JS 44 (Rev. 03/24)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Edwin Jose Rodriguez

(b) County of Residence of First Listed Plaintiff Cache Utah
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Alec S. Bracken, Contigo Law, P.O box 249, Midvale, UT 84047, 801-980-9430

DEFENDANTS

Kristi Noem, et. al.

County of Residence of First Listed Defendant Prince George
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*
Unknown

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☒ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☒ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☒ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

INTELLECTUAL PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark
- ☐ 880 Defend Trade Secrets Act of 2016

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit (15 USC 1681 or 1692)
- ☐ 485 Telephone Consumer Protection Act
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
28 U.S.C. § 2241

Brief description of cause:
Petitioner is subject to mandatory detention under hte laken riley act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
02/25/2026

SIGNATURE OF ATTORNEY OF RECORD
/S/ ALEC S. BRACKEN

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. Origin. Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ALEC S. BRACKEN (USB 17178)
CONTIGO LAW
PO BOX 249
Midvale, Utah 84047
Phone: 801-980-9430
Email: alec@contigo.law
Attorney for Petitioner

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Edwin Jose Rodriguez,

Petitioner

v.

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security,

TODD LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement,

MARCOS CHARLES, in his official capacity as ICE Field Officer Director,

JOHN MATTOS, in his official capacity as the warden of the Nevada Southern Detention Facility,

PAMELA BONDI, in her official capacity as the United States Attorney General,

The Executive Office for Immigration Review

United States Immigration and Customs Enforcement.

Respondents

Civil No.: **2:26-cv-531**

VERIFIED PETITION FOR HABEAS CORPUS AND DECLARATORY ACTION

IMMIGRATION HABEAS CASE

INTRODUCTION

1. Petitioner Edwin Jose Rivera Rodriguez is a Venezuelan national presently detained by Immigration and Customs Enforcement ("ICE") pursuant to the mandatory detention provisions of the Laken Riley Act. Petitioner is not detained because of any conviction, nor because an immigration judge has found him dangerous or a flight risk. Rather, he is detained solely because he has been *accused* in Utah state court of misdemeanor retail theft, a charge that remains pending and unadjudicated. Absent the Laken Riley Act's mandatory detention provision, Petitioner would be entitled to an individualized bond hearing under 8 U.S.C. § 1226(a). Instead, the statute categorically requires his incarceration without any individualized assessment of risk, dangerousness, or necessity.

2. Civil immigration detention authority is strictly statutory and constitutionally limited. Congress may authorize detention in narrow circumstances to serve legitimate regulatory purposes, most commonly to ensure a noncitizen's appearance at removal proceedings or to protect the community where a demonstrable danger exists. But civil detention is not punitive. It may not operate as punishment for unproven criminal allegations, nor may it be imposed categorically without procedural safeguards. When detention is automatic, based solely on accusation rather than adjudicated conduct, and imposed without a hearing, it raises grave constitutional concerns under the Fifth Amendment.

3. Petitioner is currently in removal proceedings charged solely under 8 U.S.C. § 212(a)(6)(A)(i) as a noncitizen present without admission or parole. Ex. 1. He is not charged under any criminal ground of removability. He has a pending application for asylum filed in July 2023. Ex, 2. His state criminal matter involves a single misdemeanor retail theft charge that remains pending and has not resulted in a conviction for which he entered a not guilty plea *Id.* Nevertheless, ICE arrested

Petitioner at a scheduled court appearance for his criminal case and placed him in mandatory detention without bond. *Id.*

4. The Laken Riley Act mandates detention of certain noncitizens based solely on arrest, charge, or accusation for specified theft-related offenses, regardless of the offense's severity, regardless of whether the charge results in conviction, and regardless of whether the individual poses any danger or flight risk. The statute eliminates individualized bond hearings and strips immigration judges of discretion to consider the particular facts of a case. As applied to Petitioner, a nonviolent asylum seeker charged with a pending misdemeanor, the statute operates as automatic incarceration untethered to any demonstrated regulatory necessity.

5. Preventive civil detention is constitutionally permissible only in carefully limited circumstances and only with robust procedural safeguards. *United States v. Salerno*, 481 U.S. 739, 747–52 (1987). The Supreme Court has repeatedly held that detention without individualized findings of dangerousness or flight risk is permissible only where narrowly tailored to serve compelling regulatory objectives and accompanied by adequate procedural protections. *Id.*; *Foucha v. Louisiana*, 504 U.S. 71, 80–83 (1992); *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001); *Kansas v. Hendricks*, 521 U.S. 346, 356–58 (1997); *Addington v. Texas*, 441 U.S. 418, 425–33 (1979). The Laken Riley Act contains no such safeguards. It requires detention upon accusation alone. It does not require proof. It does not require findings. It does not permit bond. It does not limit detention to violent conduct. It mandates incarceration categorically. In fact, a plain reading of the statute would suggest that if an individual were acquitted of the theft accusation, that individual would still be subject to mandatory detention. 8 U.S.C. § 1226(c).

6. Petitioner's detention thus exemplifies the constitutional infirmities of the statute. He has not been convicted of any offense. He voluntarily appeared for his criminal proceedings. Ex. 2. He has a

pending asylum application and seeks protection from removal. *Id.* He has family ties in the United States and no history of violent conduct. Yet he is incarcerated indefinitely without a bond hearing solely because Congress has mandated detention based on an unproven misdemeanor charge.

7. The Constitution does not permit civil incarceration based solely on accusation. Nor does it permit Congress to mandate detention without individualized process where liberty is at stake. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Laken Riley Act's mandatory detention scheme, both facially and as applied to Petitioner, violates substantive and procedural due process under the Fifth Amendment. It authorizes punitive detention in the absence of conviction, eliminates individualized adjudication, and fails to narrowly tailor detention to its asserted public safety purpose.

8. This Court has jurisdiction under 28 U.S.C. § 2241 to determine the legality of Petitioner's custody. Where detention exceeds statutory and constitutional limits, habeas corpus provides the appropriate remedy. Petitioner therefore seeks a writ of habeas corpus declaring that his mandatory detention under the Laken Riley Act is unconstitutional as applied to him, declaring that the Act's categorical detention scheme violates the Fifth Amendment, and ordering his immediate release or, at minimum, a prompt individualized bond hearing before a neutral decisionmaker.

9. Beyond its unconstitutional application to Petitioner, the Court should declare the Laken Riley Act's mandatory detention scheme facially invalid. The statute does not merely authorize detention in limited or narrowly defined circumstances. It mandates incarceration categorically upon arrest or charge for specified offenses, without requiring conviction, without requiring proof of dangerousness, without requiring proof of flight risk, and without permitting any individualized bond determination. Because the statute eliminates the procedural safeguards that the Constitution requires before physical liberty may be restrained, its defect is structural rather than incidental. A law that never affords constitutionally adequate process cannot be constitutionally applied.

10. The Supreme Court has consistently held that civil preventive detention is permissible only in carefully circumscribed settings and only where accompanied by robust procedural protections. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Where Congress authorizes incarceration without individualized findings, without evidentiary standards, and without meaningful opportunity to contest detention, the statute ceases to operate as a regulatory measure and instead becomes punitive in effect. The Laken Riley Act's mandatory detention provision contains no limiting principle. 8 U.S.C. § 1226(c). It does not confine detention to violent conduct. It does not require adjudicated criminal guilt. It does not require temporal limits. It does not provide a hearing at which the government must justify confinement. In every application, detention is automatic.

11. The constitutional infirmity, therefore, is not confined to the particular facts of this case. The statute's categorical design ensures that individuals will be detained solely because they were accused of certain offenses, regardless of the strength of the charge, the minor nature of the conduct, or the absence of any demonstrated risk. When a statute mandates deprivation of physical liberty without individualized process in every case it governs, the constitutional violation inheres in the statute itself. The Fifth Amendment does not permit Congress to substitute accusation for adjudication, nor to eliminate the neutral decision-making that due process requires when freedom from physical restraint is at stake.

12. Accordingly, this Court should not limit its ruling to Petitioner's circumstances alone. Because the Laken Riley Act's mandatory detention framework fails to provide the minimum procedural safeguards required before civil incarceration may occur, and because it authorizes detention untethered to individualized necessity in every case to which it applies, the statute is facially unconstitutional and unenforceable.

JURISDICTION AND VENUE

13. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Petitioner raises claims arising under the Constitution and laws of the United States, including the Fifth Amendment to the United States Constitution, 28 U.S.C. § 2241, and Title 8 of the United States Code. Petitioner challenges the legality and constitutionality of his present immigration detention under the mandatory detention provisions of the Laken Riley Act. Federal district courts retain jurisdiction under § 2241 to determine whether a noncitizen's detention violates the Constitution or laws of the United States.

14. This Court has authority to grant habeas relief where a petitioner "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Petitioner is presently confined in ICE custody pursuant to the Laken Riley Act's mandatory detention provision. Because Petitioner alleges that his detention violates substantive and procedural due process and exceeds Congress's constitutional authority, habeas corpus provides an appropriate vehicle for relief.

15. This Court also has authority to grant declaratory relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202. Although the Declaratory Judgment Act does not independently confer subject-matter jurisdiction, jurisdiction exists under 28 U.S.C. § 1331 because Petitioner's claims arise under federal law and the Constitution. An actual and ongoing case or controversy exists between the parties regarding the constitutionality of the Laken Riley Act's mandatory detention scheme and the legality of Petitioner's confinement under that statute. Declaratory relief will clarify the parties' rights and obligations, resolve the constitutional question underlying Petitioner's detention, and provide effective prospective relief in conjunction with the writ of habeas corpus.

16. Petitioner satisfies the "in custody" requirement of 28 U.S.C. § 2241 because he is presently detained by ICE and physically confined at Southern Nevada Detention Center. Physical incarceration constitutes the paradigmatic form of custody for purposes of habeas jurisdiction. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Jones v. Cunningham*, 371 U.S. 236, 243 (1963). His confinement is direct, ongoing, and attributable to the challenged statute.

17. This Court additionally has authority under the All Writs Act, 28 U.S.C. § 1651(a), to issue all writs necessary or appropriate in aid of its jurisdiction, including orders directing federal officials to cease unlawful restraints on liberty where detention is found unconstitutional.

18. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e) because Respondents are officers or agencies of the United States acting in their official capacities, and Petitioner is confined within this judicial district.

19. No exhaustion of administrative remedies is required before seeking habeas relief under 28 U.S.C. § 2241 where a petitioner challenges the constitutionality of the statutory basis for detention. Petitioner's claim presents a pure question of law concerning Congress's authority to mandate detention without individualized process. Administrative remedies are inadequate to address the constitutional defect, and exhaustion would therefore be futile. *See McCarthy v. Madigan*, 503 U.S. 140, 147–48 (1992); *Zadvydas*, 533 U.S. at 688.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

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

21. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

22. Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

PETITIONER

23. Petitioner Edwin Jose Rivera Rodriguez is a citizen and national of Venezuela who is presently in removal proceedings before the Executive Office for Immigration Review. He has a pending application for asylum filed in July 2023 and seeks protection from removal under the Immigration and Nationality Act.

24. Petitioner is currently confined in civil immigration custody at the Nevada Southern Detention Center in Pahrump, Nevada, pursuant to the mandatory detention provisions of 8 U.S.C. § 1226(c), as amended by the Laken Riley Act. His detention is based solely on a pending misdemeanor retail theft charge in Utah state court and is imposed without an individualized bond hearing or judicial finding of dangerousness or flight risk.

RESPONDENTS

25. Respondent Kristi Noem (Secretary Noem) is the Secretary of the Department of Homeland Security, the parent agency of Immigration and Customs Enforcement which is currently detaining the Petitioner. Respondent Kristi Noem is sued in her official capacity as an agent of the United States Government.

26. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Marcos Charles and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

27. Respondent Marcos Charles is the Field Office Director of Immigration and Customs Enforcement. He is in charge of the custody of all Immigration and Customs Enforcement Detainees in the Nevada District Court. Respondent Marcos Charles is sued in his official capacity as an agent of the United States Government.

28. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States. Pamela Bondi is sued in her official capacity as an agent of the United States.

29. Respondent Executive Office for Immigration Review is the federal agency responsible for custody redeterminations relating to non-citizens charged with being removable from the United States.

30. Respondent John Mattos is the warden of the Southern Nevada Detention Center and thus has custody over the Petitioner. Respondent John Mattos is sued in his official capacity as an agent of the United States.

31. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

LEGAL FRAMEWORK

Constitutional Challenges

32. When a federal statute is challenged as unconstitutional, courts must determine the nature of the right at issue and apply the appropriate level of constitutional scrutiny. *Washington v. Glucksberg,* 521 U.S. 702, 719–21 (1997). Where government action deprives an individual of physical

liberty, the Supreme Court has repeatedly recognized that the interest at stake is among the most fundamental protected by the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Freedom from bodily restraint lies at the core of the Due Process Clause, and statutes authorizing civil confinement are therefore subject to judicial review.

A. Fundamental Liberty Interests and Heightened Scrutiny

33. The Supreme Court has long held that "[f]reedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); see also *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997); *Addington v. Texas*, 441 U.S. 418, 425 (1979). Because involuntary civil detention constitutes a severe deprivation of liberty, it is subject to careful judicial scrutiny. Civil confinement is constitutionally permissible only when it serves a legitimate, nonpunitive regulatory purpose and bears a reasonable relation to that purpose. *Bell v. Wolfish*, 441 U.S. 520, 538–39 (1979); *Foucha*, 504 U.S. at 79–80.

34. In *United States v. Salerno*, the Court upheld the federal Bail Reform Act not by applying deferential review, but by emphasizing that preventive detention is the "carefully limited exception." 481 U.S. 739, 755 (1987). The Court explained that detention may be justified only where the government demonstrates sufficiently weighty regulatory interests and where the statutory scheme is narrowly focused and supported by robust procedural protections. Id. at 747–52. The Bail Reform Act survived constitutional review because it was confined to serious offenses, required individualized findings of dangerousness, mandated a prompt adversarial hearing, and required proof by clear and convincing evidence. Id. at 750–52.

35. The Court's civil detention jurisprudence does not turn on formal labels such as "strict scrutiny," but instead asks whether the detention is regulatory rather than punitive, whether it bears a reasonable relation to a legitimate governmental objective, and whether adequate procedural safeguards

exist to guard against erroneous deprivation of liberty. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Bell*, 441 U.S. at 538–39. Even in the immigration context, Congress's authority "is subject to important constitutional limitations." *Zadvydas*, 533 U.S. at 695. Accordingly, statutes authorizing civil detention must be carefully circumscribed and must provide sufficient substantive and procedural protections to ensure that confinement remains regulatory and not punitive in effect.

B. Ninth Circuit Standards for Substantive Due Process Review

36. The Ninth Circuit has consistently recognized that civil detention implicates fundamental liberty interests and therefore requires careful judicial scrutiny. *See Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011) (holding that due process requires procedural protections in immigration bond hearings because physical liberty is at stake); *Rodriguez v. Robbins*, 804 F.3d 1060, 1087 (9th Cir. 2015), rev'd on other grounds sub nom. *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (recognizing that prolonged immigration detention raises serious constitutional concerns).

37. Under Ninth Circuit precedent, when liberty is at stake, the government must show that detention is reasonably related to a legitimate governmental objective and not excessive in relation to that purpose. *Jones v. Blanas*, 393 F.3d 918, 931–32 (9th Cir. 2004). A statute that mandates detention categorically, without individualized findings and without meaningful procedural safeguards, raises serious substantive due process concerns because it risks becoming punitive in effect rather than regulatory in purpose.

C. Facial and As-Applied Challenges

38. A statute may be challenged as unconstitutional either as applied to a particular individual or facially. A facial challenge may succeed where a statute lacks constitutionally required procedural safeguards in all its applications or where its categorical structure necessarily results in unconstitutional deprivations. *See Salerno*, 481 U.S. at 745 (recognizing facial challenges); *City of Los Angeles v. Patel*,

576 U.S. 409, 418–19 (2015) (facial invalidation appropriate where statute fails to provide opportunity for pre-compliance review).

39. In the context of civil detention, the Supreme Court has invalidated statutes that authorize confinement without adequate findings or procedural protections. *Foucha*, 504 U.S. at 82–83 (striking down continued detention absent proof of dangerousness). Where a statute mandates detention without requiring individualized justification, the constitutional defect is structural rather than incidental.

D. Civil Detention Must Be Reasonably Related to a Legitimate Regulatory Purpose

40. When evaluating statutes authorizing civil detention, the Supreme Court does not apply a traditional tiers-of-scrutiny framework. Instead, the inquiry focuses on whether the detention serves a legitimate, nonpunitive regulatory purpose and whether the means chosen bear a reasonable relation to that purpose. *Bell v. Wolfish*, 441 U.S. 520, 538–39 (1979). Civil confinement may not be imposed as punishment, and it may not be excessive in relation to its asserted regulatory objective. Id.; *Foucha v. Louisiana*, 504 U.S. 71, 79 (1992).

41. In *Zadvydas v. Davis*, the Court reiterated that immigration detention, though civil in nature, is subject to constitutional limitations. 533 U.S. 678, 690 (2001). The Court emphasized that civil detention must remain reasonably related to its purposes, typically ensuring appearance at proceedings or protecting the community, and may not become arbitrary or indefinite. Id. at 690–91. Where detention ceases to bear a reasonable relation to those objectives, constitutional concerns arise.

42. Similarly, in *United States v. Salerno*, the Court upheld preventive detention only because the statutory scheme was narrowly focused, applied to a specifically defined class of serious offenses, and required individualized findings supported by clear and convincing evidence. 481 U.S. 739, 747–52 (1987). The Court described preventive detention as the "carefully limited exception," not the general rule. Id. at 755.

43. Accordingly, a civil detention statute must be structured in a manner that ensures confinement remains regulatory rather than punitive. The constitutional inquiry examines whether the detention is appropriately limited in scope, whether it is tied to legitimate governmental objectives, and whether adequate procedural safeguards exist to minimize the risk of erroneous deprivation. *Bell*, 441 U.S. at 538–39; *Zadvydas*, 533 U.S. at 690–95.

E. Substantive Due Process Limits on Civil Detention

44. Substantive due process prohibits the government from depriving an individual of liberty unless the detention serves a legitimate and sufficiently weighty regulatory purpose and is reasonably related to that purpose. *Foucha v. Louisiana*, 504 U.S. 71, 79–80 (1992); *Bell v. Wolfish*, 441 U.S. 520, 538–39 (1979). Civil detention may not be punitive in purpose or effect. *Zadvydas*, 533 U.S. at 690.

45. The Supreme Court has made clear that preventive detention is the "carefully limited exception," not the rule. *United States v. Salerno*, 481 U.S. 739, 755 (1987). Even where preventive detention is permitted, it must be narrowly tailored to serve compelling regulatory interests and must not be excessive in relation to those interests. Id. at 747–52.

46. A statute that mandates detention based solely on accusation, without conviction, without proof, and without individualized findings of dangerousness or flight risk, raises serious substantive due process concerns. Accusation alone is not adjudicated guilt. The presumption of innocence remains a foundational principle of American law. While pretrial detention may be constitutionally permissible in limited circumstances, it must be supported by individualized findings and procedural safeguards. *Salerno*, 481 U.S. at 750–52.

47. Similarly, a categorical rule requiring detention for all theft-related offenses, regardless of the seriousness of the offense, risks failing substantive due process review if it is not reasonably tailored to a legitimate governmental objective. Due process requires that civil detention bear a reasonable

relation to its regulatory purpose. *Foucha*, 504 U.S. at 79; *Zadvydas*, 533 U.S. at 690. A statutory scheme that mandates incarceration for minor, nonviolent theft offenses, without regard to the amount involved, the circumstances of the offense, or the individual's risk profile, is excessive in relation to the government's asserted public safety interests.

F. Procedural Due Process Requirements

48. Procedural due process requires that, before the government deprives an individual of liberty, it must provide adequate notice and a meaningful opportunity to be heard before a neutral decisionmaker. *Mathews v. Eldridge*, 424 U.S. 319, 333–35 (1976). Where physical liberty is at stake, procedural protections must be robust.

49. In the context of civil confinement, the Supreme Court has required heightened evidentiary standards and individualized determinations to minimize the risk of erroneous deprivation. *Addington v. Texas*, 441 U.S. 418, 425–27 (1979). In *Salerno*, the constitutionality of preventive detention rested on the availability of a prompt adversarial hearing, the right to counsel, the right to present and confront evidence, and a requirement that the government prove dangerousness by clear and convincing evidence. 481 U.S. at 750–52.

50. The Ninth Circuit has similarly emphasized that immigration detention implicates fundamental liberty interests and therefore requires meaningful procedural safeguards. See *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011) (holding that due process requires procedural protections in immigration bond hearings because physical liberty is at stake).

51. A detention regime triggered solely by the existence of an arrest or pending charge, without an individualized hearing, without an opportunity to contest necessity, and without requiring the government to carry any evidentiary burden, creates a substantial risk of erroneous deprivation. Under

Mathews, when the private interest is physical liberty, and when the risk of error is high, the Constitution requires meaningful process.

G. Accusation Alone Is Insufficient to Justify Categorical Incarceration

52. American constitutional tradition distinguishes sharply between accusation and adjudication. The Due Process Clause protects against governmental action that substitutes mere allegation for proof when liberty is at stake. While the government may temporarily restrain liberty pending adjudication in limited contexts, those restraints must be supported by individualized judicial findings and procedural safeguards.

53. A statutory provision that mandates detention for all theft offenses, without regard to severity, violence, recidivism, or demonstrated dangerousness, and that is triggered by accusation alone risks collapsing this constitutional distinction. Such a regime detains individuals not because they have been proven to pose a risk, but because they have been accused of a broad class of offenses. Due process does not permit the government to dispense with individualized assessment where physical liberty is at stake.

Categorical Approach and Crimmigration

A. The Categorical Approach Requires Uniform Generic Definitions

54. For decades, the Supreme Court has required immigration courts to apply the categorical and modified categorical approaches when determining whether a criminal conviction triggers immigration consequences. *Taylor v. United States*, 495 U.S. 575 (1990); *Descamps v. United States*, 570 U.S. 254 (2013); *Mathis v. United States*, 579 U.S. 500 (2016); *Moncrieffe v. Holder*, 569 U.S. 184 (2013).

55. Under the categorical approach, courts compare the elements of the statute of conviction to a uniform, generic federal definition of the offense. If the statute of conviction sweeps more broadly

than the generic definition, the conviction cannot trigger the immigration consequence. *Descamps*, 570 U.S. at 261–63. A statute is overbroad where there is a "realistic probability" that it criminalizes conduct outside the generic definition. *Moncrieffe*, 569 U.S. at 191; *Gonzales v. Duenas-Alvarez*, 549 U.S. 183, 193 (2007).

56. The purpose of the categorical approach is to ensure uniformity and to prevent immigration consequences from turning on the particular factual details of a case. *Taylor*, 495 U.S. at 590–92. Immigration consequences attach based on elements, not underlying conduct.

B. State Definitions of Theft and Related Offenses Vary Dramatically

57. States define "theft," "larceny," "shoplifting," and "burglary" differently. Some jurisdictions define theft to include temporary deprivation. Others include fraud-like conduct. Some define burglary to include entry into non-structures or vehicles. Some define assault broadly to include minimal contact or reckless conduct.

Limitations to Congress's Plenary Authority

64. It is well established that Congress has broad power to regulate the admission, exclusion, and removal of noncitizens. *See Fiallo v. Bell*, 430 U.S. 787, 792 (1977); *Kleindienst v. Mandel*, 408 U.S. 753, 766 (1972). That authority derives from the political branches' constitutional powers over naturalization, foreign affairs, and sovereignty. U.S. Const. art. I, § 8, cl. 4.

65. However, the Supreme Court has repeatedly made clear that Congress's immigration authority is not immune from constitutional constraints. The political branches' power over immigration "is subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). The Due Process Clause applies to all "persons" within the United States, including noncitizens, whether their presence is lawful, unlawful, temporary, or permanent. *Zadvydas*, 533 U.S. at 693; *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886).

66. Even in cases recognizing plenary power, the Court has emphasized that constitutional protections do not evaporate in the immigration context. *See INS v. Chadha*, 462 U.S. 919, 941–42 (1983) (invalidating immigration statute on separation-of-powers grounds); *Zadvydas*, 533 U.S. at 690–95 (imposing constitutional limits on post-removal-order detention); *Sessions v. Dimaya*, 584 U.S. 148, 155–56 (2018) (holding immigration statute unconstitutionally vague).

67. The Supreme Court has further recognized that immigration detention is civil in nature and must serve regulatory, not punitive, purposes. *Zadvydas*, 533 U.S. at 690. Where detention is authorized, it must bear a reasonable relation to legitimate governmental objectives and remain subject to constitutional scrutiny. *Id.*; *Bell v. Wolfish*, 441 U.S. 520, 538–39 (1979). The Court has never held that Congress's immigration authority permits the deprivation of physical liberty without adherence to the Fifth Amendment.

68. Moreover, in *Demore v. Kim*, 538 U.S. 510 (2003), the Court upheld a limited mandatory detention provision only in the context of noncitizens convicted of certain enumerated criminal offenses and only in light of Congress's findings regarding flight risk and recidivism among that specific class. Id. at 518–21, 531. The Court did not hold that Congress may mandate civil incarceration in all circumstances or dispense with constitutional safeguards. Subsequent cases have reaffirmed that prolonged or arbitrary detention remains subject to constitutional review. *Zadvydas*, 533 U.S. at 690–91.

69. Accordingly, while Congress possesses broad authority to regulate immigration, that authority does not displace the Constitution. The Fifth Amendment's guarantee of due process constrains legislative choices affecting physical liberty. Statutes authorizing civil detention must therefore comply with constitutional requirements governing nonpunitive confinement and may not operate in a manner that is arbitrary, excessive, or divorced from legitimate regulatory objectives.

History of Mandatory Detention

70. The statutory framework governing immigration detention has evolved significantly over the past several decades. Prior to 1996, detention of noncitizens during removal proceedings was generally discretionary. Immigration judges possessed authority to release individuals on bond pending resolution of their cases, and detention was not categorically mandated for broad classes of offenses.

71. In 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), which substantially revised the Immigration and Nationality Act and introduced mandatory detention for certain categories of noncitizens convicted of specified criminal offenses. See Pub. L. No. 104-208, 110 Stat. 3009-546 (1996). The mandatory detention provision codified at 8 U.S.C. § 1226(c) required detention of individuals convicted of enumerated crimes, reflecting congressional findings concerning flight risk and recidivism among particular classes of offenders.

72. Since IIRIRA, the Supreme Court has addressed the constitutional boundaries of immigration detention in a series of cases examining the scope and limits of mandatory confinement. See, e.g., *Demore v. Kim*, 538 U.S. 510 (2003); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Jennings v. Rodriguez*, 583 U.S. 281 (2018). These decisions have clarified that, although Congress may authorize detention in certain circumstances, such authority remains subject to constitutional constraints.

73. Understanding the historical development of mandatory detention provisions is necessary to assess the scope, purpose, and constitutional limits of the current statutory scheme. The following subsections outline the evolution of immigration detention authority and the judicial interpretations that have shaped its application.

A. Criminal Bars to Bond Eligibility

74. Under the INA, detention during removal proceedings is governed primarily by 8 U.S.C. § 1226. Section 1226(a) authorizes the arrest and detention of a noncitizen pending a decision on whether

the individual is to be removed. 8 U.S.C. § 1226(a). In general, § 1226(a) provides that the Attorney General may continue to detain the individual or may release the person on bond or conditional parole. Id. Thus, detention under § 1226(a) is discretionary, and immigration judges ordinarily possess authority to conduct bond hearings and determine whether release is appropriate.

75. In 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), which added a mandatory detention provision codified at 8 U.S.C. § 1226(c). Section 1226(c) requires the detention of certain noncitizens who are removable based on specified criminal grounds. 8 U.S.C. § 1226(c)(1). The statute applies to individuals who are deportable or inadmissible for enumerated offenses, including certain crimes involving moral turpitude, aggravated felonies, controlled substance offenses, firearms offenses, and certain terrorism-related grounds. *Id.* Unlike detention under § 1226(a), detention under § 1226(c) does not authorize release on bond during the pendency of removal proceedings, except in limited circumstances involving witness protection. 8 U.S.C. § 1226(c)(2). The mandatory detention provision thus operates as a criminal bar to bond eligibility for the defined categories of noncitizens.

76. The Supreme Court addressed § 1226(c) in *Demore v. Kim*, 538 U.S. 510 (2003), where it upheld the statute against a facial constitutional challenge. The Court emphasized that the provision applied to noncitizens *convicted* of enumerated criminal offenses and that detention under the statute was generally of limited duration during removal proceedings. *Id.* at 518–21, 529–31. Emphasis added.

77. Subsequent litigation has addressed the scope and duration of detention under § 1226(c), including questions regarding prolonged detention and the availability of bond hearings. *See Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Nielsen v. Preap*, 586 U.S. 392 (2019). These cases have clarified the statutory structure governing criminal bars to bond eligibility and the relationship between § 1226(a) and § 1226(c).

B. Burden of Proof Requirements for Mandatory Detention Prior to Laken Riley

78. Prior to the Laken Riley Act, mandatory detention under 8 U.S.C. § 1226(c)(1) applied only if the noncitizen fell within one of four statutory categories. Section 1226(c)(1) requires the Secretary to take into custody a noncitizen who:

(A) "is inadmissible by reason of having committed any offense covered in section 1182(a)(2)" of Title 8;

(B) "is deportable by reason of having committed any offense covered in section 1227(a)(2)(A)(ii), (A)(iii), (B), (C), or (D)" of Title 8;

(C) "is deportable under section 1227(a)(2)(A)(i) … on the basis of an offense for which the alien has been sentenced to a term of imprisonment of at least 1 year"; or

(D) "is inadmissible under section 1182(a)(3)(B) … or deportable under section 1227(a)(4)(B)."

8 U.S.C. § 1226(c)(1)(A)–(D).

79. Each of these categories incorporates separate statutory grounds of inadmissibility or deportability that themselves contain defined predicates, most commonly a conviction, or, in certain inadmissibility contexts, a formal admission to the essential elements of an offense. For example, several offenses "covered in" 8 U.S.C. § 1182(a)(2) are triggered not only by a conviction but also where the noncitizen "admits having committed" the offense or "admits committing acts which constitute the essential elements of" the offense. *See* 8 U.S.C. § 1182(a)(2)(A)(i). In contrast, the deportability grounds cross-referenced in § 1226(c)(1)(B) and (C), including the criminal grounds listed at 8 U.S.C. § 1227(a)(2)(A)(i)–(iii), (B), (C), and (D), generally turn on the existence of a qualifying conviction, along with any required sentence element where specified. *See, e.g.*, 8 U.S.C. § 1227(a)(2)(A)(i), (A)(ii), (A)(iii), (B), (C), (D).

80. The INA further supplies a uniform federal definition of "conviction" for immigration purposes. 8 U.S.C. § 1101(a)(48)(A). Under that definition, a conviction exists where there is a formal judgment of guilt, or, if adjudication is withheld, where the noncitizen has entered a plea or has admitted sufficient facts to warrant a finding of guilt and the court has imposed some form of punishment, penalty, or restraint on liberty. *Id.* Thus, prior to the Laken Riley Act, mandatory detention under § 1226(c)(1) was tethered to the specific inadmissibility or deportability grounds enumerated in subparagraphs (A)–(D), which, by their terms, typically required either a qualifying conviction as defined by federal law or, in limited inadmissibility settings, an admission to the essential elements of an offense as specified in § 1182(a)(2).

C. Mens Rea Requirements of Criminal Offenses Relating to Mandatory Detention Prior to the Laken Riley Act

81. Prior to the Laken Riley Act, mandatory detention under 8 U.S.C. § 1226(c) was tied to specific inadmissibility and deportability grounds, many of which incorporated crimes involving moral turpitude ("CIMTs") or other enumerated offenses that required proof of a culpable mental state.

1. Crimes Involving Moral Turpitude and Mental State Requirements

82. A noncitizen is inadmissible if convicted of, or if he or she admits to having committed, or admits committing acts which constitute the essential elements of, a crime involving moral turpitude. INA § 212(a)(2)(A)(i)(I), 8 U.S.C. § 1182(a)(2)(A)(i)(I). A noncitizen is deportable if convicted of a CIMT committed within five years after admission for which a sentence of one year or longer may be imposed. INA § 237(a)(2)(A)(i), 8 U.S.C. § 1227(a)(2)(A)(i).

83. Whether an offense qualifies as a CIMT is determined under the categorical or modified categorical approach. *Almanza-Arenas v. Lynch*, 815 F.3d 469, 475 (9th Cir. 2015) (en banc); *Matter of Silva-Trevino*, 26 I&N Dec. 826, 831–34 (BIA 2016). The inquiry focuses on the statutory elements of the offense, not the underlying factual allegations. *Taylor v. United States*, 495 U.S. 575 (1990).

84. The Ninth Circuit has consistently held that moral turpitude requires both reprehensible conduct and a culpable mental state. An offense involves moral turpitude only if it includes conduct that is "inherently base, vile, or depraved" and contrary to accepted moral standards. *Robles-Urrea v. Holder*, 678 F.3d 702, 708 (9th Cir. 2012); *Jauregui-Cardenas v. Barr*, 946 F.3d 1116, 1120 (9th Cir. 2020). Such crimes must be accompanied by an "evil mind" or "vicious motive." *Morales-Garcia v. Holder*, 567 F.3d 1058, 1062 (9th Cir. 2009).

85. Importantly, "[w]here no conscious behavior is required, there can be no finding of moral turpitude." *Leal v. Holder*, 771 F.3d 1140, 1146 (9th Cir. 2014). As the required mental state decreases from intentional to reckless conduct, a greater degree of harm is required to sustain a finding of moral turpitude. *Id.*

86. The Ninth Circuit has held that theft offenses involve moral turpitude only where the statute requires the intent to permanently deprive the owner of property or to deprive the owner under circumstances substantially eroding property rights. *Castillo-Cruz v. Holder*, 581 F.3d 1154, 1159–60 (9th Cir. 2009); *Matter of Diaz-Lizarraga*, 26 I&N Dec. 847, 852–53 (BIA 2016).

87. If a theft statute criminalizes temporary takings or does not require intent to permanently deprive, or its functional equivalent, it does not categorically qualify as a CIMT. See *Castillo-Cruz*, 581 F.3d at 1160. The analysis turns on the statutory mens rea element.

88. Accordingly, prior to the Laken Riley Act, theft-based mandatory detention predicates were limited to offenses requiring a defined culpable mental state tied to permanent or substantial deprivation.

D. Petty Offense Exceptions to Mandatory Detention Prior to the Laken Riley Act

89. Prior to the Laken Riley Act, the INA contained statutory exceptions designed to limit immigration consequences for certain low-level offenses, including offenses that might otherwise be

treated as CIMTs. In the inadmissibility context, the "petty offense" exception provides that the CIMT ground of inadmissibility does not apply where (1) the noncitizen committed only one CIMT, (2) the maximum penalty possible for the offense did not exceed imprisonment for one year, and (3) the noncitizen was not sentenced to a term of imprisonment in excess of six months. INA § 212(a)(2)(A)(ii)(II), 8 U.S.C. § 1182(a)(2)(A)(ii)(II).

90. Because mandatory detention under 8 U.S.C. § 1226(c)(1)(A) is triggered by noncitizens who are "inadmissible by reason of having committed any offense covered in section 1182(a)(2)," the petty offense exception is part of the incorporated statutory scheme that determines whether a CIMT-based inadmissibility ground applies in the first instance. *See* 8 U.S.C. § 1226(c)(1)(A); 8 U.S.C. § 1182(a)(2)(A)(i)(I), (ii)(II). Where the petty offense exception applies, the noncitizen is not inadmissible under the CIMT provision, and the statutory predicate incorporated by § 1226(c)(1)(A) is not satisfied on that basis.

91. Congress also incorporated severity limitations into the deportability CIMT ground. A noncitizen is deportable for a single CIMT committed within five years of admission only if the offense is one "for which a sentence of one year or longer may be imposed." INA § 237(a)(2)(A)(i)(II), 8 U.S.C. § 1227(a)(2)(A)(i)(II). That sentence-exposure requirement reflects an additional statutory limitation narrowing the range of CIMT offenses that may trigger immigration consequences in removal proceedings.

92. These statutory features demonstrate that, prior to the Laken Riley Act, the INA's conviction-based criminal grounds, and the mandatory detention provision that cross-referenced them, were structured to account for offense severity. In particular, the petty offense exception operates as a statutory limitation on CIMT-based inadmissibility for low-level offenses, including those carrying

limited maximum penalties and resulting in limited actual sentences. *See* 8 U.S.C. § 1182(a)(2)(A)(ii)(II).

History of the Laken Riley Act

93. The Laken Riley Act was enacted in early 2025 as a detention-focused immigration measure requiring DHS to take certain noncitizens into custody without bond based on specified criminal allegations, particularly property offenses such as theft, burglary, larceny, and shoplifting (and, as enacted, additional categories including assault of a law-enforcement officer and certain crimes resulting in death or serious bodily injury). *See* Laken Riley Act, Pub. L. No. 119-1 (2025). The statute's stated premise was that mandatory federal custody would prevent harm by ensuring the detention of covered noncitizens during removal proceedings, and DHS and congressional sponsors publicly framed the law as a response to crimes attributed to noncitizens and as a directive limiting federal discretion to release individuals accused of covered offenses. *See, e.g.*, U.S. Dep't of Homeland Sec., Press Release, President Trump Signs the Laken Riley Act into Law (Jan. 29, 2025); Rep. Mike Collins, Press Release, President Trump Signs the Laken Riley Act into Law (Jan. 29, 2025).

94. The Act is named for Laken Riley, a 22-year-old nursing student who was killed on February 22, 2024, while jogging near the University of Georgia campus in Athens, Georgia. *See* Kate Brumback, Associated Press, Police Arrest Man in Killing of Nursing Student at University of Georgia (Feb. 24, 2024). Her killing became a national political flashpoint in debates over immigration enforcement, and the legislation was advanced and ultimately passed as an "in her honor" response intended to expand mandatory detention. *See* U.S. Dep't of Homeland Sec., Press Release, President Trump Signs the Laken Riley Act into Law (Jan. 29, 2025).

95. Public reporting on the Riley case underscores a core point about the Act's asserted rationale. The criminal charges described in contemporaneous coverage of the Riley homicide were

violent offenses (including malice murder and felony murder), not theft-related charges. *See* Brumback, supra (listing the charges announced at arrest); Kate Brumback, Associated Press, Man Convicted of Killing Laken Riley Sentenced to Life in Prison Without Parole (Nov. 20, 2024) (describing conviction on murder and related violent counts). Thus, to the extent the Act was promoted as preventing tragedies through mandatory detention for property offenses, the publicly reported charging posture of the Riley case itself did not involve a theft charge, highlighting the mismatch between the narrative impetus for the law and the particular offense categories emphasized in its detention trigger.

Mandatory Detention After the Laken Riley Act

96. The Laken Riley Act amends the mandatory detention framework to require detention where a noncitizen:

(i) is inadmissible under paragraph (6)(A), (6)(C), or (7) of section 1182(a); and

(ii) is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person.

97. The structure and wording of this provision materially expand the scope of mandatory detention in several respects.

A. No Requirement of a Conviction

98. Unlike prior mandatory detention triggers tied to conviction-based grounds (e.g., aggravated felonies or specified deportability provisions), the Laken Riley Act expressly includes individuals who are merely "charged with" or "arrested for" qualifying offenses. The statutory text does not require a conviction, nor does it require a formal admission to the essential elements of the offense. Arrest or charge alone is sufficient under the plain language of the statute.

B. No Mens Rea Limitation

99. The statute does not define burglary, theft, larceny, shoplifting, or assault of a law enforcement officer by reference to a generic federal definition. Nor does it incorporate established mens rea standards such as intent to permanently deprive (as required in generic theft jurisprudence) or specific intent to cause harm. Instead, the provision references offenses as defined by the charging jurisdiction. The text contains no independent requirement that the offense include fraudulent intent, permanent deprivation, specific intent to injure, or any other defined culpable mental state.

C. No Severity Threshold

100. The Laken Riley Act does not impose any sentence-based or punishment-based limitation. It does not require that the offense be punishable by a minimum term of imprisonment, nor does it require that any particular sentence be imposed. The statute applies regardless of whether the offense is classified as a felony or misdemeanor and regardless of the length of potential or actual incarceration.

D. No Petty Offense Exception

101. The provision contains no exception comparable to the petty offense exception in INA § 212(a)(2)(A)(ii)(II). The text does not exclude minor theft or shoplifting offenses based on maximum penalty, actual sentence imposed, or monetary value involved. As written, the statute applies categorically to "any burglary, theft, larceny, [or] shoplifting" offense, without regard to the degree of the offense or the amount at issue.

E. No Incorporation of the Categorical Approach

102. The statutory language does not reference aggravated felony definitions, crimes involving moral turpitude, or any other cross-referenced provisions that traditionally trigger application of the categorical or modified categorical approach. The Act does not require comparison to a generic federal definition, nor does it require analysis of statutory elements under *Taylor*, *Descamps*, or *Mathis*.

Instead, detention is triggered by the existence of a charge, arrest, conviction, or admission relating to the enumerated offense labels.

103. Under its plain terms, the Laken Riley Act thus detaches mandatory detention from prior conviction-based frameworks, mens rea limitations, sentence thresholds, petty offense safeguards, and established categorical methodology.

PROCEDURAL AND FACTUAL BACKGROUND

104. Petitioner Edwin Jose Rivera Rodriguez is a 28-year-old citizen and national of Venezuela. Ex. 2. He entered the United States in 2023 and later filed an application for asylum on July 31, 2023, which remains pending. *Id.* Petitioner has expressed fear of persecution in Venezuela [redacted] and has sought protection through lawful immigration channels. *Id.*

105. Petitioner is married [redacted] also a Venezuelan national and has been granted asylum in the United States. Ex. 2. Petitioner has no children, no gang affiliations, no history of violence, and no prior criminal convictions. *Id.*

106. On November 7, 2025, Petitioner was charged in Utah state court with a single count of retail theft, a misdemeanor, under Utah Code § 76-6-602. The charge remains pending. *Id.* He has not been convicted of this offense or of any other crime.

107. The allegation underlying the charge involves less than thirty dollars' worth of merchandise. The store's internal documentation reflects a total value of approximately $29.86. Ex. 4. The items consisted of inexpensive retail hair products. A contemporaneous store receipt shows that Petitioner paid for other items during the same transaction. Ex. 5.

108. Petitioner disputes that he possessed the requisite intent to permanently deprive the store of property. He maintains that he did not act with theft intent and that the incident was the result of confusion during checkout. He has filed a motion to dismiss in his criminal case asserting that the

evidence does not establish the necessary mens rea. Ex. 6. Petitioner alleges that the offense was a mere accident and not intentional. *Id.* The state court has not adjudicated the charge.

109. There is no allegation that Petitioner used force, threats, or violence. The charge is not classified as a felony. It does not involve burglary of a dwelling, assault, fraud, or any offense involving serious bodily injury. It is a low-level misdemeanor retail allegation involving inexpensive consumer goods. The maximum possible sentence is 180 days in jail. Utah Code Section 76-6-602.

110. On February 3, 2026, Petitioner appeared voluntarily at the Bountiful Justice Court for his scheduled criminal hearing. Ex. 2. He did not attempt to evade authorities. He was not arrested at his residence or during any enforcement operation. Instead, he was taken into ICE custody in the courthouse lobby immediately after exiting his courtroom. *Id.*

111. That same day, ICE issued a Notice to Appear charging Petitioner solely under INA § 212(a)(6)(A)(i) as a noncitizen present without admission or parole. Ex. 1. ICE did not charge him as removable on any criminal ground.

112. ICE subsequently transferred Petitioner to the Nevada Southern Detention Center in Pahrump, Nevada. Ex. 7. He remains detained there. Ex. 3.

113. The only criminal allegation in Petitioner's history is the pending misdemeanor retail theft charge described above. Ex. 2. Records checks for outstanding warrants and other criminal history were negative. *Id.* He has no prior convictions and no history of violent conduct.

114. Notwithstanding the minor and unadjudicated nature of the allegation, ICE has subjected Petitioner to mandatory detention under the Laken Riley Act. He has not been afforded an individualized bond hearing. No immigration judge has determined that he poses a danger to the community or a flight risk. No finding of dangerousness has been made by any neutral decisionmaker.

115. As a result, Petitioner, a young asylum applicant, married to an asylee, charged only with a pending misdemeanor involving less than thirty dollars in retail merchandise, remains incarcerated without bond solely because he was accused of shoplifting of items valued at less than $30. The detention is automatic. It is not based on conviction. It is not based on violence. It is not based on any individualized determination of necessity.

116. But for the Laken Riley Act's mandatory detention provision, Petitioner would be eligible for release under 8 U.S.C. § 1226(a) and entitled to an individualized bond hearing at which the government would bear the burden of justifying continued confinement. Instead, he remains in civil incarceration based solely on an unproven allegation involving inexpensive retail goods.

ARGUMENTS

I. AS APPLIED, THE LAKEN RILEY ACT VIOLATES THE PETITIONER'S DUE PROCESS

117. As applied to Petitioner, the Laken Riley Act's mandatory-detention scheme crosses the constitutional line that separates permissible civil regulation from punitive incarceration. Petitioner is not detained because any neutral decisionmaker has found him dangerous or a flight risk. He is not detained because he has been convicted of any offense. He is detained because he has been *accused,* in a pending state misdemeanor case involving less than thirty dollars of merchandise, conduct he disputes and that has not been adjudicated. Yet the Act commands confinement without any individualized hearing, without any evidentiary standard, and without any opportunity to test the government's asserted need for detention.

118. The Fifth Amendment does not permit that result. Freedom from physical restraint lies at the core of due process, and preventive detention is a "carefully limited exception" that is constitutionally tolerable only when narrowly tailored to a legitimate regulatory purpose and accompanied by robust procedural protections. The Supreme Court upheld preventive detention in

Salerno only because the statute required a prompt adversarial hearing and individualized findings supported by clear and convincing evidence. 481 U.S. at 750–52. Here, by contrast, the Laken Riley Act mandates detention categorically based on accusation alone and provides no mechanism for a neutral adjudicator to determine whether detention is necessary in Petitioner's circumstances. That design creates an intolerable risk of erroneous deprivation of liberty and authorizes confinement that is excessive in relation to any legitimate governmental interest.

119. This case illustrates why individualized process matters. Petitioner voluntarily appeared for his state court hearing, has no criminal convictions, no history of violence, and a pending asylum application. The only alleged conduct involves inexpensive retail items and a disputed mens rea. In these circumstances, categorical detention is not reasonably related to ensuring appearance or protecting the community, it is punitive incarceration imposed as a consequence of accusation. Because the Act strips away the minimum procedural protections required before the government may restrain physical liberty, it violates both procedural and substantive due process as applied to Petitioner. The appropriate remedy is a writ ordering Petitioner's release or, at minimum, a prompt individualized bond hearing at which the government must justify continued detention before a neutral decisionmaker.

A. As Applied to Petitioner, The Laken Riley Act Violates Petitioner's Substantive Due Process.

120. Substantive due process limits the government's authority to deprive an individual of physical liberty absent a sufficiently weighty, legitimate regulatory purpose and a means reasonably related to that purpose. Civil detention is constitutionally permissible only when it is nonpunitive in purpose and effect, and when it bears a reasonable relation to legitimate governmental objectives such as ensuring appearance at proceedings or protecting the community from demonstrable danger. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Bell v. Wolfish*, 441 U.S. 520, 538–39 (1979); *Foucha*

v. Louisiana, 504 U.S. 71, 79–80 (1992). Preventive detention is the "carefully limited exception," not the rule. *United States v. Salerno*, 481 U.S. 739, 755 (1987).

121. As applied here, Petitioner's mandatory detention under the Laken Riley Act fails that constitutional test.

122. First, Petitioner's confinement is not reasonably related to the government's asserted regulatory interests. The government's typical justifications for immigration detention are ensuring appearance at removal proceedings and protecting the community from danger. *Zadvydas*, 533 U.S. at 690. Yet Petitioner voluntarily appeared for his scheduled state court hearing, has no criminal convictions, no history of violence, and no record of failing to appear. The only allegation against him is a pending misdemeanor retail theft charge involving less than thirty dollars of merchandise, which he disputes and which has not been adjudicated. There has been no individualized determination, by ICE or by an immigration judge, that he poses a flight risk or a danger to the community. In these circumstances, automatic incarceration bears no demonstrated relationship to ensuring his appearance or protecting public safety.

123. Second, the statute, as applied, operates in a manner that is excessive in relation to any legitimate objective. Substantive due process prohibits detention that is arbitrary or disproportionate to its asserted regulatory purpose. *Foucha*, 504 U.S. at 79. Here, Congress has mandated detention based solely on the existence of a charge, without regard to the severity of the offense, the amount involved, the individual's criminal history, the strength of the evidence, or the person's demonstrated risk profile. Petitioner, an asylum applicant with family ties in the United States and no violent history, is treated identically to individuals accused of far more serious conduct. Such categorical detention, untethered to individualized necessity, is excessive as applied to him.

124. Third, detention triggered solely by accusation risks transforming civil confinement into punishment. Civil detention must remain regulatory, not punitive. *Bell*, 441 U.S. at 535–37. The presumption of innocence remains a foundational principle of American law. While the government may impose limited restraints pending adjudication in narrowly defined circumstances, those restraints must be justified by individualized findings and procedural safeguards. *Salerno*, 481 U.S. at 750–52. Here, Petitioner is incarcerated not because he has been convicted of wrongdoing, but because he has been accused. No neutral decisionmaker has determined that confinement is necessary. In practical effect, detention functions as punishment imposed in advance of adjudication.

125. *Demore v. Kim* does not compel a different result. 538 U.S. 510 (2003). There, the Supreme Court upheld mandatory detention for a narrowly defined class of noncitizens who had been convicted of enumerated criminal offenses, and it did so in reliance on congressional findings regarding recidivism and flight risk among that specific class. Id. at 518–21, 531. Petitioner, by contrast, has not been convicted of any offense. His detention is triggered by a pending misdemeanor charge, not by a qualifying conviction, and no congressional findings address the risk posed by individuals merely accused of low-level theft offenses. The distinction between conviction and accusation is constitutionally significant.

126. Substantive due process does not permit Congress to mandate incarceration in circumstances where detention is not reasonably related to a legitimate regulatory objective and is excessive in relation to that purpose. As applied to Petitioner, a nonviolent asylum seeker with a single unadjudicated misdemeanor charge involving minimal alleged loss, the Laken Riley Act authorizes confinement that is arbitrary, disproportionate, and punitive in effect. His continued mandatory detention therefore violates the Fifth Amendment's guarantee of substantive due process.

B. As Applied to Petitioner, The Laken Riley Act Violates Petitioner's Procedural Due Process.

127. Even if Congress may authorize detention in limited circumstances, the Fifth Amendment requires that meaningful procedural safeguards accompany any deprivation of physical liberty. Before the government may incarcerate an individual in civil proceedings, it must provide notice and a meaningful opportunity to be heard before a neutral decisionmaker. *Mathews v. Eldridge*, 424 U.S. 319, 333–35 (1976). Where physical liberty is at stake, the procedural protections required are at their apex. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

128. As applied to Petitioner, the Laken Riley Act provides no constitutionally adequate process.

129. Under *Mathews*, courts evaluate (1) the private interest affected, (2) the risk of erroneous deprivation under existing procedures and the probable value of additional safeguards, and (3) the government's interest. 424 U.S. at 335. Each factor weighs decisively in Petitioner's favor.

130. First, the private interest at stake, freedom from physical restraint, is among the most fundamental protected by the Constitution. The Supreme Court has repeatedly recognized that involuntary civil confinement constitutes a severe deprivation of liberty. *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Addington v. Texas*, 441 U.S. 418, 425 (1979). Petitioner is not subject to a regulatory inconvenience; he is incarcerated.

131. Second, the risk of erroneous deprivation under the statute's design is substantial. The Laken Riley Act mandates detention based solely on the existence of a charge, arrest, or allegation. It does not require a conviction. It does not require a judicial finding of probable cause in the immigration context. It does not provide for a prompt adversarial hearing at which the government must justify detention. It does not assign the government any evidentiary burden. It does not permit an immigration

judge to consider individualized factors such as flight risk, dangerousness, family ties, community support, or the strength of the underlying criminal case.

132. Here, the risk of error is not theoretical. Petitioner disputes the underlying allegation. The charge is pending and unadjudicated. The alleged loss is less than thirty dollars. There has been no finding that he poses any danger or flight risk. Yet he is categorically detained without an opportunity to contest the necessity of that confinement. A prompt bond hearing before a neutral adjudicator, where the government bears the burden of demonstrating that detention is necessary, would materially reduce the risk of erroneous deprivation.

133. Third, the government's interest does not justify dispensing with individualized process. The government undoubtedly has a legitimate interest in ensuring appearance at removal proceedings and protecting the community. *Zadvydas*, 533 U.S. at 690. But those interests are already served under 8 U.S.C. § 1226(a), which authorizes detention pending removal and permits individualized bond determinations. Providing Petitioner with a prompt bond hearing would not undermine those interests; it would ensure that detention is imposed only where necessary.

134. The Supreme Court's decision in *United States v. Salerno* underscores the procedural deficiency here. 481 U.S. 739 (1987). The Bail Reform Act survived constitutional scrutiny because it provided robust safeguards: a prompt adversarial hearing, the right to counsel, the opportunity to present and confront evidence, and a requirement that the government prove dangerousness by clear and convincing evidence. *Id.* at 750–52. The Laken Riley Act, as applied, contains none of those protections. It substitutes accusation for adjudication and eliminates the neutral, individualized determination that due process requires.

135. Because Petitioner has been deprived of his liberty without a meaningful opportunity to be heard and without any requirement that the government justify detention before a neutral

decisionmaker, his continued mandatory confinement violates the Fifth Amendment's guarantee of procedural due process. At minimum, the Constitution requires a prompt individualized bond hearing at which the government bears the burden of demonstrating that continued detention is necessary.

II. FACIALLY, THE LAKEN RILEY ACT IS UNCONSTITUTIONAL

136. The constitutional defect presented in this case is not confined to Petitioner's individual circumstances. The Laken Riley Act's mandatory detention provision is unconstitutional on its face because its structure eliminates the minimum procedural and substantive safeguards that the Fifth Amendment requires before the government may deprive a person of physical liberty. The statute does not merely authorize detention in limited, narrowly defined circumstances. It mandates incarceration categorically upon arrest or charge for broadly labeled offenses, without requiring conviction, without requiring individualized findings of dangerousness or flight risk, without providing a hearing at which the government must justify confinement, and without incorporating any severity threshold or limiting principle. In every case to which it applies, detention is automatic.

137. A statute that commands imprisonment without constitutionally sufficient process is not unconstitutional only in particular applications; the defect inheres in the statutory design itself. The Supreme Court has made clear that civil detention is permissible only when it is carefully circumscribed and accompanied by robust procedural protections. *United States v. Salerno*, 481 U.S. 739, 747–52 (1987); *Foucha v. Louisiana*, 504 U.S. 71, 79–83 (1992); *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001). Where a statutory scheme dispenses with individualized adjudication and substitutes accusation for proof, it authorizes deprivation of liberty untethered to demonstrated necessity. That is a structural constitutional flaw.

138. Unlike prior mandatory detention provisions tied to conviction-based grounds and limited categories of serious offenses, the Laken Riley Act extends categorical incarceration to individuals who

are merely charged with certain offenses, regardless of the strength of the allegation, the minor nature of the conduct, or the absence of any demonstrated risk. It contains no mechanism for a neutral decisionmaker to determine whether detention is necessary in any given case. Because the statute never affords the constitutionally required opportunity to contest confinement before liberty is restrained, its infirmity is not incidental, it is systemic.

139. The Fifth Amendment does not permit Congress to eliminate individualized process where physical liberty is at stake. A law that, by its terms, mandates incarceration without constitutionally adequate safeguards cannot be constitutionally applied. Accordingly, the Laken Riley Act's mandatory detention provision is facially unconstitutional and unenforceable.

A. The Laken Riley Act Violates Due Process by Allowing mere Accusations of Theft to Result in Mandatory Detention.

140. The Laken Riley Act violates the Fifth Amendment because it authorizes mandatory civil incarceration based solely on accusation. Under its plain terms, detention is triggered where a noncitizen "is charged with" or "is arrested for" certain enumerated offenses, including burglary, theft, larceny, and shoplifting. The statute does not require a conviction. It does not require proof by any evidentiary standard. It does not require an adjudication of guilt. It does not require a finding that the individual poses a danger to the community or a risk of flight. Arrest or charge alone is sufficient to mandate incarceration.

141. The Due Process Clause does not permit deprivation of physical liberty on that basis.

142. The Supreme Court has repeatedly emphasized that freedom from bodily restraint lies at the core of due process protections. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). Although the government may, in limited circumstances, impose preventive detention in civil proceedings, such detention is constitutionally permissible only when carefully circumscribed and supported by robust procedural safeguards. *United States v. Salerno*, 481 U.S. 739,

747–52 (1987). In *Salerno*, the Bail Reform Act survived scrutiny precisely because detention required a prompt adversarial hearing, individualized judicial findings, and proof by clear and convincing evidence of dangerousness. *Id.* at 750–52. The Court described preventive detention as the "carefully limited exception," not the rule. *Id.* at 755.

143. The Laken Riley Act contains none of those constitutional guardrails. It substitutes accusation for adjudication. It mandates detention before any neutral decisionmaker has evaluated the underlying allegation. It dispenses entirely with the requirement that the government demonstrate necessity. In effect, the statute treats the existence of a criminal charge as a conclusive proxy for dangerousness or flight risk.

144. That design collapses a foundational constitutional distinction: the difference between allegation and proof. The presumption of innocence is not a technicality; it reflects the bedrock principle that accusation alone does not establish culpability. While the government may temporarily restrain liberty in the criminal pretrial context, it may do so only through procedures that ensure judicial oversight and individualized findings. *Salerno*, 481 U.S. at 750–52. Here, by contrast, detention is automatic and administrative. No immigration judge evaluates the strength of the charge. No evidentiary standard applies. No burden rests on the government. The statute requires incarceration regardless of whether the charge is weak, contested, or ultimately dismissed.

145. Allowing mere accusations of theft to trigger mandatory detention is particularly constitutionally problematic because theft statutes vary widely across jurisdictions and may encompass minor conduct, temporary deprivations, or low-value property. The Act imposes no severity threshold and no mens rea limitation. As written, it applies equally to a minor shoplifting allegation involving inexpensive merchandise and to far more serious criminal conduct. The categorical sweep of the statute,

untethered to conviction or individualized necessity, renders detention excessive in relation to any legitimate regulatory purpose.

146. Due process requires more. Civil incarceration must bear a reasonable relation to legitimate governmental objectives and must be accompanied by adequate procedural protections to guard against erroneous deprivation. *Bell v. Wolfish*, 441 U.S. 520, 538–39 (1979); *Zadvydas*, 533 U.S. at 690–91. A statute that mandates detention based solely on arrest or charge, without proof, without findings, and without a hearing, authorizes deprivation of liberty in a manner incompatible with those constitutional principles.

147. Because the Laken Riley Act permits mandatory detention on the basis of mere accusation, it violates the Fifth Amendment's guarantee of due process.

B. The Laken Riley Act Violates Due Process by Ignoring the Categorical Approach Established by the Supreme Court.

155. For decades, the Supreme Court has required immigration adjudicators to apply the categorical and modified categorical approaches when determining whether a criminal conviction triggers immigration consequences. *Taylor v. United States*, 495 U.S. 575, 600–02 (1990); *Descamps v. United States*, 570 U.S. 254, 257–63 (2013); *Mathis v. United States*, 579 U.S. 500, 504–06 (2016); *Moncrieffe v. Holder*, 569 U.S. 184, 190–91 (2013). These doctrines are not technical formalities. They are structural safeguards designed to ensure uniformity, predictability, and constitutional restraint in the application of federal consequences tied to criminal law.

156. The categorical approach requires courts to compare the elements of the statute of conviction, not the underlying facts of the case, to a generic federal definition of the offense. *Taylor*, 495 U.S. at 600. The inquiry is elements-based and legal in nature. If the statute sweeps more broadly than the generic definition, the conviction does not qualify, regardless of the particular conduct alleged. *Descamps*, 570 U.S. at 261–63. Where a statute is divisible, courts may apply the modified categorical

approach, consulting a limited class of judicially approved documents to determine which statutory elements formed the basis of conviction. *Mathis*, 579 U.S. at 505–06.

157. The Supreme Court has repeatedly explained why this framework is necessary. First, it preserves national uniformity in federal law. Immigration consequences must not vary based on how individual states draft their criminal statutes. *Taylor*, 495 U.S. at 590–92. Second, it prevents "mini-trials" about historical facts in immigration proceedings, which would be both administratively unworkable and constitutionally problematic. *Descamps*, 570 U.S. at 270–71. Third, it protects defendants' Sixth Amendment jury-trial rights by ensuring that federal consequences attach only to elements necessarily found by a jury or admitted by the defendant, not to judicial factfinding about conduct. *Id.* at 269–70; *Mathis*, 579 U.S. at 511–12. Fourth, it avoids unfairness and unpredictability by ensuring that consequences flow from the statutory elements of conviction, not from variable factual narratives. *Moncrieffe*, 569 U.S. at 190–91.

158. These principles have special force where physical liberty is at stake. Immigration detention is civil, but it constitutes incarceration. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). When detention turns on the existence of a criminal offense, constitutional safeguards require a principled, elements-based method for determining whether the offense qualifies. Without the categorical framework, detention decisions would turn on arrest reports, charging language, or disputed factual allegations, materials never tested by a jury and never subjected to the evidentiary standards of criminal adjudication.

159. The Laken Riley Act abandons that framework. It does not cross-reference established conviction-based grounds such as aggravated felonies or crimes involving moral turpitude, which trigger categorical analysis. It does not require a conviction at all. Instead, it mandates detention where a noncitizen is "charged with" or "arrested for" broadly labeled offenses such as "theft" or

"shoplifting." The statute contains no generic federal definitions and no instruction to apply the categorical approach. As written, detention turns on offense labels assigned by state prosecutors and arresting officers.

160. This departure is constitutionally significant. State definitions of theft, burglary, and related offenses vary widely. Some statutes encompass temporary deprivations. Others include conduct that would not qualify as generic theft under federal jurisprudence. Without the categorical approach, a noncitizen's liberty depends on how a state happens to define or label an offense. The same underlying conduct could trigger mandatory detention in one jurisdiction but not another. Such variability undermines the constitutional requirement of uniformity in federal immigration law. U.S. Const. art. I, § 8, cl. 4.

161. Moreover, dispensing with the categorical framework permits detention based on unproven factual allegations rather than adjudicated elements. The Supreme Court has cautioned against allowing federal consequences to turn on judicial or administrative factfinding beyond the elements of conviction. *Descamps*, 570 U.S. at 269–70. That concern is magnified here, where detention is triggered not by conviction at all but by accusation. Allowing ICE to rely on arrest or charging labels, without categorical limitation, creates an acute risk of arbitrary and erroneous deprivation of liberty.

162. The categorical approach serves as a constitutional boundary between adjudicated guilt and alleged conduct. It ensures that severe federal consequences are imposed only where the elements of an offense necessarily match a defined federal category. By eliminating that boundary and authorizing mandatory detention based on offense labels alone, the Laken Riley Act invites inconsistent application, undermines uniformity, and exposes individuals to incarceration based on untested allegations.

163. Where physical liberty is at stake, due process requires clear, objective standards that minimize arbitrariness and constrain executive discretion. The categorical and modified categorical approaches were developed precisely to serve those ends. The Laken Riley Act's failure to incorporate those safeguards, and its reliance instead on broad offense labels and mere accusation, creates a substantial risk of arbitrary detention inconsistent with constitutional principles. For that reason, the statute violates the Fifth Amendment.

C. The Laken Riley Act Serves No Legitimate Purpose for Civil Detention.

164. Civil detention is constitutionally permissible only when it serves a legitimate, nonpunitive regulatory purpose and bears a reasonable relation to that purpose. *Bell v. Wolfish*, 441 U.S. 520, 538–39 (1979); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The government's recognized interests in the immigration context are limited: ensuring a noncitizen's appearance at removal proceedings and protecting the community from demonstrable danger. *Zadvydas*, 533 U.S. at 690. Detention that is excessive in relation to those interests, or untethered from them altogether, violates substantive due process. *Foucha v. Louisiana*, 504 U.S. 71, 79–80 (1992).

165. The Laken Riley Act, as structured, does not meaningfully advance either permissible objective.

166. First, mandatory detention based solely on arrest or charge does not rationally advance the goal of ensuring appearance at removal proceedings. The INA already contains a comprehensive framework under 8 U.S.C. § 1226(a) that authorizes detention pending removal and permits individualized bond determinations. That system allows immigration judges to assess flight risk and impose conditions of release where appropriate. The Laken Riley Act does not refine or strengthen that individualized process; it eliminates it. By mandating detention without any assessment of actual flight risk, the statute detains individuals who present no demonstrated risk while failing to tailor detention

to those who do. A categorical rule that ignores individualized circumstances cannot be said to be reasonably related to ensuring court appearance.

167. Second, the Act does not narrowly target individuals who pose a danger to the community. It mandates detention for nonviolent property offenses, including low-level theft and shoplifting, without regard to the value involved, the absence of force, or the individual's criminal history. The statute contains no severity threshold, no requirement of prior convictions, and no finding of dangerousness. The government's asserted public safety interest cannot justify incarcerating all individuals accused of any theft-related offense, regardless of context. When detention sweeps in minor, nonviolent allegations untethered to demonstrated risk, it ceases to function as a regulatory safeguard and instead operates as a blunt punitive measure.

168. The mismatch between means and ends is particularly stark given the Act's publicly articulated purpose. The legislation was framed as a response to violent crime and as a measure intended to prevent tragic acts of violence. Yet the detention trigger extends broadly to nonviolent theft offenses. Mandatory detention of individuals accused of minor shoplifting does not rationally address the prevention of violent harm. A statute that claims to protect against violent crime but categorically incarcerates individuals accused of petty property offenses lacks the tailoring required by substantive due process.

169. Moreover, the Act dispenses with the core constitutional mechanism for ensuring that detention remains regulatory rather than punitive: individualized adjudication. In *Salerno*, the Supreme Court upheld preventive detention only because it was accompanied by robust procedural protections and individualized findings demonstrating necessity. 481 U.S. at 747–52. Here, the statute mandates detention without any requirement that the government show necessity in a particular case. Where

confinement is imposed automatically, without regard to individualized circumstances, and without a hearing to justify detention, the line between regulation and punishment collapses.

170. Civil detention must remain reasonably related to legitimate governmental objectives. When detention is triggered by accusation alone, applied without severity limits, and imposed without individualized findings, it becomes excessive and arbitrary. Because the Laken Riley Act mandates incarceration in circumstances where detention is not reasonably related to ensuring appearance or protecting public safety, it serves no legitimate regulatory purpose consistent with the Fifth Amendment.

D. The Laken Riley Act is Unconstitutionally Vague

179. The Laken Riley Act violates the Fifth Amendment because its detention trigger is impermissibly vague. By mandating incarceration based on arrest or charge for broadly labeled offenses such as "theft," "larceny," "shoplifting," or "burglary," without defining those terms or incorporating a uniform federal standard, the statute sweeps far beyond any legitimate regulatory purpose and fails to provide the clarity required when physical liberty is at stake.

180. The Due Process Clause requires that statutes provide sufficient clarity to give ordinary people notice of the conduct that triggers severe consequences and to prevent arbitrary enforcement. *Sessions v. Dimaya*, 584 U.S. 148, 155–56 (2018); *Johnson v. United States*, 576 U.S. 591, 595 (2015). Although these cases arose in criminal and removal contexts, the principle applies with equal force where civil detention is at issue. When a statute authorizes incarceration, clarity is essential.

181. The Laken Riley Act provides no definition of the enumerated offenses. It does not specify whether "theft" or "burglary" are to be interpreted according to generic federal definitions, state law labels, or some other standard. It does not clarify whether the categorical approach applies. It does not

limit its scope to offenses involving permanent deprivation, fraudulent intent, or violent conduct. Instead, detention turns on the mere existence of a charge under state law.

182. Because state definitions of theft and related offenses vary dramatically, the same conduct could trigger mandatory detention in one jurisdiction but not in another. The statute leaves executive officials free to rely on charging labels and arrest decisions without meaningful standards. Such open-ended discretion invites arbitrary application, the very evil the vagueness doctrine is designed to prevent.

183. Moreover, where detention is triggered by arrest or charge, individuals have no meaningful way to predict whether a particular allegation will result in mandatory incarceration. The absence of clear statutory boundaries, combined with reliance on varied state-law terminology, fails to provide the fair notice and objective standards required when liberty is restrained.

III. BECAUSE THE LAKEN RILEY ACT DOES NOT INCLUDE PROCEDURAL AND SUBSTANTIVE SAFEGUARDS INCLUDED TO PRE-LAKEN RILEY ACT MANDATORY DETENTION, *DEMORE V. KIM* DOES NOT APPLY

184. *Demore v. Kim* does not foreclose Petitioner's due process challenge. 538 U.S. 510 (2003). Demore upheld a prior, materially narrower form of mandatory detention, one limited to a defined class of noncitizens convicted of enumerated offenses and removable on specified criminal grounds, and it did so against a record and statutory structure that supplied substantive limiting principles and a materially different procedural posture. *Id.* at 513–14, 518–21, 531. The Laken Riley Act departs from those limiting features. It mandates incarceration based on mere accusation for broadly labeled offenses, without conviction, without a finding of removability on a criminal ground, and without any individualized adjudication of necessity. Because *Demore's* reasoning depended on the safeguards and predicates built into the preexisting § 1226(c) framework, its holding does not extend to this new regime.

A. *Demore's* "Limited Duration" Rationale Does Not Translate to an Accusation-Triggered Regime

188. *Demore* also relied on the assertedly brief duration of detention "for the limited period necessary for their removal proceedings." 538 U.S. at 513, 529–30. Even accepting *Demore's* description of typical timelines, that premise does not map onto the Laken Riley Act's structure. When detention is triggered by a pending charge, the timing of release becomes dependent on criminal-case contingencies that are often slow and unpredictable: continuances, discovery disputes, prosecutorial delay, and contested mens rea issues, particularly in low-level retail cases where the state's evidence may be thin and litigation may be protracted. Immigration detention can also prevent the accused from even participating in the criminal case, further prolonging detention and denying defendants their right to a speedy trial.

189. In other words, the Laken Riley Act creates a detention trigger that is uniquely prone to extended confinement because the predicate event is not a conviction but a live accusation. And because the Act affords no bond hearing at which the government must demonstrate necessity, the detainee has no meaningful mechanism to obtain release even where the criminal case lingers or collapses. *Demore* did not approve mandatory detention whose duration is driven by unadjudicated accusations and prosecutorial timelines rather than by the orderly resolution of removal proceedings.

B. *Demore* Did Not Approve Mandatory Detention Without Any Individualized Opportunity to Contest Necessity Where the Predicate Is Mere Accusation

192. Even accepting that Congress may sometimes impose categorical detention, due process analysis turns on the reliability of the triggering predicate and the availability of procedures that meaningfully reduce error. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). A conviction is a high-reliability predicate; an arrest or charge is not. When the predicate is accusation, the risk of erroneous

deprivation skyrockets, especially where, as here, detention turns on offense labels that vary across jurisdictions and may encompass trivial, accidental, or disputed conduct.

193. *Demore* did not confront that problem because it assumed a conviction-based class and removability "by reason of" enumerated crimes. 538 U.S. at 518–21. Extending *Demore* to accusation-trigger detention would treat the mere filing of charges, an executive act by prosecutors, as constitutionally equivalent to an adjudicated conviction. The Fifth Amendment does not permit that equivalence where physical liberty is at stake.

C. Because the Laken Riley Act Eliminates the Guardrails That Supported *Demore*, This Court Must Conduct an Independent Due Process Analysis

194. *Demore* stands for a narrow proposition: Congress may require detention for a limited class of noncitizens whose status as qualifying criminal offenders has been established through conviction and who fall within a defined statutory framework that Congress found to pose heightened flight and recidivism risks. 538 U.S. at 518–21, 531. It does not stand for the broader claim that Congress may mandate civil incarceration whenever a prosecutor files theft-related charges, regardless of seriousness, culpability, or individualized necessity.

195. Because the Laken Riley Act departs from the preexisting safeguards that cabined § 1226(c) and undergirded *Demore's* reasoning, *Demore* does not control Petitioner's challenge. This Court must therefore evaluate the Act under ordinary Fifth Amendment principles governing civil detention, principles that require a reasonable relation to legitimate regulatory purposes and procedures sufficient to minimize erroneous and excessive restraints on liberty. *See Zadvydas v. Davis*, 533 U.S. 678, 690–95 (2001); *Foucha v. Louisiana*, 504 U.S. 71, 79–83 (1992); *Bell v. Wolfish,* 441 U.S. 520, 538–39 (1979); *Mathews*, 424 U.S. at 335. Under those principles, mandatory detention triggered by mere accusation, without conviction, without individualized findings, and without a hearing, cannot stand.

CAUSES OF ACTION

1. FIRST CAUSE OF ACTION:
Violation of Substantive Due Process

196. Petitioner incorporates and realleges the allegations set forth in the preceding paragraphs as though fully stated herein.

197. The Fifth Amendment to the United States Constitution provides that no person shall be deprived 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 v. Davis*, 533 U.S. 678, 690 (2001).

198. Civil immigration detention is constitutionally permissible only where it serves a legitimate, nonpunitive regulatory purpose and bears a reasonable relation to that purpose. *Bell v. Wolfish*, 441 U.S. 520, 538–39 (1979); *Foucha v. Louisiana*, 504 U.S. 71, 79–80 (1992). Preventive detention is the "carefully limited exception," not the rule. *United States v. Salerno*, 481 U.S. 739, 755 (1987).

199. The Laken Riley Act mandates detention of noncitizens who are merely charged with or arrested for broadly labeled offenses such as "theft," "larceny," or "shoplifting," without requiring conviction, without requiring proof of dangerousness or flight risk, and without permitting individualized adjudication of necessity.

200. As applied to Petitioner, mandatory detention under the Laken Riley Act is not reasonably related to any legitimate regulatory objective. Petitioner has not been convicted of any crime, has no history of violence, voluntarily appeared for his state court proceedings, and faces only a pending misdemeanor retail theft charge involving minimal alleged loss. No neutral decisionmaker has determined that he poses a danger to the community or a risk of flight.

201. Categorical incarceration based solely on accusation, without regard to severity, culpability, or individualized risk, is excessive in relation to the government's asserted interests in

ensuring appearance at removal proceedings and protecting the community. It transforms civil detention into punitive confinement imposed in advance of adjudication.

202. The Laken Riley Act's mandatory detention scheme, both on its face and as applied to Petitioner, authorizes deprivation of physical liberty untethered to demonstrated necessity and without substantive limiting principles. It dispenses with conviction-based predicates, severity thresholds, mens rea limitations, and individualized findings that historically constrained mandatory detention.

203. Because Petitioner's continued incarceration is not reasonably related to a legitimate, nonpunitive regulatory purpose and is excessive in relation to any such purpose, his detention violates the substantive component of the Due Process Clause of the Fifth Amendment. Petitioner is therefore in custody in violation of the Constitution within the meaning of 28 U.S.C. § 2241(c)(3).

204. Pursuant to 28 U.S.C. §§ 2241 and 2243, Petitioner is entitled to habeas relief, including an order declaring that his mandatory detention under the Laken Riley Act violates substantive due process and directing Respondents to immediately release him or, at minimum, provide a prompt individualized bond hearing at which the government bears the burden of demonstrating that continued detention is constitutionally justified.

2. SECOND CAUSE OF ACTION:
Violation of Procedural Due Process

205. Petitioner incorporates and realleges the allegations set forth in the preceding paragraphs as though fully stated herein.

206. The Fifth Amendment provides that no person shall "be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. 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 (2001). Civil incarceration therefore requires constitutionally adequate procedural safeguards.

207. Procedural due process requires, at minimum, notice and a meaningful opportunity to be heard before a neutral decisionmaker prior to the deprivation of a protected liberty interest. *Mathews v. Eldridge*, 424 U.S. 319, 333–35 (1976). Where physical liberty is at stake, procedural protections must be robust. *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Addington v. Texas*, 441 U.S. 418, 425 (1979).

208. In determining what process is due, courts consider: (1) the private interest affected; (2) the risk of erroneous deprivation under existing procedures and the probable value of additional safeguards; and (3) the government's interest. *Mathews*, 424 U.S. at 335.

209. As applied to Petitioner, each *Mathews* factor weighs decisively in favor of additional procedural protections.

210. First, the private interest at stake, freedom from physical incarceration, is fundamental. Petitioner is confined in a secure detention facility and deprived of his liberty without any individualized judicial determination that such confinement is necessary.

211. Second, the risk of erroneous deprivation under the Laken Riley Act's mandatory detention scheme is substantial. Detention is triggered solely by arrest or charge for broadly labeled offenses. The statute does not require a conviction. It does not require an immigration judge to determine whether the offense qualifies under a uniform federal definition. It does not require proof by any evidentiary standard. It does not provide a prompt adversarial hearing at which the government must justify continued confinement. It does not permit consideration of individualized factors such as flight risk, dangerousness, family ties, or the strength of the underlying criminal allegation.

212. In Petitioner's case, the underlying charge is pending and contested. The alleged loss is minimal. No neutral decisionmaker has evaluated whether he poses any risk. Without an individualized

hearing, detention rests entirely on untested accusation, creating a significant risk of erroneous and unnecessary incarceration.

213. The probable value of additional procedural safeguards is clear. A prompt bond hearing before an immigration judge, at which the government bears the burden of demonstrating by clear and convincing evidence that detention is necessary to prevent flight or danger, would substantially reduce the risk of erroneous deprivation. The Supreme Court upheld preventive detention in *United States v. Salerno*, 481 U.S. 739, 750–52 (1987), only because the statute provided robust procedural protections, including a prompt adversarial hearing and a clear-and-convincing evidentiary standard. The Laken Riley Act provides none of those safeguards.

214. Third, the government's interests do not justify dispensing with individualized process. The government retains a legitimate interest in ensuring appearance at removal proceedings and protecting the community. *Zadvydas*, 533 U.S. at 690. But those interests are fully served under 8 U.S.C. § 1226(a), which authorizes detention and individualized bond determinations. Providing a bond hearing would not undermine those objectives; it would ensure that detention is imposed only where necessary.

215. By mandating detention based solely on accusation and by eliminating any opportunity for a neutral decisionmaker to assess the necessity of confinement, the Laken Riley Act authorizes deprivation of liberty without constitutionally sufficient process.

216. As applied to Petitioner, the statute deprives him of physical liberty without a meaningful opportunity to be heard and without requiring the government to carry any burden of proof. Such categorical detention violates the procedural component of the Due Process Clause of the Fifth Amendment.

217. Petitioner is therefore in custody in violation of the Constitution within the meaning of 28 U.S.C. § 2241(c)(3).

218. Pursuant to 28 U.S.C. §§ 2241 and 2243, Petitioner is entitled to habeas relief, including an order declaring that his mandatory detention under the Laken Riley Act violates procedural due process and directing Respondents to immediately release him or, at minimum, provide a prompt individualized bond hearing at which the government bears the burden of demonstrating that continued detention is constitutionally justified.

THIRD CAUSE OF ACTION:
Void for Vagueness

219. Petitioner incorporates and realleges the allegations set forth in the preceding paragraphs as though fully stated herein.

220. The Due Process Clause of the Fifth Amendment requires that statutes provide clear standards governing their application, particularly where they authorize deprivation of physical liberty. A law is unconstitutionally vague if it fails to provide ordinary people fair notice of the conduct that triggers severe consequences or if it invites arbitrary and discriminatory enforcement. *Johnson v. United States*, 576 U.S. 591, 595 (2015); *Sessions v. Dimaya*, 584 U.S. 148, 155–56 (2018).

221. Although vagueness doctrine most commonly arises in criminal cases, the principle applies with equal force where civil statutes authorize incarceration. Immigration detention is civil in form but results in physical confinement. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). When a statute mandates detention, clarity and objective standards are constitutionally required.

222. The Laken Riley Act mandates detention where a noncitizen "is charged with" or "is arrested for" certain enumerated offenses, including "burglary," "theft," "larceny," and "shoplifting." The statute does not define those terms. It does not incorporate a generic federal definition. It does not reference the categorical or modified categorical approach. It does not specify whether the offense must

include intent to permanently deprive, fraudulent intent, violence, or any particular mental state. It does not identify whether state-law labels control or whether uniform federal standards apply.

223. State criminal statutes defining theft-related offenses vary dramatically in scope, elements, and mental-state requirements. Some jurisdictions define theft to include temporary takings. Others include conduct that would not qualify as generic theft under federal jurisprudence. Some burglary statutes extend to non-structures or vehicles. Because the Act provides no uniform standard, identical conduct may trigger mandatory detention in one jurisdiction but not another, depending solely on how state law defines or labels the offense.

224. The absence of clear statutory boundaries fails to provide fair notice of what conduct or legal status will result in mandatory incarceration. A noncitizen cannot reasonably determine whether a pending charge under a particular state statute will trigger automatic detention because the statute supplies no objective criteria for determining whether the charged offense falls within its scope.

225. The statute also invites arbitrary enforcement. By relying on the existence of an arrest or charge under undefined offense labels, the Act leaves executive officials free to rely on prosecutorial charging decisions and arrest characterizations without meaningful statutory constraints. Such open-ended discretion creates a substantial risk that detention decisions will turn on inconsistent interpretations, varying state definitions, or discretionary labeling choices rather than uniform federal standards.

226. The Supreme Court has invalidated similarly indeterminate provisions in the immigration context where undefined or indeterminate statutory language authorized severe consequences. *Dimaya*, 584 U.S. at 155–56 (holding that an immigration statute incorporating an indeterminate "crime of violence" definition was unconstitutionally vague). The same constitutional concern is present here.

When a statute mandates incarceration without clear definitions or limiting principles, it fails to satisfy due process.

227. The vagueness defect is magnified because detention is triggered by arrest or charge rather than conviction. Unlike a conviction, which reflects adjudicated elements established through constitutionally prescribed procedures, an arrest or charge is an untested allegation. The statute supplies no standard for evaluating whether the charged offense meaningfully fits within a defined federal category. This lack of clarity increases the risk of arbitrary and erroneous deprivation of liberty.

228. Because the Laken Riley Act fails to define the offenses that trigger mandatory detention, fails to incorporate uniform federal standards, and relies on variable state-law labels and unadjudicated accusations, it does not provide the clarity required when physical liberty is at stake. The statute therefore violates the Due Process Clause of the Fifth Amendment as unconstitutionally vague.

229. Petitioner is in custody pursuant to a detention scheme that lacks constitutionally sufficient standards and therefore is in custody in violation of the Constitution within the meaning of 28 U.S.C. § 2241(c)(3).

230. Pursuant to 28 U.S.C. §§ 2241 and 2243, Petitioner is entitled to habeas relief, including an order declaring the Laken Riley Act's mandatory detention provision void for vagueness and directing Respondents to cease detaining Petitioner under that provision absent a constitutionally valid basis for detention.

RESERVATION OF RIGHTS

Petitioner reserves the right to add additional allegations of agency error and related causes of action upon receiving the certified administrative record.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court grant the following relief:

A. Issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241 declaring that Petitioner's mandatory detention under the Laken Riley Act violates the Fifth Amendment to the United States Constitution;

B. Declare pursuant to 28 U.S.C. §§ 2201–2202 that the Laken Riley Act's mandatory detention provision is unconstitutional, both facially and as applied to Petitioner, because it violates substantive due process, procedural due process, and the void-for-vagueness doctrine;

C. Order Petitioner's immediate release from immigration custody; or, in the alternative,

D. Order Respondents to provide Petitioner a prompt individualized bond hearing before a neutral immigration judge at which:

1. The government bears the burden of demonstrating by clear and convincing evidence that continued detention is necessary to prevent flight or danger to the community;
2. The immigration judge considers all relevant individualized factors; and
3. A written decision is issued reflecting the basis for any continued detention;

E. Enjoin Respondents from continuing to detain Petitioner under the mandatory detention provision of the Laken Riley Act absent constitutionally adequate procedures;

F. Award Petitioner his reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, or any other applicable provision of law;

G. Grant such other and further relief as this Court deems just and proper in the interests of justice.

DATED: February 25, 2026

Respectfully submitted,

/S/ ALEC S. BRACKEN
Alec S. Bracken (UT SBN 17178)
Contigo Law
P.O. Box 249
Midvale, UT 84047
Tel. (801) 676-6548
Email: alec@contigo.law

Verification by Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. 2242

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's Attorneys. I have discussed with Petitioner's family the events described in this Petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED: February 25, 2026

Respectfully submitted,

/S/ ALEC S. BRACKEN
Alec S. Bracken (UT SBN 17178)
Contigo Law
P.O. Box 249
Midvale, UT 84047
Tel. (801) 676-6548
Email: alec@contigo.law

Certificate of Service

I, Alec S. Bracken, certify that a true and complete copy of this Petition was served on Respondents via email to the United States Attorney's Office for the District of Nevada at:

Liam Pisan - Liam.Pisan@usdoj.gov

Virginia Tomova - Virginia.Tomova@usdoj.gov

Dated: February 12, 2026

Respectfully submitted,

/S/ ALEC S. BRACKEN
Alec S. Bracken (UT SBN 17178)
Contigo Law
P.O. Box 249
Midvale, UT 84047
Tel. (801) 676-6548
Email: alec@contigo.law