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UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Anzoni Quezada Barajas,  
Petitioner,

Case No. 0:26-cv-01677

v.

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

**PETITION FOR WRIT OF  
HABEAS CORPUS**

Todd M. LYONS, Acting Director of  
Immigration and Customs Enforcement;  
Immigration and Customs Enforcement, in  
his official capacity;

David EASTERWOOD, Field Office  
Director of Enforcement and Removal  
Operations, Minneapolis - St. Paul Field  
Office, Immigration and Customs  
Enforcement, in his official capacity;

Mary DE ANDA-YBARRA, Field Office  
Director of Enforcement and Removal  
Operations, El Paso Field Office,  
Immigration and Customs Enforcement, in  
her official capacity;

Warden of El Paso Camp East Montana  
Detention Center, custodian of detainees at  
the El Paso Camp East Montana Detention  
Center, in their official capacity.

Respondents.

## INTRODUCTION

1. Petitioner, Anzoni Quezada Barajas, is a non-citizen from Mexico. Petitioner entered the United States on March 11, 2024.
2. Upon his entry to the United States on or about March 11, 2024, Petitioner was released from custody on his own recognizance under I.N.A. § 236, 8 U.S.C. 1226, which allows the Attorney General to release a noncitizen from custody "pending a decision on whether the alien is to be removed from the United States." *Id. See Ex. A. Order of Release on Recognizance.* Petitioner was also issued a notice to appear and placed in full removal proceedings pursuant to 8 U.S.C. § 1229a. *See Ex. B. Notice to Appear.*
3. Petitioner timely filed Form I-589, Application for Asylum and Withholding of Removal, with the Kansas City Immigration Court on March 7, 2025. *See Ex. C. Form I-589, Application for Asylum and Withholding.*
4. Petitioner has a valid work permit and no criminal history. Petitioner, like thousands of other asylum seekers, is waiting for an individual merits hearing so that his asylum claims can be considered by an immigration judge. Upon information and belief, Petitioner has no criminal history. In short, Petitioner has done everything that the government has required of him to lawfully seek asylum.
5. For the past nearly two (2) years, Petitioner has lived peaceably in the United States. He has strong ties to the community.
6. Nevertheless, despite fully cooperating with the adjudication of his pending asylum claim, he was taken into ICE custody on January 16, 2026. ICE officers detained Petitioner without adequate consideration of his prior case history or procedural status.

His mandatory detention appears arbitrary and inconsistent with established principles of due process and proportional immigration enforcement.

7. Respondents did not provide Petitioner or counsel with any written custody determination, Notice to Revoke Bond or explanation for the detention.
8. Petitioner was unlawfully arrested in Minnesota and without explanation or due process, transported by Respondents to the ERO El Paso East Montana Camp in El Paso, Texas, with no notice to his counsel. Petitioner is currently being detained by Respondents at the ERO El Paso East Montana Camp in El Paso, Texas.
9. Petitioner challenges his detention as a violation of the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment.
10. Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus and order Respondents to release him from custody. Petitioner seeks habeas relief under 28 U.S.C. 2241, which is the proper vehicle for challenging civil immigration detention. *See Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (“Challenges to immigration detention are properly brought directly through habeas”) (citing *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001)).

#### **JURISDICTION AND VENUE**

11. 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 United States Constitution (Suspension Clause). Federal questions in this case arise under the Immigration and Naturalization Act, 8 U.S.C. § 1101-1524, and the United States Constitution.

12. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).
13. Under 28 U.S.C. § 2241, venue is proper in this district because the circumstances of the present case fit squarely within the custodian and unknown district of confinement exceptions. Petitioner was apprehended in the State of Minnesota on January 16, 2026, before being transferred to the State of Texas without proper notice at Respondents' unilateral direction. Petitioner had retained counsel in Minnesota to challenge his arrest and detention, and Respondents made no effort to inform Petitioner's counsel of his transfer. This is exactly the type of situation which emphasizes the need for the unknown custodian and unknown district of confinement exceptions.
14. Although the district of a person's place of confinement is traditionally the most common venue for a person to file a habeas petition, the United States Supreme Court had made clear that the location of the individual at the time a habeas petition is filed is not some dowsing rod pointing to the only correct district. *See Braden v. 30th Jud. Cir. Ct. of Ky.*, 410 U.S. 484, 494–95 (1973). For example, an exception to the general “immediate custodian” and “district of confinement” rules applies when a petitioner, at the time their petition is filed, “is held in an undisclosed location by an unknown custodian, it is impossible to apply the immediate custodian and district of confinement rules.” *Padilla*, 542 U.S. at 450 n.18; see *Ozturk v. Hyde*, 136 F.4th 382, 392 (2d Cir. 2025) (quoting *Padilla*).

15. This exception applies with equal force “where the Government was not forthcoming with respect to the identity of the custodian and the place of detention.” *Padilla*, 542 U.S. at 454.
16. Under this exception, the proper district in which to file the habeas petition is “in the district court from whose territory the petitioner had been removed,” *Id.*, and “the naming of a more remote custodian—[such as] the Secretary of Homeland Security [in immigration related habeas proceedings]—satisfies the statutory requirements.” *Ozturk*, 136 F.4th at 392 (quoting *Demjanjuk v. Meese*, 784 F.2d 1114, 1116 (D.C. Cir. 1986)).
17. This exception exists to forestall forum shopping by the Government and “[t]o help prevent the Kafkaesque specter of supplicants wandering endlessly from one jurisdiction to another in search of a proper forum, only to find that it lies elsewhere[.]” *Eisel v. Sec’y of the Army*, 477 F.2d 1251, 1258 (D.C. Cir. 1973); see *Abdiselan A.A. v. Bondi*, No. 26-cv-358 (JRT/ECW), 2026 WL 161526, at \*1 (D. Minn. Jan. 21, 2026) (quoting *Eisel*); *Anariba v. Dir. Hudson Cnty. Corr. Ctr.*, 17 F.4th 434, 447–48 (3d Cir. 2021) (discussing how “[t]hese forum-shopping concerns intensify when the [habeas] petitioner is an ICE detainee”).
18. The application of this exception to the present case is bolstered by two additional considerations. First, all of Petitioner’s rapid movement from one place of detention to the next has been effectuated by Government-controlled transfer. The Government may not use the uncertainty created by its own actions to shop for a forum of its choosing.
19. Secondly, the unknown nature of Petitioner’s immediate custodian and district of confinement is made even more opaque by the fact that Respondents have unilateral possession of the information regarding Petitioner’s location at any given time, but from

the record now before the Court, Respondents have made no effort to provide notice to Petitioner or his counsel about Petitioner's transfers between facilities.

20. Under the above discussed exception, the Court should find that this District is a proper forum for Petitioner to file his Petition. Petitioner was arrested in Minnesota, had lived in Minnesota nearly the past year, and had retained counsel in Minnesota to challenge his arrest and detention. Petitioner left the District of Minnesota only because respondents secreted him away to Texas. Moreover, any necessary information, witnesses, or records regarding Petitioner's immigration status are most likely to be located in Minnesota. Furthermore, "[t]he decision to arrest and detain [Petitioner] was directed to personnel within this District, and therefore witnesses and information about the manner of his arrest would also be found in this District." *Jose A. v. Noem*, No. 26-cv-480 (JMB/ECW), 2026 WL 172524, at \*2 (D. Minn. Jan. 22, 2026). Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this district. Venue is also proper in this Court because Respondents are employees, officers, and agencies of the United States.

21. Each of these factors and the overall circumstances of the present case weigh heavily in favor of finding that this District is the proper forum for Petitioner to file his habeas Petition. *See, e.g., Jose A.*, 2026 WL 172524, at \*2; *Abdiselan A.A. v. Bondi*, No. 26-cv-358 (JRT/ECW), 2026 WL 161526, at \*2 (D. Minn. Jan. 21, 2026); *Tah L. v. Trump*, No. 26-cv-171 (MJD/SGE), 2026 WL 184524, at \*4 (D. Minn. Jan. 19, 2026), *report and recommendation adopted as modified*, 2026 WL 184529 (D. Minn. Jan. 23, 2026); *Flores-Linares v. Bondi*, No. 26-cv-298 (SJB), 2026 WL 179208, at \*5 (E.D.N.Y. Jan. 22, 2026).

22. Other Courts have reached similar conclusions in cases where a petitioner, arrested and detained in District A, is immediately transferred to District B but filed a habeas petition in District A after having been transferred to District B. *See Jose A.*, 2026 WL 172524, at \*2; *Flores-Linares*, 2026 WL 179208, at \*5.
23. As another Court in this District observed in circumstances materially similar to the present case, “[t]ransferring venue would prolong both [Petitioner’s] detention and the adjudication of his claims” unnecessarily. *Jose A.*, 2026 WL 172524, at \*2.
- Further, venue should not be transferred simply because a petitioner was unable to file their petition prior to transfer, particularly when that transfer was not at a petitioner’s request, is wholly outside of their control, and occurs in a very short time after arrest. Transferring venue solely on the basis that a petitioner was transferred, and thereby currently detained elsewhere, could also have the effect of incentivizing forum shopping, as Respondents could quickly transfer detained individuals to a district of their choosing.
24. That this District is a proper forum for the present Petition is further supported by the rationale underlying *Braden*. As the Supreme Court explained, “[s]o long as the custodian can be reached by service of process, the court can issue a writ ‘within its jurisdiction’ requiring that the [petitioner] be brought before the court for a hearing on his claim, or requiring that he be released outright from custody, even if the [petitioner] himself is confined outside the court’s territorial jurisdiction.” *Braden*, 410 U.S. at 495. In the present case, the Respondents can undoubtedly be reached through service of process.
25. This Court’s jurisdiction is also supported by the Supreme Court’s definition of “custodian” as that term is used in the relevant habeas statutes: “This custodian, moreover, is ‘the person’ with the ability to produce the prisoner’s body before the habeas court” or who can release the individual if “no sufficient reasons” for detention is

shown. *Padilla*, 542 U.S. at 435. Respondents fit squarely within this definition regarding Petitioner. If it is demonstrated that habeas relief is appropriate in the present case, any writ issued granting Petitioner his requested relief would be directed at Respondents not the warden at the presently unknown facility where Petitioner happens to be detained.

26. Put differently, if habeas relief is granted in the form of Petitioner's release from detention, it will be Respondents who effect Petitioner's return to Minnesota and his release; it will not be the warden of the facility at which Petitioner is detained.

27. Further, this Court should conclude "as other judges in this District have, that when 'Government-controlled transfers,' like the one in this case," are effectuated without proper notice "and before [meaningful] communication with counsel is possible such conduct risks defeating timely judicial review," and thus, under those circumstances, the original district in which the petitioner was arrested remains a proper forum to seek habeas relief. *Abdiselan A.A.*, 2026 WL 161526, at \*2 (cleaned up) (quoting *E.E. v. Bondi* (JWB/DTS), Order [Docket No. 7] at 5 (D. Minn. Jan. 17, 2026)).

28. To hold otherwise would create a legal quagmire for the sake of procedural niceties and require counsel for a petitioner in immigration-related habeas proceedings such as this case to speculate as to the whereabouts of their client in the face of rapid, Government-controlled transfers; to delay filing a habeas petition until the Government, at a time of its own choosing, decided to inform counsel of the petitioner's ultimate location after the rapid transfers are all concluded; or to risk the petition being summarily rejected as having been brought in an inappropriate forum. Such a circumstance has no place in habeas litigation challenging the legality of detention, especially when, like here,

the arguments raised in support of that detention have been overwhelming rejected by Courts across the nation.

29. This Court has previously found that its habeas jurisdiction attached at the time of an individual's apprehension in this District. Petitioner was apprehended within the District of Minnesota by federal officers and immediately placed into federal custody, therefore, this Court holds jurisdiction over the habeas petition. The Court's jurisdiction over the habeas petition is not defeated by any subsequent decision by Respondents to transfer Petitioner to another state. Habeas jurisdiction turns on custody and control, not on the Government's unilateral post-seizure movement of the detainee. The position that jurisdiction lies exclusively in the district to which Respondents transfer Petitioner would permit the Government to determine the forum for judicial review through its own logistics. Federal courts may not be divested of jurisdiction in that manner.

30. Petitioner was apprehended in the state of Minnesota prior to being transferred to the State of Texas, a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this district, and Respondents in this case are national-level officials and officials with responsibility over the detention facility where Petitioner is detained. *Sue H. v. Donald Trump*, No. 26-cv-00416 (D. Minn. Jan. 20, 2026), and *Victor P. v. Kristi Noem*, et al., No. 26-cv-430 (MJD/SGE)(D. Minn. Jan. 19, 2026); see also *Jose A. v. Kristi Noem*, No. 26-cv-480 (JMB/ECW) (finding that jurisdiction was proper in Minnesota despite petitioner being transferred to El Paso, Texas because the decision to detain and arrest petitioner was made in Minnesota, witnesses of petitioner's arrest are in Minnesota, and petitioner was for some time actually detained in Minnesota).

31. Notably, numerous Courts, including this Court, have repeatedly recognized national-level policy making officials, such as the U.S. Attorney General, as proper respondents. See, e.g., *Santos v. Smith*, 260 F. Supp. 3d 598, 607-08 (W.D. Va. 2017); *Jarpa v. Mumford*, 211 F. Supp. 3d 706, 723-25 (D. Md. 2016); *Somir v. United States*, 354 F. Supp. 2d 215, 217-18 (E.D.N.Y. 2005); *S.N.C. v. Sessions*, 325 F. Supp. 3d 401, 407 (S.D.N.Y. 2018).
32. Still others recognize as the proper respondent the federal official with responsibility over the detention facility or the federal contract governing the detention facility, usually the ICE Field Office Director, or the person with legal authority over the claim. See, e.g., *Campbell v. Ganter*, 353 F. Supp. 2d 332, 336 (E.D.N.Y. 2004); *Masingene v. Martin*, 424 F. Supp. 3d 1298, 1301-02 (S.D. Fla. 2020).
33. Significantly, in order to exercise personal jurisdiction over a habeas petition, a district court need only find that one named respondent is proper. *Dunn v. U.S. Parole Commission*, 818 F.2d 742, 744 (10th Cir. 1987) (“So long as the petitioner names as respondent a person or entity with power to release him, there is no reason to avoid reaching the merits of his petition.”) (quoting *Lee v. United States*, 501 F.2d 494, 502-03 (8th Cir. 1974) (Webster, J. concurring)).
34. In the case of Petitioner, named respondents include U.S. Secretary of Homeland Security, Kristi Noem, Acting Director of Immigration and Customs Enforcement (ICE), Todd M. Lyons, Minneapolis-St. Paul Field Office Director of Enforcement and Removal Operations (ERO), David Easterwood, El Paso Field Office Director of ERO, Mary De Anda-Ybarra, and Warden of the El Paso Camp East Montana Detention Center.

## **PARTIES**

35. Petitioner, Anzoni Quezada Barajas, a 21-year-old Mexican national, resides in Minnesota. Respondents detained Petitioner with no explanation on January 16, 2026. There are no legitimate circumstances for Respondents to justify detaining Petitioner. Petitioner is now detained at the East Montana Camp in El Paso, Texas.
36. Respondent Kristi Noem is the Secretary of Homeland Security. In that capacity, Defendant Noem is responsible for overseeing the enforcement of federal immigration policies, including those that resulted in the detention of Petitioner. She is sued in her official capacity.
37. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (ICE). As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also the legal custodian of Petitioner. He is sued in his official capacity.
38. Respondent David Easterwood is the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. He is sued in his official capacity.
39. Respondent Mary De Anda Ybarra, is the Director of the El Paso Field Office of ICE's Enforcement and Removal Operations division. As such, she is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. She is sued in her official capacity.
40. Respondent Warden of the El Paso Camp East Montana, is the custodian of detained non-citizens, including Petitioner, housed at the El Paso Camp East Montana. They are sued in their official capacity.

## EXHAUSTION OF REMEDIES

41. No statutory requirement of administrative exhaustion applies to Petitioner's challenge to the unlawfulness of his detention. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which she could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).
42. DHS has taken the position that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225. Further, in a published decision, the Board of Immigration Appeals held that "Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission." *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under the BIA's interpretation, Petitioner is ineligible for bond as a noncitizen who entered the United States without inspection. Exhaustion before the BIA would therefore be futile. Accordingly, there are no administrative remedies that Petitioner could exhaust before seeking habeas relief.
43. The BIA interprets § 1225(b) as mandating detention of arriving aliens pending removal proceedings. See *Matter of X-K-*, 23 I. & N. Dec. at 732 ("There is no question that Immigration Judges lack jurisdiction [for a bond hearing] over arriving aliens who have been placed in . . . removal proceedings . . ."). Notably, on February 18, 2026, a Central District of California District Court Judge issued an order vacating the Board's decision in *Matter of Yajure Hurtado*. *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.* 5:25-cv-01873, (C.D. Cal.).

44. Further, neither an immigration judge nor the Board of Immigration Appeals can rule on a petitioner's constitutional claims. See *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (B.I.A. 2020) (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C--*, 20 I. & N. Dec. 529, 532 (B.I.A. 1992) ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations."); see also *Gonzalez v. O'Connell*, 355 F.3d 1010, 1017 (7th Cir. 2004) (noting that "the BIA has no jurisdiction to adjudicate constitutional issues..."); see also *United States v. Gonzalez-Roque*, 301 F.3d 39, 48 (2d Cir. 2002) ("the BIA [Board of Immigration Appeals] does not have jurisdiction to adjudicate constitutional issues..." Because Petitioner raises a constitutional due process claim in his habeas petition, exhaustion of his due process claims would be futile.

#### **FACTUAL BACKGROUND**

45. Petitioner, Anzoni Quezada Barajas, is a 21-year-old Mexican national who is seeking asylum in the United States. Petitioner arrived in the United States on or about March 11, 2024. Respondents then released Petitioner on his own recognizance pursuant to I.N.A. § 236, 8 U.S.C. § 1226. See Ex. A. Petitioner was issued Notice to Appear and placed in full removal proceedings under 8 U.S.C. § 1229a. See Ex. B.
46. Petitioner timely filed Form I-589, Application for Asylum and Withholding of Removal, with the Kansas City Immigration Court on March 7, 2025. See Ex. C. He is seeking asylum in the United States and has initiated the asylum application process in accordance with applicable immigration laws and procedures.

47. Petitioner has a valid work permit based upon his pending asylum application. Petitioner has never missed a court hearing or otherwise violated the conditions of his release from custody. Upon information and belief, Petitioner has no criminal history in the United States or elsewhere.
48. Despite this, Respondents initially detained Petitioner on January 16, 2026, in the State of Minnesota, for no apparent lawful reason.
49. Petitioner is currently in removal proceedings and has complied with all requirements imposed by U.S. immigration authorities. *See* Ex. B.
50. Petitioner was arrested and detained in the State of Minnesota without any proper notice before being transferred to the State of Texas. Petitioner is currently detained at the ERO El Paso East Montana Camp in El Paso, Texas.
51. Detaining Petitioner is an expensive and pointless endeavor. Petitioner respectfully seeks the opportunity to return home and to continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country.

### **LEGAL BACKGROUND**

52. 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.*
53. 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).

54. A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law, 28 U.S.C. § 2441(c)(3), which should be granted if the petitioner meets their burden of proof—a preponderance of evidence.
55. The Petitioner “bears the burden of proving that he[or she]is being held contrary to law; and because the habeas proceeding is civil in nature, the petitioner must satisfy his[or her]bur-den of proof by a preponderance of the evidence.” *Villamueva v. Tate*, No. 4:25-CV-03364, 2025 WL 2774610, at \*4(S.D. Tex. Sept. 26, 2025) (internal citations omitted).
56. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.
57. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
58. Detained immigrants petitioning under 28 U.S.C. § 2241 face no statutory exhaustion requirements. There is no statutory requirement of administrative exhaustion before immigration detention may be challenged in federal court by a writ of habeas corpus. See 8 U.S.C. § 1252(d)(1); *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007) (“Under the INA exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal.”).

59. As relevant here, the Immigration and Naturalization Act, 8 U.S.C. §1101-1524, describes two means of handling the custody and potential removal of noncitizens.

60. First, 8 U.S.C. § 1226(a) authorizes the detention of noncitizens in standard removal proceedings. See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention. See 8 C.F.R. §§ 1003.19(a), 1236.1(d). The text of § 1226 explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.” *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. Apr. 24, 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

61. In addition, while on release, the noncitizen may apply for asylum or other relief in the United States. 8 U.S.C. § 1158. While a grant of asylum is discretionary, the right to apply for asylum is not. The Refugee Act, codified in various sections of the INA, broadly affords a right to apply for asylum to any noncitizen, like Petitioner, “who is physically present in the United States or who arrives in the United States[.]” 8 U.S.C. § 1158(a)(1); Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

62. The INA guarantees to noncitizens in standard removal proceedings who apply for asylum and other relief valuable procedural rights that reduce the risk of an erroneous decision. These include the rights to legal counsel, 8 U.S.C. § 1229a(b)(4)(A) and §

1362; to present supporting evidence (both documentary and through lay and expert witness testimony) and to challenge through cross-examination adverse evidence during a full adversarial hearing before an immigration judge (IJ), 8 U.S.C. § 1148(b)(1)(B); to seek reconsideration or reopening of an adverse decision, 8 U.S.C. § 1229a(c)(6)-(7), to appeal an adverse decision of an IJ to the Board of Immigration Appeals based on the full evidentiary record, 8 U.S.C. § 1229a(c)(5), and to appeal an adverse decision of the Board to a federal circuit court of appeals, 8 U.S.C. § 1252(b).

63. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).
64. The second relevant means of detention is governed by 8 U.S.C. § 1225, which provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission under 8 U.S.C. § 1225(b)(2). Respondents treat noncitizens subject to mandatory detention under § 1225 as ineligible for bond.
65. The mandatory detention scheme under 8 U.S.C. § 1225(b)(2) applies only to noncitizens arriving at U.S. ports of entry who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (emphasis added).

66. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including “Protecting the American People Against Invasion,” an order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The “Protecting the American People Against Invasion” EO instructs the DHS Secretary “to take all appropriate action to enable” ICE, Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) to prioritize civil immigration enforcement procedures including through the use of mass detention.
67. On January 21, 2025, Acting Deputy Secretary of DHS Benjamin Huffman issued for public inspection and effective immediately a designation expanding the scope of expedited removal to apply nationwide and to certain noncitizens who are unable to prove they have been in the country continuously for two years. On January 24, 2025, DHS published a Notice that expanded the application of expedited removal. Office of the Secretary, Dep’t of Homeland Security, Designating Aliens for Expedited Removal, 15 Fed. Reg. 8139 (“January 2025 Designation”). The designation was “effective on” January 21, 2025.
68. The January 2025 Designation expands the pool of noncitizens who can be subjected to the summary removal process substantially to include noncitizens who are apprehended anywhere in the United States and who have not been in the United States continuously for more than two years. *Id.* at 8140.
69. The January 2025 Designation does not state that it applies to noncitizens who were in the United States before its effective date.

70. On July 8, 2025, without congressional authorization, the Executive Branch announced a new policy entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission.” The policy asserts that all undocumented noncitizens deemed “applicants for admission” are subject to mandatory detention under § 1225(b)(2)(A). The policy purports to apply even to those, like Petitioner, whom at the time of the policy shift, the government had already placed in standard removal proceedings, released from custody, and allowed to apply for asylum. The policy shift also violates the government’s own regulations. These regulations limit the government from seeking dismissal of full removal proceedings unless it can show that the “[c]ircumstances of the case have changed”. See 8 C.F.R. § 239.2(a)(7) (emphasis added). But the government’s new policy purports to allow it to seek dismissal based on changed circumstances independent of the noncitizen’s case.
71. Adopting this same position, on September 5, 2025, the Board of Immigration Appeals (BIA) issued a published decision holding that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bonds. See *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Notably, on February 18, 2026, a Central District of California District Court Judge issued an order vacating the Board’s decision in *Matter of Yajure Hurtado*. *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.* 5:25-cv-01873, (C.D. Cal.).
72. ICE and EOIR have adopted this policy even though numerous federal courts have rejected this exact conclusion. For example, after IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United

States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239; see also *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at \*8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion). Accordingly, federal courts have roundly rejected Respondent's erroneous interpretation of the INA since ICE implemented its July 8, 2025, memo. See *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025) (disagreeing with BIA's analysis in *Yajure Hurtado*); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (same); *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Martinez v. Hyde*, CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Garcia Jimenez v. Kramer*, No. 4:25-cv-03162-JFB-RCC, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Aguilar Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v Noem*, 5:25-cv-01789-ODW-DFM, 2025 WL 2379285 (C.D. CA Aug 15, 2025); *Jacinto v. Trump, et al.*, 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 (D. Neb. August 19, 2025); *Leal-Hernandez v. Noem*, 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Minn. Aug. 24, 2025); *Herrera Torralba v. Knight*, 2:25-cv-03166-RFB-DJA (D. Nev. Sep. 5, 2025); *Portugues Sanchez v. Noem et al.*, 25-cv-02010 (ADA/ML) (W.D. Tex. January 20, 2026); *Santiago v. Noem*, No. 3:25-cv-361-KC, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025); *Lopez-Arevelo v. Ripa*, --- F. Supp. 3d

----, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Buenrostro-Mendez v. Bondi*, No. 25-cv-3726, 2025 WL 2886346, (S.D. Tex. Oct. 7, 2025).

73. Petitioner was apprehended inside the United States, not at a port of entry or while seeking admission. Nevertheless, Respondents improperly rely on 8 U.S.C. § 1225(b)(2) to justify his detention without a hearing. That provision applies only to recent arrivals seeking admission. Instead, if detention were lawful at all, it would fall under 8 U.S.C. § 1226(a), which requires a warrant and provides for a bond hearing, neither of which has occurred in this case.

## **CLAIMS FOR RELIEF**

### **COUNT I**

**Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**

**Abuse of Discretion**

**Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

74. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.
75. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).
76. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. Of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).
77. To avoid an abuse of discretion, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and

the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

78. By revoking Petitioner’s order of release, without consideration of any individualized facts and circumstances applicable to him, and without finding that he is a danger to the community or a flight risk, and while his standard removal proceedings are still pending, Respondents have violated the APA.
79. The government previously considered Petitioner’s facts and circumstances and determined that he was not a flight risk or danger to the community. No changes to the facts have occurred that might justify this revocation of his release.
80. The fact that Respondents have already released Petitioner under the same facts and circumstances shows that Respondents do not consider him to be a danger to the community or a flight risk.
81. By detaining Petitioner without articulating a rationale based on his individualized circumstances, and by detaining him in contradiction of his individualized circumstances as Respondents have previously assessed them, they have abused their discretion under the APA.

## COUNT II

### **Violation of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)**

82. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.
83. To the extent that Respondents purport to detain Petitioner pursuant to 8 U.S.C. § 1225(b)(2), his detention under that statute is unlawful. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United

States who are subject to the grounds of inadmissibility. Petitioner was nowhere near the border and was not “seeking admission”.

84. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

### **COUNT III**

#### **Violation of Due Process (Arbitrary Detention)**

85. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.
86. The Due Process Clause of the Fifth Amendment to the U.S. Constitution applies to all persons within the United States. Once a noncitizen enters this country, whether the presence is “lawful, unlawful, temporary, or permanent,” the Due Process Clause applies to the noncitizen. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
87. Due process requires that government action be rational and non-arbitrary. *See United States v. Bacon*, 646 F.3d 218, 221–22 (5th Cir. 2011).
88. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.
89. Federal courts use the three-part test in *Matthews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 WL 2598379, at \*2 (W.D. Tex. Sept. 8, 2025). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private

interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

90. First, Petitioner has a significant private interest at stake. A person's interest in freedom from physical detention is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also *Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491 (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”).
91. Courts have long considered as-applied due process challenges to other mandatory detention provisions of the INA and found noncitizens to possess a cognizable interest in their freedom from custody. See, e.g., *Gashaj v. Garcia*, 234 F. Supp. 2d 661, 666 (W.D. Tex. 2002) (finding permanent residents subject to mandatory detention due to a criminal conviction “have a fundamental right to a determination of whether their liberty interests should be impinged during the deportation process.”) Petitioner is wrongfully confined, a direct attack on Petitioner’s liberty interests.
92. Second, Petitioner will continue to be deprived of this interest if the current procedure (detaining Petitioner without a legal basis) is followed. There is no rational explanation for detaining Petitioner. Respondents’ purported basis for detaining Petitioner under 8 U.S.C. 1225(b)(2) has been rejected by this court. See, e.g., *Granados v. Noem*, No. SA-25-CV-1464-XR, 2025 WL 3296314 (W.D. Tex. Nov. 26, 2025); *Pineda v. Noem*, No. SA-25-CV-1518-XR, 2025 WL 3471418 (W.D. Tex. Dec. 2, 2025); *Portugues Sanchez v. Noem et al.*, 25-cv-02010 (ADA/ML) (W.D. Tex. January 20,

2026); *Santiago v. Noem*, No. 3:25-cv-361-KC, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025); *Lopez-Arevelo v. Ripa*, --- F. Supp. 3d ----, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025).

93. Notably, this court and courts across the country have recently held that Respondents' novel interpretation regarding mandatory detention is either incorrect or likely incorrect. See *Buenrostro-Mendez v. Bondi*, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025), 2025 WL 2886346, at \*3 (noting that "almost every district court to consider this issue" has rejected the Government's new interpretation); *Lopez-Campos v. Raycraft*, 2025 WL 2496379, at \*8 n.5 (E.D. Mich. Aug. 29, 2025) (collecting twelve such decisions). See also *Ahmed A v. Bondi*, Case No. 25-4776 (JWB/DJF) (January 6, 2026); *Maldonado v. Olson*, 795 F. Supp. 3d 1134, 1142–48, 1150–52 (D. Minn. 2025); *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 968–970 (D. Minn. 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819, at \*7–8 (D. Minn. Oct. 20, 2025); *R.E. v. Bondi*, No. 0:25-cv-3946-NEB, 2025 WL 3146312 (D. Minn. Nov. 4, 2025); *Herrera Avila v. Bondi*, No. 0:25-cv-3741 (JRT), 2025 WL 2976539 (D. Minn. Oct. 21, 2025); *Buenrostro-Mendez v. Bondi*, No. 25-cv-3726, 2025 WL 2886346, (S.D. Tex. Oct. 7, 2025); See *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E..D. Mich. Sept. 9, 2025) (disagreeing with BIA's analysis in *Yajure Hurtado*); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (same); *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Martinez v. Hyde*, CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Garcia Jimenez v. Kramer*, No. 4:25-cv-03162-JFB-RCC, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Aguilar Maldonado v. Olson*, No. 25-

CV-3142 (SRN/SGE), 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v Noem*, 5:25-cv-01789-ODW-DFM, 2025 WL 2379285 (C.D. CA Aug 15, 2025); *Jacinto v. Trump, et al.*, 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 (D. Neb. August 19, 2025); *Leal-Hernandez v. Noem*, 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Minn. Aug. 24, 2025); *Herrera Torralba v. Knight*, 2:25-cv-03166-RFB-DJA (D. Nev. Sep. 5, 2025).

94. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Petitioner poses no safety threats to the community. Releasing Petitioner, or at a minimum holding a bond hearing, would in fact *save* the government the resources and expense of continued imprisonment.
95. Petitioner has a fundamental interest in liberty and being free from official restraint. One's physical freedom is a paramount interest secured by statutes and the Constitution, and Petitioner possesses a strong liberty interest in his freedom from detention because he has established a life here – albeit without authorization. *Martinez v. Noem*, No. EP-25-CV-430-KC, 2025 WL 2965859 at \*3 (W.D. Tex. Oct. 21, 2025) (citation omitted).
96. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.
97. The placement of Petitioner in detention pending the resolution of ongoing immigration proceedings violates Petitioner's constitutional rights to due process guaranteed in the Fifth Amendment.

## PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Declare that Petitioner's current detention without an individualized determination is unlawful;
3. Enjoin Respondents to immediately return Petitioner to the district and prohibit Respondents from transferring Petitioner from the district without the court's approval;
4. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;
5. Order Respondents to return Petitioner's seized property upon release;
6. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
7. Grant any further relief this court deems just and proper.

Dated: February 27, 2026

By: /s/Karen V. Bryan  
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**Verification by Petitioner's Legal Counsel**  
**Pursuant to 28 U.S.C. § 2242**

I am submitting this verification because I am the Attorney for the Petitioner. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status are true and correct to the best of my knowledge.

/s/Karen V. Bryan  
Karen V. Bryan, Esq.

Date: February 27, 2026