which The Government Bears The Burden Of Establishing Dangerousness and Flight Risk By Clear And Convincing Evidence

67. Although immediate release is the only remedy that can adequately address the severe violation of due process in this case, should the Court not grant such release, in the alternative, Mr. Figueroa Ocampo should be afforded a bond hearing at which the Government bears the burden of establishing dangerousness and flight risk by clear and convincing evidence.

See Velasco Lopez, No. 19-CV-2912, 2019 WL 2655806, at *4 (S.D.N.Y. May 15, 2019) (Carter, Jr., J.). Further, in light of the strong issue that Mr. Figueroa Ocampo has in his liberty, the Constitution requires adequate procedural protections – namely the consideration of his ability to pay and alternative conditions of release – prior to depriving him of this freedom. *See O.F.C.*, 2022 WL 4448728, at *10.

II. THE TIMELINE PURSUANT TO 28 U.S.C. § 2243

68. A court hearing a petition for a writ of habeas corpus must issue the writ or an order to show cause to the Respondents "forthwith." 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require the Respondents to respond "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

69. Once the Government has responded, the statute directs the Court to schedule a hearing on the petition "not more than five days after the return unless for good cause additional time is allowed." *Id.*

70. Because Mr. Figueroa Ocampo's liberty is heavily burdened during this continued detention, Petitioner respectfully asks the Court to adhere to the schedule forth in 28 U.S.C. § 2243 and order the Government to show cause within three days as to why the Petition should not be granted.

71. Following this, Mr. Figueroa Ocampo is entitled to immediate release from Respondent's unlawful detention. *See Munaf v. Green*, 553 U.S. 674, 693 (2008) ("The typical remedy for [unlawful executive] detention is, of course, release."); *see also Martinez v. McAleenan*, 385 F. Supp. 3d 349, 366, 371–73 (S.D.N.Y. 2019) (holding that because a petitioner's "arrest and detention were blatantly unlawful from the start, the only commensurate and

appropriate equitable remedy to even partially restore [Petitioner] is to immediate release him and enjoin the Government from further similar transgressions").

III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

72. Any attempt to seek release or bond from ICE or EOIR would be futile, such that Mr. Figueroa Ocampo is not required to exhaust administrative remedies. *See, e.g.*, *Artiga*, 2025 WL 2829434, at *3–4; *J.U.*, 805 F. Supp. 3d at 488-90.

73. Exhaustion is a prudential concern, not a statutory requirement, and can be excused when: "(1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) in certain instances a plaintiff has raised a substantial constitutional question." *J.U.*, 805 F. Supp. 3d at 489 (quoting *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003)). Mr. Figueroa Ocampo meets all four requirements.

74. First, there are no "administrative remedies available that could provide Petitioner with the relief he seeks." *J.U.*, 805 F. Supp. 3d at 489. The only "cure" to Mr. Figueroa Ocampo's unlawful detention is "release of Petitioner from ICE custody." *Id.* at 490. ICE failed to conduct any individualized review prior to his detention, and so a "bond hearing for a post-deprivation review is wholly inadequate to remedy that [initial] unlawful detention." *Id.*

75. Second, Mr. Figueroa Ocampo is facing irreparable injury. His continued unlawful detention has separated Mr. Figueroa Ocampo from his family and his community, his job, and has hindered his ability to meaningfully contribute to his defense in his removal proceedings.

76. Third, as discussed above, the BIA has held that IJs lack authority to hear bond requests from non-citizens who are present in the United States without admission, holding that such individuals are subject to mandatory detention. *See Yajure Hurtado*, 29 I. & N. Dec. at 218.

Even following the issuance of class-wide declaratory relief in *Maldonado Bautista,* 2025 WL 3713987, at *3, IJs have been instructed by EOIR leadership to continue to find that they lack jurisdiction to conduct bond hearings for non-citizens who entered the United States without inspection. (Ex. B). Even if Mr. Figueroa Ocampo sought a bond hearing, it assuredly would be denied under this guidance.[5] Seeking an administrative appeal would therefore be futile.

77. Fourth, Mr. Figueroa Ocampo's claim "raises a substantial constitutional question that cannot be properly adjudicated administratively." *J.U.*, 805 F. Supp. 3d at 490; *see also Lopez Benitez*, 795 F. Supp. 3d at 497-98.

78. Accordingly, Mr. Figueroa should be excused from seeking release from ICE or EOIR, as such efforts would prove futile.

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a) and Implementing Regulations

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

80. The mandatory detention provision at 8 U.S.C. § 1225(b)(2), under which Respondents are currently detaining Petitioner, does not apply to individuals who previously

[5] Were Mr. Figueroa Ocampo to then appeal to the BIA, the outcome appears predetermined in light of the aforementioned guidance issued by EOIR—the agency that houses both the immigration courts and the BIA—and *Yajure Hurtado*. Notably, in 2025, "[a]ll but one of the [BIA's] decisions published . . . resulted in a negative outcome for the" noncitizen in the case, marking a dramatic shift in the pace at which the Board issued precedential decisions. *Precedent or Policy? A Quiet Transformation of the Board of Immigration Appeals*, CLINIC (2025), https://www.cliniclegal.org/resources/precedent-or-policy-quiet-transformation-board-immigration-appeals (analyzing the BIA's precedential decisions through August 22, 2025).

entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents.

81. Petitioner, at the time of his arrest and detention, was not seeking admission to the United States.

82. Section 1226 governs the detention of individuals residing in the United States like Petitioner. This section provides for a discretionary detention regime with opportunity for release.

83. The application of the mandatory detention provision at 8 U.S.C. § 1225(b)(2) to Petitioner here is unlawful under the Immigration and Nationality Act because 8 U.S.C. § 1226 applies.

COUNT TWO

VIOLATION OF DUE PROCESS

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

85. The Government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. Amend. V.

86. "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*,, 533 U.S. at 690 (2001).

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

88. ICE provided no individualized assessment when they detained Petitioner.

89. Respondent's detention of Petitioner is arbitrary and unjustified, and violates the rights guaranteed him by the Due Process Clause of the Fifth Amendment to the United States Constitution.

90. No amount of post-deprivation process can cure the foregoing violation, and Petitioner should be released.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that the Court:

A. Declare that Petitioner's detention violates the Immigration and Nationality Act;

B. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

C. Grant a writ of habeas corpus ordering Respondents to immediately and unconditionally release Petitioner from custody, or at a minimum, order a bond hearing with the burden on the Government;

D. In the alternative, issue an order to show cause directing the Government to respond to this Petition within three (3) days and hold a hearing within eight (8) days pursuant to 28 U.S.C. § 2243;

E. Enjoin Petitioner's transfer outside of this District during the pendency of these proceedings;

F. Order a stay of removal to retain the Court's jurisdiction while these proceedings are pending;

G. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

H. Grant such other and further relief as this Court deems just and proper.

Dated: New York, New York
February 20, 2026

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