IN THE UNITED STATES DISTRICT COURT
THE NORTHERN DISTRICT OF OHIO

Mousa Adam Camara Petitioner-Plaintiff, v. EDWARD VOORHIES, Warden, North East Ohio Correctional Center; RYAN OVERTON, Acting Field Office Director; TODD LYONS, Acting Director, U.S. Immigrations and Customs Enforcement; SIRCE OWEN, Acting Director, Executive Office For Immigration Review; PAMELA BONDI, U.S. Attorney General; and KRISTI NOEM, U.S. Secretary of Homeland Security, Respondents-Defendants.	)	Case No. 1:26-cv-484

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Over the last several months, the U.S. Department of Homeland Security ("DHS") and the U.S. Department of Justice ("DOJ") have abruptly and unlawfully reversed decades of settled immigration practice in order to deny immigration bond hearings to potentially millions of people in immigration proceedings nationwide, including to potentially thousands of people in Ohio.

2. Specifically, DHS and DOJ are systemically misclassifying people arrested inside the United States. These people are generally subject to the detention provisions of 8 U.S.C. § 1226, which usually allow for release on bond and conditions during the pendency of immigration proceedings. It has been this way for decades. DHS and DOJ are now misclassifying these people as being subject to 8 U.S.C. § 1225, which does not allow for release on bond. This misclassification is contrary to almost 30 years of settled law and practice, and it is unlawfully premised solely upon the manner in which the person initially entered the country—in some cases, decades ago.

3. As of early September, this misclassification policy has been uniformly adopted by DHS and DOJ, and it is being applied to all civil immigration detainees and in all Immigration Courts, including people arrested, detained, and/or in immigration proceedings in Ohio.

4. As a result, DHS is currently arresting numerous people within Ohio and unlawfully detaining them in jails without any possibility of release and without any due process protections even though they are legally required to receive a bond hearing and are eligible for release on bond. *See* 8 U.S.C. § 1226.

5. The unlawful actions of DHS and DOJ have resulted in an enormous proliferation of individual lawsuits to protect the rights of detained noncitizens. In those cases, numerous federal

judges in Ohio and elsewhere have already ruled that DHS and DOJ are breaking the law. See, e.g., *Chavez v. Director of Detroit Field Office*, 4:25-cv-02061, (N.D. Ohio Oct. 20, 2025) (Sheperd, J.), *Mbonga v. Acting Field Office Director, Detroit Field Office, et al, No. 4:2025cv02315* (N.D. Ohio Nov. 07, 2025) (Polster, J.), *Singh v. Lewis*, 4:25-cv-00096, (W.D. Ky. Sept. 22, 2025) (Jennings, J.); See also *Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sept. 9, 2025) (collecting cases).

6. As the Court in *Barrera* listed, numerous district courts within the Sixth Circuit and across the country agree in the application of § 1226(a) in cases such as the present, including *Chavez v. Director of Detroit Field Office*, 4:25-cv-02061, at *16 (N.D. Ohio Oct. 20, 2025) (Sheperd, J.) ("As these decisions agree, § 1225(b) does not apply to persons who have shown to the satisfaction of an immigration officer that they have remained in the United States for greater than two years. Chavez did so, as the Notice to Appear confirms."); *Pizarro Reyes*, 2025 WL 2609425, at *7-9 (holding that the text, legislative history, and agency guidance support the argument that § 1226, not §1225 applies); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12468, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) ("the Court finds that Lopez-Campos is not subject to the provisions of Section 1225(b)(2)(A). Rather, he clearly falls under the provision of Section 1226(a), and is subject to the discretionary bond determination outline therein"); *Rodriguez v. Bostock*, 779 F. Supp. 3d., 1239, 1261 (W.D. Wash., Apr. 24, 2025) ("[Petitioner] has shown that the text of Section 1226, canons of interpretation, legislative history, and longstanding agency practice indicate that he is governed under Section 1226(a)'s 'default' rule for discretionary detention."). *See Barrera v. Tindall*, No. 3:25-cv-00541-RGJ (W.D. Ky., Sept. 19, 2025).

7. Since *Barrera*, "still more courts have determined that § 1226(a) applies to aliens who have resided in the United States, and that § 1225(b)'s mandatory detention scheme is inapplicable in such cases". *See Singh v. Lewis*, 4:25-cv-00096, at *16 (citing *Sanchez Alvarez v. Noem,* No. 1:25-CV-1090, 2025 WL 2942648, at *6 (W.D. Mich. Oct. 17, 2025) ("In sum, the Court concludes that § 1226(a), and not § 1225(b)(2)(A), governs noncitizens, such as Petitioner, who have resides in the United States for over 20 years and who were already within the United States when apprehended and arrested.") in *Singh*, the Court found that the Petitioner, "...who has been present in the United States for more than 12 years is not 'seeking admission' into the United States. Thus, Section 1226, not 1225, should apply to his detention." *See Singh v. Lewis*, 4:25-CV-00096, at *16. The relevant facts in this case are nearly identical to those of *Singh,* therefore the Court should likewise reach a similar conclusion that § 1226 is applicable to Petitioner's detention, not § 1225.

8. Moreover, other district courts have not permitted retroactive application of § 1225(b)(1) where immigration officials have begun proceedings under 8 U.S.C. § 1226 and its standard removal proceedings and discretionary detention provision. *See, e.g., Ballestros v. Noem*, No. 3-25-CV-594-RGJ, 2025 WL 2880831, at *3-4 (W.D. Ky. Oct. 9, 2025) ("[Petitioner] cannot be subject to Section 1225 proceedings... Therefore, [Petitioner] is subject to standard removal and detention proceedings under Section 1229a and Section 1226."), and *Patel v. Noem,* No. 3:25-CV-373-RGJ, 2025 WL 2823607, at *4-5 (W.D. Ky. Oct 3, 2025) (finding same).

9. Nevertheless, DHS and DOJ continue to violate the law and detain people without due process in violation of their statutory, regulatory, and constitutional rights.

10. In recent weeks, there has been a surge of immigration arrests in Ohio and numerous other States, and dozens of habeas litigants have come before various district courts across the

nation seeking relief from this very same unlawful interpretation.

11. Accordingly, Petitioner-Plaintiff ("Petitioner") brings this action in an effort to prevent the government from unlawfully depriving them of liberty in violation of the law and without due process of law.

LEGAL BACKGROUND

12. "In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987).

13. This fundamental principle of our free society is enshrined in the Fifth Amendment's Due Process Clause, which specifically forbids the Government to "deprive[]" any "person . . . of . . . liberty . . . without due process of law." U.S. Const. amend. V.

14. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) ("[A]liens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law").

15. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 678.

16. The Supreme Court, thus, "has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection," including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979) (collecting cases); *see also Salerno*, 481 U.S. at 755 (1987) (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes); *Foucha*

v. Louisiana, 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (same for commitment of sex offenders).

17. For decades, the immigration system has implemented this balance through a network of three mutually exclusive detention statutes.

18. First, at the border, individuals "seeking admission" who are placed into removal proceedings are subject to detention without a bond hearing under 8 U.S.C. § 1225(b)(2).[1] See *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (describing § 1225 as relating to "borders and ports of entry"). These individuals may request release through humanitarian parole under 8 U.S.C. § 1182(d)(5)(A).

19. Second, individuals arrested inside the United States are generally placed into removal proceedings under 8 U.S.C. § 1229a, during which an Immigration Judge (an "IJ")—and later potentially the Board of Immigration Appeals (the "BIA") and a U.S. Court of Appeals—will decide whether or not the person should be deported. During these proceedings, a noncitizen may apply for various forms of relief from deportation, such as asylum, withholding of removal, cancellation of removal, and adjustment of status. The IJ usually holds a series of hearings to determine if the person is eligible for deportation and, even if so, whether to grant some form of relief from deportation. This process can take months or even years.

20. While this process is ongoing, individuals are generally subject to the detention authority of 8 U.S.C. § 1226. *See Jennings*, 583 U.S. at 288-89 (describing § 1226 detention as relating to people "inside the United States" and "present in the country"). Most of these individuals are eligible for release on bond and conditions under § 1226(a), and they are consequently

[1] Separately, there is also a limited subset of individuals in and around the border who may be placed into the Expedited Removal process and are subject to mandatory detention under 8 U.S.C. § 1225(b)(1). See Make the Road N.Y. v. Noem, No. 25-190, 2025 WL 2494908, at *23 (D.D.C. Aug. 29, 2025).

entitled to a custody redetermination (colloquially called a "bond hearing") before an IJ to decide whether they should be detained or released. See 8 C.F.R. §§ 1003.19(a), 1236.1(d). A bond hearing with strong procedural protections is not mere regulatory grace; it is the baseline Due Process requirement for § 1226 detainees. See *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021); *Doe v. Tompkins*, 11 F.4th 1, 2 (1st Cir. 2021); *Brito v. Garland*, 22 F.4th 240, 256-57 (1st Cir. 2021) (affirming class- wide declaratory judgment).

21. The Supreme Court and First Circuit have recognized only one exception to this constitutional requirement for a bond hearing for § 1226 detainees: In 2003, in *Demore v. Kim*, the Court held that, under 8 U.S.C. § 1226(c), there is a narrow category of people who can be held in mandatory detention for a brief period of time, if the person has conceded removability and has been convicted of certain crimes following all of the due process afforded by a criminal adjudication. See 538 U.S. 510, 513 (2003).

22. Further, if an individual completes their removal proceedings and all appeals, and is ordered removed, the person is subject to detention under 8 U.S.C. § 1231 while the government attempts to remove them. That statute provides for 90 days of mandatory detention called the "removal period," followed by discretionary detention within certain limits. See *Zadvydas*, 533 U.S. at 699 - 700 (holding § 1231 detention may not continue if removal is not reasonably foreseeable).

23. This system—in which people arrested inside the United States are generally eligible for a bond hearing and release during immigration proceedings—has existed essentially in its current form since Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, Div. C, § 3003, 110 Stat. 3009-546, 3009-585 to 3009-587 (codified at 8 U.S.C. § 1226).

24. According to IIRIRA's legislative history, § 1226(a) was intended to "restate[] the [then-] current provisions in section 242(a)(1) regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States." See *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (quoting H.R. Rep. No. 104-469, at 229 (1996)). It also reflected nearly a century of law in the United States of allowing people inside the country to seek release while the government decided whether or not to deport them. See 34 Stat. 904-05, § 20 (1907) (providing for release on bond for noncitizens alleged to have entered the United States unlawfully); 39 Stat. 874, 890-91, §§ 19, 20 (1917) (similar); 66 Stat. 163, §§ 241(a)(2), 242(a) (1952) (last codified at 8 U.S.C. § 1252(a)(1) (1994)) (providing for release on bond, including for noncitizens alleged to have entered the United States without inspection).

25. This eligibility for a bond hearing and potential release has applied to people arrested in the United States, regardless of whether they initially entered the country with permission. Indeed, shortly after IIRIRA's enactment, the former Immigration and Naturalization Service and the Executive Office for Immigration Review ("EOIR," which houses the Immigration Courts and BIA) issued an interim rule to implement the statute that expressly stated: "Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

26. Thus, for almost 30 years, all participants in the immigration system have understood that people arrested inside the United States generally fall within § 1226 for detention purposes and are therefore required to receive a bond hearing upon request—even if they initially entered the

country without permission. See *Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, at *4 n.9 (D. Mass. July 24, 2025) (citing the United States Solicitor General's representation to the Supreme Court at oral argument that "DHS's long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended").

27. However, around late 2022, the Immigration Court in Tacoma, Washington began misclassifying § 1226 detainees arrested inside the United States as mandatory detainees under § 1225(b)(2), solely because they initially entered the country without permission. See *Rodriguez*, 779 F. Supp. 3d at 1244. The U.S. District Court for the Western District of Washington ruled that this practice was likely illegal in April 2025 and ordered a bond hearing for a wrongfully detained litigant. *See id.* at 1263.

28. Nevertheless, three months later, on July 8, 2025, DHS, "in coordination" with DOJ, adopted the Tacoma Immigration Court's unlawful practice nationwide.[2] Pursuant to the July 2025 Policy, DHS's representatives in the Immigration Courts began to request that Immigration Judges nationwide misclassify bond-eligible § 1226 detainees as mandatory § 1225(b)(2) detainees and refuse to conduct bond hearings on that basis. Some Immigration Judges agreed. As a result, numerous detainees were illegally denied bond hearings and sought relief in the federal courts. Numerous courts—including many within the Sixth Circuit — rejected DHS's newly invented misclassification as illegal and ordered the detainees to receive a prompt bond hearing. *See Romero*, 2025 WL 2403827, at *1 (collecting cases). Indeed, the District Court in *Barrera* found in September that, "*every court* who has examined this novel interpretation of Section 1225 by the United States rejected their theory and adopted Petitioner's." *Barrera*, No. 3:25-CV-541-

[2] See Interim Guidance Regarding Detention Authority for Applicants for Admission, https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications- for-admission.

RGJ, 2025 WL 2690565, at *5 (W.D. Ky. Sept. 19, 2025) (emphasis in original). While some District Court judges have agreed with the Government's position in similar cases since *Barrera*, it remains the clear minority opinion on the interpretation of § 1225 and §1226 and the overarching detention scheme, as laid out in the INA.

29. As previously noted, the BIA and the Immigration Courts are entities within EOIR, which is part of DOJ. On September 5, 2025, in *Matter of Yajure Hurtado*, 29 I. &. N. Dec. 216 (B.I.A. 2025) ("Matter of Hurtado"), the BIA issued a precedential decision that purports to require all Immigration Judges to misclassify people in this manner. Although the Matter of Hurtado decision is still recent, multiple federal courts have already ruled that the BIA's decision is not entitled to any deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412-13 (2024), and have rejected the BIA's decision as contrary to law. See, e.g., *Chogllo Chafla v. Scott*, No. 25-437, 2025 WL 2688541, at *7 (D. Me. Sept. 21, 2025) ("I find Yajure Hurtado to be unavailing. . . ."); Order (D.E. 22), *Hilario Rodriguez*, No. 25-12358, at 4 n.4; *Sampiao*, No. 25-11981, 2025 WL 2607924, at *8 n.11 ("[T]he Court disagrees with the BIA for the reasons given herein."); *Pizarro Reyes*, 2025 WL 2609425, at *7 ("[T]he BIA's decision to pivot from three decades of consistent statutory interpretation and call for [petitioner's] detention under § 1225(b)(2)(A) is at odds with every District Court that has been confronted with the same question of statutory interpretation.").

30. Moreover, contrary to the Government's position in similar cases, Petitioner should not be required to exhaust his administrative remedies before he is permitted to proceed with the present habeas petition. *See Lopez-Campos v. Raycraft*, No. 2:25-CV-12468, 2025 WL 2496379 at *8 (E.D. Mich. Aug. 29, 2025). While exhaustion is required where Congress specifically mandates, the decision to require exhaustion when not mandated falls squarely within the discretion of the court. *Id.; See McCarthy v. Madigan,* 503 U.S. 140, 144, 112 S.Ct. 1081, 117

L.Ed.2d 291 (1992); *Shearson v. Holder*, 725 F.3d 588, 593 (6th Cir. 2013). Exhaustion requirements not explicitly written into the text of the applicable statute are considered prudential. *See Perkovic v. I.N.S.*, 33 F.3d 615, 619 (6th Cir. 1994).

31. The Sixth Circuit has not formally adopted a standard for determining whether prudential exhaustion applies – however, other courts within this district have routinely applied the three factor test as set forth in *United States v. California Care Corp.*, 709 F.2d 1241, 1248 (9th Cir. 1983) (derived from *McGee v. United States*, 402 U.S. 484, 91 S.Ct. 1565, 29 L.Ed.2d 47 (1971); *McKart v. United States*, 395 U.S. 185, 193-95, 89 S.Ct. 1657, 23 L.Ed.2d 194 (1969)).

32. Courts may require prudential exhaustion when: (1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review. *See Shweika v. Dep't of Homeland Sec.*, No. 1:06-cv-11781, 2015 WL 6541689, at *12 (E.D. Mich. Oct. 29, 2015).

33. Here, as in *Lopez-Campos*, all three factors weigh against requiring prudential exhaustion. The court noted after its analysis that "...the issues raised in the habeas petition are purely legal in nature and do not require the agency to develop the record...because Lopez-Campos' habeas petition includes a due process claim, the administrative scheme (i.e. appeal to the BIA) is likely futile. And third, administrative review is not likely to change the government's position that Section 1225(b)(2)(A) applies in this context." *Lopez-Campos*, 2025 WL 2496379 at *9-10 (E.D. Mich. Aug. 29, 2025). The Court supported its reasoning by finding that "[T]he Government's immigration policy makes clear that mandatory detention is the position to be taken, and this is being done in conjunction with the Department of Justice." *Id.*

at *10.

34. The Court in *Lopez-Campos* went a step further in its analysis, additionally finding that while it would ordinarily enforce the prudential exhaustion doctrine when it serves the dual purpose of promoting judicial economy and protecting administrative agency authority, "waiver is appropriate when the interests of the individual weigh heavily against requiring administrative exhaustion, or exhaustion would be futile and unable to afford the petitioner the relief he seeks." *Lopez-Campos*, 2025 WL 2496379 at *10 (E.D. Mich. Aug. 29, 2025); *See McCarthy*, 503 503 U.S. at 145, 112 S.Ct. 1081; *see also Fazzani v. NE Ohio Corr. Ctr.*, 473 F.3d 229 (6th Cir. 2006) (citing *Aron v. LaManna*, 4 F. App'x 232, 233 (6th Cir. 2001) and *Goar v. Civiletti*, 688 F.2d 27, 28-29 (6th Cir. 1982)); *Shawnee Coal Co. v. Andrus*, 661 F.2d 1083, 1093 (6th Cir. 1981). Exhaustion is also excused when delay means hardship. *See Shalala v. Illinois Council*, 529 U.S. 1, 13, 120 S.Ct. 1084, 146 L.Ed.2d 1 (2000). In this case, waiver is similarly appropriate for the reasons listed above by the Court in *Lopez-Campos,* explained in further detail below.

35. Within this context, bond appeals before the BIA, on average, take roughly six months to complete. *Rodriguez v. Bostock,* 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025). Requiring Petitioner in this case to wait an additional six months for the BIA to reach a decision on whether or not he is entitled to a bond hearing would be futile. The absolute futility of requiring administrative exhaustion in this case is only enhanced by the Court's finding in *Lopez-Campos* that it is the Government's position - across all relevant agencies and departments, which would include the BIA - that mandatory detention is the position to be taken at the outset of proceedings. *See Lopez-Campos* at *10 (E.D. Mich. Aug. 29, 2025); *see also Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025).

36. Given the rapid pace at which the Government is seeking to remove individuals such as Petitioner, it is more likely than not that a removal determination would come before the BIA's determination of whether he is entitled to a bond hearing. Therefore, a waiver is appropriate as awaiting the decision of an appeal to the BIA while mandatorily detained without bond would "certainly equate to hardship." *Lopez-Campos*, 2025 WL 2496379 at *11 (E.D. Mich. Aug. 29, 2025). As the Court succinctly stated, "...*any delay* results in the very harm Lopez-Campos is trying to avoid by seeking the bond hearing – detention." *Id.* (emphasis added).

37. Additionally, the Sixth Circuit has previously held that a due process challenge generally does not require exhaustion, as the BIA lacks authority to review constitutional challenges. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006); *accord Bangura v. Hansen*, 434 F.3d 487, 494 (6th Cir. 2006) ("exhaustion of administrative remedies may not be required in cases of non-frivolous constitutional challenges to an agency's procedures.") (citation omitted). As the current petition similarly includes a due process claim, the Court should likewise conclude that "an appeal to the BIA would be pointless." *Lopez-Campos*, 2025 WL 2496379 at *11 (E.D. Mich. Aug. 29, 2025).

38. Because exhaustion would be futile and unable to provide Petitioner with the relief he requests in a timely manner, the Court should waive administrative exhaustion and address the merits of the present underlying habeas petition.

39. Despite the above, DHS and DOJ are continuing to systemically misclassify people and unlawfully deny them access to bond hearings and release on bond and conditions during the pendency of their immigration proceedings, while also attempting to limit individual's access to various District Courts by arguing for mandatory administrative exhaustion when it is not specifically mandated.

PETITIONER'S FACTS

40. Petitioner Mousa Adam Camara resides in Ohio. Although Petitioner's detention is authorized, if at all, by 8 U.S.C. § 1226(a), which entitles him to a bond hearing, ICE is detaining him pursuant to 8 U.S.C. § 1225(b)(2) and, under *Matter of Hurtado*, will not provide him a bond hearing, instead requiring him to be held in no-bond detention.

41. Mr. Camara, a citizen and native of the Central African Republic, has no criminal record. He has resided peacefully in the United States since arriving her in July 2023 fleeing persecution in his home country.

42. U.S. Immigration and Customs Enforcement ("ICE") and/or other federal agents acting on ICE's behalf arrested Mr. Camara in Brooklyn Heights on or about October 22, 2025 when he arrived for his scheduled check in appointment with ICE at their Field Office.

43. Mr. Camara is currently being held in ICE's custody in that the North East Ohio Correctional Center in Youngstown, OH pending full removal proceedings. On information and belief, Mr. Camara is eligible for relief from removal, including Asylum in this nation.[3]

44. DHS has served Petitioner with a Notice to Appear alleging that he was not previously admitted or paroled into the United States, and that he is present in the United States without immigration status.

45. As a person arrested inside the United States and held in civil immigration detention for pending removal proceedings, Petitioner is subject to detention, if at all, pursuant to 8 U.S.C. § 1226. *See, e.g., Romero*, 2025 WL 2403827, at *1, 8-13 (collecting cases). Petitioner

[3] Mr. Camara has already been granted refugee status in Mauritania by the United Nations High Commissioner for Refugees. (see attached Exhibit 1) International law prohibits the forced return (refoulement) of refugees to countries where they face persecution, based on the 1951 United nations Refugee Convention and customary law

lacks any criminal predicates that could subject him to mandatory detention under 8 U.S.C. § 1226(c) and is subject to detention, if at all, under 8 U.S.C. § 1226(a).

46. As a person detained under 8 U.S.C. § 1226(a), Petitioner must, upon his request, receive a bond hearing with strong procedural protections. See *Hernandez-Lara*, 10 F.4th at 41; *Doe*, 11 F.4th at 2; *Brito*, 22 F.4th at 256-57 (affirming class-wide declaratory judgment); 8 C.F.R. §§ 236.1(d), 1003.19(a)-(f).

47. Petitioner requests such a bond hearing.

48. Under *Matter of Hurtado*, however, the responsible administrative agency has predetermined that Petitioner will be denied a bond hearing, and the government is holding Petitioner under the purported authority of 8 U.S.C. § 1225(b)(2), under which Petitioner will not receive a bond hearing.

JURISDICTION, VENUE, AND PARTIES

49. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I § 9, cl. 2 of the U.S. Constitution (Suspension Clause).

50. Venue is proper because Petitioner resides in Ohio and is detained in the Northern District of Ohio. Venue is also proper under 28 U.S.C. §§ 1391(b)(2), (e). Petitioner and most members of the putative class are or will be arrested and/or detained within this District, and a substantial part of the events giving rise to the claims and relevant facts occurred within this District, including the detention of class members without a bond hearing and the failure of the Immigration Court located in Ohio to provide a bond hearing to Petitioner. Respondent-Defendant ("Respondent") is located in this District and possesses day-to-day authority over the custody of Petitioner and others arrested or detained in Ohio.

51. Petitioner resides in Ohio and is presently detained by ICE at the North East Ohio Correctional Center.

52. Respondent Edward Voorhies is the Warden of the North East Ohio Correctional Center and is Petitioner's immediate custodian.

53. Respondent Ryan Overton is the Acting Cleveland Field Office Director for U.S. Immigration and Customs Enforcement.

54. Respondent Todd Lyons is the Acting Director for U.S. Immigration and Customs Enforcement.

55. Respondent Sirce Owen is the Acting Director of EOIR and has ultimate responsibility for overseeing the operation of the immigration courts and the Board of Immigration Appeals, including bond proceedings.

56. Respondent Pamela Bondi is the Attorney General of the United States and administers the Department of Justice, including EOIR, the BIA, and the Immigration Courts.

57. Respondent Kristi Noem is the U.S. Secretary of Homeland Security and administers the Department of Homeland Security.

58. All respondents are named in their official capacities. One or more of the respondents is Petitioner's immediate custodian.

CLAIMS FOR RELIEF

COUNT ONE
Violation of 8 U.S.C. § 1226(a) and Associated Regulations

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

50. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. See 8 C.F.R. §§ 236.1(d), 1236.1, 1003.19(a)-(f).

51. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

52. Petitioner's continuing detention is therefore unlawful.

COUNT TWO
Violation of Fifth Amendment Right to Due Process
(Failure to Provide Bond Hearing Under 8 U.S.C. § 1226(a))

53. Because Petitioner is subject to detention, if at all, under 8 U.S.C. § 1226(a), the Due Process Clause of the Fifth Amendment to the United States Constitution requires that they receive a bond hearing with strong procedural protections. *See Hernandez-Lara*, 10 F.4th at 41; *Doe*, 11 F.4th at 2; *Brito*, 22 F.4th at 256-57.

54. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

55. Petitioner's continuing detention is therefore unlawful.

COUNT THREE
Violation of Fifth Amendment Right to Due Process
(Failure to Provide an Individualized Hearing for Domestic Civil Detention)

46. The Fifth Amendment's Due Process Clause specifically forbids the Government to "deprive[]" any "person . . . of . . . liberty . . . without due process of law." U.S. Const. amend.

47. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693; cf. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139-40 (2020) (holding noncitizens' due process rights were limited where the person was not residing in the United States, but rather had been arrested 25 yards into U.S. territory, apparently moments after he crossed the

border while he was still "on the threshold").

48. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas*, 533 U.S. 678 at (2001).

49. The Supreme Court, thus, "has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection," including an individualized detention hearing. *Addington*, 441 U.S. at 425; *see also Salerno*, 481 U.S. at 755; *Foucha*, 504 U.S. at 81-83; *Hendricks*, 521 U.S. at 357.

50. Petitioner was or will be held without being provided any individualized detention hearing.

51. Petitioner's continuing detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

COUNT FOUR
Violation of Fifth Amendment Right to Due Process
(Substantive Due Process)

53. Because Petitioner is not being provided a bond hearing, the government is not taking any steps to effectuate its substantive obligation to ensure that immigration detention bears a "reasonable relation" to the purposes of immigration detention (i.e. the prevention of flight and danger to the community during the pendency of removal proceedings) and is not impermissibly punitive. See *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 532-33 (Kennedy, J., concurring).

54. Petitioner's detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

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

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

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

57. Petitioner's detention is therefore unlawful.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Order that Petitioner shall not be transferred outside the Northern District of Ohio;

(3) Declare that Petitioner's detention is unlawful;

(4) Order Petitioner's release on conditions the Court deems just and proper pending adjudication of this petition;

(5) Declare that the Petitioner is or will be detained, if at all, pursuant to 8 U.S.C. § 1226, and are therefore entitled to a bond hearing upon request;

(6) Postpone the effective date of *Matter of Hurtado* pending final resolution of this case under the APA, 5 U.S.C. § 705, and set aside and vacate *Matter of Hurtado* under the APA, 5 U.S.C. § 706(2);

(7) Issue a preliminary injunction and Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, or, in the alternative, order Respondents to release Petitioner if he is not provided a bond hearing within seven (7) days after the Court's order;

(8) Grant attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d) and 5 U.S.C. § 504 et seq. if applicable; and

(9) Grant any further relief this Court deems just and proper.

Respectfully submitted,



Thomas J. Gilbert (Ohio Bar # 0078796)
2510 Saint Clair Ave NE, Cleveland, Ohio
Counsel for Petitioner

EXHIBIT B

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
BOARD OF IMMIGRATION APPEALS

Gilbert, Thomas J.
svetlana schreiber and assocaites
2510 st clair avenue
cleveland, OH 44114

DHS/ICE Office of Chief Counsel - CLE
925 Keynote Circle, Room 201
Brooklyn Heights, OH 44131

Name:
CAMARA, MOUSSA ADAM [redacted]

Riders:

Date of Notice: 02/25/2026

FILING RECEIPT FOR APPEAL OR MOTION

The Board of Immigration Appeals (Board or BIA) acknowledges receipt of the appeal or motion and fee or fee waiver request (where applicable) on 02/20/2026 , in the above-referenced case, filed by the Respondent

Additional Comments
N/A

WARNING FOR APPEALS:

Departure. If you leave the United States after filing this appeal but before the Board issues a decision, your appeal may be considered withdrawn and the Immigration Judge's decision will become final as if no appeal had been taken (unless you are an "arriving alien" as defined in the regulations under 8 C.F.R. § 1001.1(q)).

Proof of posting voluntary departure bond. If you have been granted voluntary departure by the Immigration Judge, you must submit proof of having posted the voluntary departure bond set by the Immigration Judge to the Board. Your submission of proof must be provided to the Board within 30 days of filing this appeal. If you do not timely submit proof to the Board that the voluntary departure bond has been posted, the Board cannot reinstate the period of voluntary departure. 8 C.F.R. § 1240.2(c)(3)(ii).

Autostay Bond Appeals. Please note that the automatic stay will expire 90 days from the date of receipt of the DHS' appeal. 8 C.F.R. § 1003.6(c)(3). If the Board grants the respondent's request for additional briefing time, then the 90-day automatic stay period will be tolled for the same number of days. 8 C.F.R. § 1003.6(c)(4).

Form EOIR-27. If the appeal was filed by DHS and the respondent/applicant wishes to be represented by an attorney or accredited representative in these new proceedings, counsel must complete a new Form EOIR-27 (Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals). Unless a Form EOIR-27 is received from counsel, the respondent/applicant will be considered pro se before the Board and all future notices, including the Board's decision, will be sent directly to the respondent/applicant and not to counsel.

WARNING FOR MOTIONS:

Stay of removal. Filing a motion with the Board does not automatically stop the DHS from executing an order of removal. If the respondent/applicant is in DHS detention and is about to be removed, you may request the Board to stay the removal on an emergency basis. For more information, call the Clerk's Office at (703) 605-1007.

Form EOIR-27. If the motion was filed by DHS and the respondent/applicant wishes to be represented by an attorney or accredited representative in these new proceedings, counsel must complete a new Form EOIR-27 (Notice of Entry of Appearance as Attorney or Representative before the Board of Immigration Appeals). Unless a Form EOIR-27 is received from counsel, the respondent/applicant will be considered pro se before the Board and all future notices, including the Board's decision, will be sent directly to the respondent/applicant and not to counsel.

FILING INSTRUCTIONS:

If you have any questions about how to file something at the Board, please review the Board's Practice Manual which is available on EOIR's website at www.justice.gov/eoir.

Accepted by: SeilerJ

CC

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document will be served on counsel for all parties through the Court's CM/ECF system.

Date: 02/26/2026

x 02/26/2026
Thomas J. Gilbert, Esq.