UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LUIS FERNANDO BELARCAZAR ALBAN,

Petitioner,

v.

KEVIN RAYCRAFT, in his official capacity as Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, in her official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. 26-697

Hon.

PETITION FOR WRIT OF
HABEAS CORPUS AND RELEASE BASED ON 8 U.S.C. § 1182(d)(5)

INTRODUCTION

1. This petition arises from the sudden and inexplicable re-detention of Petitioner by ICE agents on 01/14/2026 **after he was previously paroled into the country 2 years ago by DHS under the humanitarian parole statute via the CBPOne program, 8 U.S.C. § 1182(d)(5).**

2. Petitioner should therefore be released immediately.

3. Petitioner is a citizen of Venezuela and resident of Detroit, MI, who was unlawfully and unconstitutionally arrested by ICE on 01/14/2026. Without justification, probable cause, or reasonable suspicion of a crime or immigration violation, while on his way to work. This arrest violated 8 U.S.C. § 1226(a),8 U.S.C. § 1357(a)(2), 8 C.F.R. § 287.8, Section 236 of the INA, and the Fourth and Fifth Amendments of the U.S. Constitution.

4. Petitioner is currently detained at the North Lake Processing Center in Baldwin, Michigan, a privately-owned, for-profit facility owned and operated by GEO Group.

5. Petitioner entered the United States approximately 2 years ago and has lived here ever since.

6. On 01/14/2026, ICE agents suddenly detained Petitioner without prior notice or an opportunity to be heard. Upon stopping and arresting Petitioner, agents

provided no warrant or explanation, and transported him to immigration custody. Petitioner received no written notice that his parole was terminated, no statement of reasons, and no chance to contest his detention, rendering the arrest and ensuing custody unconstitutional and unlawful. See 8 C.F.R. § 212.5(e)(2)(i) and Section 235 of the INA.

7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately released from custody and not re-detained absent leave of this Court, because his current detention is the product of an unconstitutional arrest and redetention without due process. In the alternative, Petitioner seeks an order requiring that he receive constitutionally adequate notice and a meaningful opportunity to be heard before any future detention.

8. Here, officers stopped and arrested Petitioner without the statutory "reason to believe" standard or any basis to think he might escape before a warrant could be obtained, and in a manner that violated 8 C.F.R. § 287.8, so ICE never acquired lawful custody under the INA.

9. Because Petitioner's detention does not satisfy the INA's arrest and detention prerequisites, he is "in custody in violation of the Constitution or laws of the United States" under 28 U.S.C. § 2241(c)(3), and the appropriate remedy is immediate release from ICE detention.

10. Additionally, this Petition also arises from the U.S. government's new policy, which contradicts both the plain language of the Immigration and Nationality Act (INA) and decades of agency practice, of erroneously interpreting the INA to mandate detention without the possibility of bond for noncitizens who entered the United States without inspection, even if they have been residing here for years.

11. Petitioner is statutorily entitled to a bond hearing before an Immigration Judge (IJ) but will not receive one or be released on bond because of a new policy and legal interpretation by ICE and the Department of Justice.

12. The denial of bond is a new policy issued on July 8, 2025, instructing all ICE employees to no longer apply 8 U.S.C. § 1226(a) to people charged with being inadmissible under § 1182(a)(6)(A)(i)—i.e., those who initially entered the United States without inspection. Instead, under the new policy, ICE employees are to subject people like Petitioner to mandatory detention without bond under § 1225(b)(2)(A), no matter how long they have resided in the United States.

13. The policy was joined by the Board of Immigration Appeals (BIA) in their precedential decision, Matter of *YAJURE HURTADO*, 29 I & N Dec. 216, issued on September 5, 2025.

14. BIA decisions are binding authority on Immigration Judges and hold that IJs no longer have jurisdiction to hold bond hearings for detained individuals like Petitioner.

15. As a result, Petitioner will remain in mandatory detention. Absent relief from this Court, he faces the prospect of months or years in immigration custody, separated from he family and community, all while being deprived an individualized hearing justifying his detention in violation of the INA and Due Process.

16. Because both the unlawful redetention and the misapplication of the INA render his current detention unconstitutional, the appropriate remedy is immediate release. These statutory errors reinforce the conclusion that Petitioner's ongoing detention violates the Fifth Amendment and must end.

17. Petitioner is terrified and experiencing the harms of being in a carceral setting for the first time in his life, including Medical: depression, which is significantly exacerbated by his detention. This is especially concerning given reports of numerous suicide attempts by detainees at the North Lake Processing Center.

18. Respondents' new legal interpretation, which has caused Petitioner to be detained without bond, is plainly contrary to the statutory framework of the

INA and contrary to both agency regulations and decades of consistent agency practice applying § 1226(a) to people like Petitioner. It also violates his right to due process by depriving him of his liberty without any consideration of whether such a deprivation is warranted.

19. Courts have found that, when a noncitizen detainee's due process was violated, his detention is unlawful and **he must be released**. *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV (W.D.N.Y. July 16, 2025).

20. Accordingly, Petitioner also seeks a writ of habeas corpus requiring that his be **immediately released from custody**, or in the alternative, that Respondents provide him with a bond hearing under § 1226(a) within three (3) days.

JURISDICTION

15. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2241(c)(3) ("in custody in violation of the Constitution or laws or treaties of the United States,"); and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

16. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

17. Venue is proper in the Western District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is detained at the direction, and is in the immediate custody, of Respondent Kevin Raycraft. See *Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

18. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims and relevant facts occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

19. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three (3) days unless for good cause additional time, not exceeding twenty (20) days, is allowed." *Id.*

20. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

21. Petitioner is a citizen of Venezuela and a resident of Detroit, MI. Petitioner has been detained since 01/14/2026.

22. Respondent Kevin Raycraft is the Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Director Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

23. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

24. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

25. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review (EOIR) and the immigration system it operates is a component agency. She is sued in her official capacity.

26. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

FACTS

25. Petitioner Luis Fernando Belarcazar Alban has resided in the United States for approximately 2 years and lives in Detroit, MI. Petitioner is forty six, 46.

26. Petitioner was allowed into the United States under a humanitarian parole by the CBPOne program, under 8 U.S.C. § 1182(d)(5).

27. Petitioner was also granted temporary protected status (TPS), bringing him under the protection of 8 USC § 1254a(d)(4).

28. Petitioner has numerous friends and family who are United States Citizens, including.

29. Petitioner has a permanent address in the United States.

30. He has maintained meaningful employment via a valid work permit while in the United States.

31. Petitioner has no criminal history.

32. Petitioner has paid his taxes while living in the United States.

33. Petitioner has an exemplary compliance history during his immigration process.

34. Petitioner has a valid Social Security card.

35. Petitioner has a pending asylum application.

36. On information and belief, he attended all court hearings as required and met every other condition of his "form of conditional parole." *Martinez v. Hyde*, 792 F. Supp. 3d 211 (D. Mass. 2025).

37. Petitioner was not given notice of his parole revocation prior to his re-detention.

38. On information and belief, Respondents made no individualized determination regarding whether the conditions of his release had been

violated or whether there was a changed circumstance warranting his redetention.

39. Petitioner received no advance written notice that DHS intended to terminate his parole, no contemporaneous written decision explaining the basis for parole termination or redetention, and no opportunity, either before or shortly after his arrest, to contest his loss of liberty before a neutral decisionmaker.

40. Petitioner's sudden redetention and continued confinement have caused serious harm, including profound anxiety, difficulty sleeping, and fear of physical and psychological abuse in the detention facility, despite his prior compliance with all conditions of release and absence of any criminal history.

41. Petitioner is not a flight risk nor a danger to his community.

LEGAL FRAMEWORK

A. Respondent's Categorical Violation of 8 USC § 1254a(d)(4) should result in Petitioner's Immediate Release

36. Petitioner is currently detained by the Department of Homeland Security at the North Lake Processing Center in Baldwin, Michigan based on his immigration status.

37. Under 8 USC § 1254a(d)(4), an alien with temporary protected status shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States.

38. Petitioner is not detained based on any criminal or non-status-based reason.

B. Respondent's Revocation of Parole Was Contrary to Statute and Regulation and Violates the APA

39. Once paroled into the United States, under the statute, a noncitizen may not be "returned to the custody from which he was paroled" unless in the Secretary's opinion, "the purposes of such parole . . . have been served." 8 U.S.C. § 1182(d)(5)(A).

40. Revocation of parole is also governed by regulations. 8 C.F.R. 212.5(e).

41. Those regulations require written notice.

42. Those regulations further require that to terminate parole, either the purposes of the parole have been accomplished, or that an individual

decision has been made that neither a humanitarian reason nor public benefit warrants continued parole.

43. Thus, "both common sense and the words of the statute require parole revocation to be analyzed on a case-by-case basis and that a decision to revoke parole must attend to the reasons an individual noncitizen received parole." *Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 U.S. Dist. LEXIS 135986, at *29 (W.D.N.Y. July 16, 2025) (internal citations, brackets, and quotation marks omitted).

44. Respondents, in failing to make a determination that the purpose of Petitioner's parole had been accomplished, violated the statutory and regulatory provisions of 8 U.S.C. § 1182(d)(5)(A) and 8 C.F.R. § 212.5(e). *Orellana v. Francis*, No. 25-CV-04212 (OEM), 2025 U.S. Dist. LEXIS 196589, at *9 (E.D.N.Y. Oct. 3, 2025).

45. In this context, the parole of a noncitizen is in the 'public benefit' when that noncitizen is neither a flight risk nor a danger to the community. See, *Mons v. McAleenan*, 2019 U.S. Dist. LEXIS 151174, 2019 WL 4225322, at *2 (D.D.C. Sept. 5, 2019).

46. In other words, it is **not** in the public interest to re-detain parolees who are not flight risks or dangers to the community.

47. No analysis of Petitioner's parole or the reasons it was granted occurred here and her re-detention is not in the public interest and Respondents violated the INA and the APA.

48. Because her arrest not lawful, the proper remedy is immediate release.

C. Detention Is Ultra Vires Under The INA And Must End

49. The government may detain a noncitizen before a final removal order only as the Immigration and Nationality Act expressly authorizes, and only when custody flows from a statutorily valid arrest. See Section 236 of the INA provides that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed," and then permits continued detention or release on bond or conditional parole under that lawful custody. 8 U.S.C. § 1226(a).

50. Section 287(a)(2), in turn, allows a warrantless immigration arrest only "if [the officer] has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest," and requires prompt examination without unnecessary delay. 8 U.S.C. § 1357(a)(2).

51. These statutory limits are implemented and reinforced by regulation. The arrest standard in § 1357(a)(2) is fleshed out by 8 C.F.R. § 287.8, which

requires that immigration officers possess reasonable suspicion for stops and "reason to believe" (probable cause) for arrests, and forbids enforcement actions based solely on race, ethnicity, or other impermissible factors.

52. Likewise, the custody and bond regulations at 8 C.F.R. § 236.1 presupposes that an individual has first been "arrested and taken into custody" under valid statutory authority before ICE may issue a Notice of Custody Determination and set or deny bond under § 1226.

53. Together, these provisions make clear that civil immigration detention is lawful **only** when it is the continuation of a lawful arrest carried out within the bounds of 8 U.S.C. § 1357 and its implementing regulations.

54. Petitioner's custody does not satisfy these statutory prerequisites. Petitioner was stopped and arrested without a warrant issued by the Attorney General. Petitioner was stopped by ICE based solely on race, ethnicity, or other impermissible factors.

55. As stated above, ICE officers stopped and arrested Petitioner without the "reason to believe" required by § 1357(a)(2), without any articulable basis to conclude that Petitioner was in violation of the immigration laws, and without any non-speculative showing that Petitioner was "likely to escape before a warrant can be obtained." 8 U.S.C. § 1357(a)(2).

56. The stop and ensuing arrest of Petitioner also violated 8 C.F.R. § 287.8 because officers acted on impermissible factors and without the reasonable suspicion or probable cause that regulation demands.

57. An arrest that exceeds § 1357(a)(2) and 8 C.F.R. § 287.8 is ultra vires; it is not an arrest "on a warrant issued by the Attorney General" or otherwise within the ambit of § 1226(a), and therefore cannot supply the lawful predicate for civil detention.

58. Because Respondents never acquired lawful custody under the INA, they lack statutory authority to "continue to detain" Petitioner or to deny release under § 1226. 8 U.S.C. § 1226(a)(1)–(2); 8 C.F.R. § 236.1.

59. Petitioner is therefore "in custody in violation of the Constitution or laws or treaties of the United States," within the meaning of 28 U.S.C. § 2241(c)(3), not only because the seizure contravened the Fourth and Fifth Amendments, but also because it contravened the INA's carefully cabined arrest and detention scheme.

60. Habeas is the proper vehicle to remedy such ultra vires confinement, and where, as here, custody itself lacks any lawful statutory basis, the only adequate remedy is immediate release from civil immigration detention.

D. Petitioner's Detention Violates the Constitution

61. The Fifth Amendment provides that "[n]o person shall be . . . deprived of life, liberty, or property, without due process of law" (emphasis added). See U.S. Const. Amend. V. See also *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) "the opportunity to be heard 'at a meaningful time and in a meaningful manner.'"

62. Individuals who have been conditionally released from detention have a protected interest in their "continued liberty." *Herrera v. Tate*, No. H-25-3364, 2025 U.S. Dist. LEXIS 189999, at *31 (S.D. Tex. Sep. 26, 2025) (quoting *Young v. Harper*, 520 U.S. 143, 147, (1997).

63. 8 C.F.R. § 212.5(e)(2)(i) requires "written notice to the ***[noncitizen]*** in order for a parole termination to be effective" [emphasis added].

64. Petitioner was arrested and detained before he was given any notice that his parole was revoked, making his arrest unlawful. See U.S. Const. Amend. V. The Fifth Amendment provides that "[n]o person shall be . . . deprived of life, liberty, or property, without due process of law" (emphasis added). See also *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) "the opportunity to be heard 'at a meaningful time and in a meaningful manner.'"

65. Courts have found that, where a noncitizen detainee's due process was violated, his detention is unlawful and he must be released. *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV (W.D.N.Y. July 16, 2025).

66. The government does not have the authority to arrest a noncitizen who has been granted parole without properly terminating that parole, see *Y-Z-L-H v. Bostock*, 2025 WL 1898025, at *13 (D. Or. July 9, 2025), or unless there is some other valid reason to arrest him.

67. The interest in being free from imprisonment is "the most significant liberty interest there is." *Black v. Decker*, 103 F.4th 133, 151 (2d Cir. 2024) (quoting *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)); see also *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) ("We have always been careful not to minimize the importance and fundamental nature of the individual's right to liberty.").

68. Petitioner's re-detention, 1 year after being paroled into the United States from an initial detention, was without prior notice, a showing of changed circumstances, or a meaningful opportunity to object. Therefore, he was not afforded the procedural requirements of the Fifth Amendment. See, e.g., *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 U.S. Dist. LEXIS 156344, at *36 (D. Ariz. Aug. 11, 2025); *Rosales-Garcia v. Holland*,

322 F.3d 386, 409 (6th Cir. 2003) ("Excludable aliens—like all aliens—are clearly protected by the Due Process Clauses of the Fifth and Fourteenth Amendments."), citing *Yick Wo v. Hopkins*, 118 U.S. 356, 6 S. Ct. 1064, 30 L. Ed. 220 (1886).

69. The government, therefore, does not have the authority to arrest a noncitizen who has been granted parole without properly terminating that parole. *Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 U.S. Dist. LEXIS 135986, at *26 (W.D.N.Y. July 16, 2025); *Y-Z-L-H v. Bostock*, 2025 U.S. Dist. LEXIS 130216, 2025 WL 1898025, at *13 (D. Or. July 9, 2025), or unless there is some other valid reason to arrest him.

70. Due process then "requires a hearing before an immigration judge before re-detention." *Mejia v. Woosley,* Civil Action No. 4:25-cv-82-RGJ, 2025 U.S. Dist. LEXIS 203256, at *11 (W.D. Ky. Oct. 15, 2025) (internal citation and internal quotation marks omitted).

71. Because Respondents arrested and redetained Petitioner without the written notice, statement of reasons, and meaningful opportunity to be heard that due process requires, his present custody is unlawful, and the appropriate remedy under 28 U.S.C. § 2241 is immediate release from detention.

E. Petitioner's Detention Without a Bond Hearing Violates the INA and Fifth Amendment

72. As an alternative and independent basis for relief, Petitioner's detention also violates the INA and due process because the government is denying him a bond hearing under the correct statutory provision.

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

74. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in removal proceedings before an IJ. See 8 U.S.C. § 1229a. Under § 1226(a), individuals who are taken into immigration custody pending a decision on whether they are to be removed can be detained but are generally entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d). See also Jennings v. Rodriguez, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings"). Section 1226(a) is the statute that, for decades, has been applied to people like Petitioner who have been living in the United States and are charged with inadmissibility under § 1182(a)(6)(A)(i).

75. Second, the INA provides for mandatory detention of certain recently arrived noncitizens, namely those subject to expedited removal under 8 U.S.C. § 1225(b)(1), and other recent arrivals seeking admission under § 1225(b)(2). See Jennings, 583 U.S. at 287, 289 (explaining that § 1225(b)(2)'s mandatory detention scheme applies "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the United States."). Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Petitioner.

76. Third, the INA also provides for detention of noncitizens who have already been ordered removed, see 8 U.S.C. § 1231(a)–(b). Section 1231 is not relevant here.

77. This case concerns Respondents' policy as applied towards individuals like Petitioner – namely that he is subject to mandatory detention without bond under §1225(b)(2), rather than being bond-eligible under § 1226(a). Because this ongoing detention is the direct product of Respondents' unlawful termination of parole and redetention without due process, the appropriate remedy under 28 U.S.C. § 2241 is immediate release from custody.

78. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act

(IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

79. Following the 1996 enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (explaining that "[d]espite being applicants for admission, [noncitizens] 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.").

80. Thus, in the three decades that followed, people who entered without inspection and were subsequently placed in removal proceedings received bond hearings if ICE chose to detain them, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed

"arriving" were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

81. However, on July 8, 2025, ICE, "in coordination with" DOJ, suddenly announced a new governmental policy that rejected the well-established understanding of the statutory framework and reversed decades of agency practice.

82. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection are subject to mandatory detention without bond under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

83. Further, in a September 5, 2025, decision, the Board of Immigration Appeals (BIA) issued a decision that holds that all noncitizens who entered the United States without admission or parole are ineligible for bond hearings before an immigration judge. See, Matter of *YAJURE HURTADO*, 29 I & N Dec. 216.

84. In particular, the Respondents have determined that immigration judges no longer have jurisdiction to hold bond hearings for noncitizens like Petitioner. The BIA's decision is binding on all immigration judges.

85. This novel interpretation has been roundly rejected by federal district courts almost unanimously. See, inter alia, *Reyes v. Raycraft*, No. 25-cv-12546, 2025 U.S. Dist. LEXIS 175767, at *19-20 (E.D. Mich. Sep. 9, 2025) ("...[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. At least a dozen federal courts concur generally with this Court's interpretation of the statutory language as applied in this context.") (internal citations omitted); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 U.S. Dist. LEXIS 169423, at *23, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) (holding that "[t]here can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a noncitizen who has resided in this country for over twenty-six years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border."); *Sanchez v. Olson*, No. 25 CV 12453, 2025 U.S. Dist. LEXIS 211062, at *7 (N.D. Ill. Oct. 27, 2025)("almost every district court" has rejected DHS/DOJ interpretation);

Vazquez v. Bostock, 2025 U.S. Dist. LEXIS 193611, 2025 WL 2782499, at *1 (W.D. Wash. Sept. 30, 2025) (collecting cases); *Buenrostro-Mendez v. Bondi*, 2025 U.S. Dist. LEXIS 201967, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025) ("As almost every district court to consider this issue has concluded, the statutory text, the statute's history, Congressional intent, and § 1226(a)'s application for the past three decades support finding that § 1226 applies to these circumstances.")).

86. DHS's and DOJ's interpretation defies the INA. As the above courts explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

87. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

88. The text of § 1226 also 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).

89. Section 1226, therefore, leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

90. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or 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). See Jennings, 583 U.S. at 287 (explaining 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.").

91. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people, like Petitioner, who have already entered and were residing in the United States at the time they were apprehended by immigration authorities.

92. Petitioner is entitled to a bond hearing before an immigration judge where the government bears the burden of proof by clear and convincing evidence that he is a flight risk or danger to the community. See, e.g., *M.T.B. v. Byers*, Civil Action No. 2: 24-028-DCR, 2024 U.S. Dist. LEXIS 148118, at *11 (E.D. Ky. Aug. 20, 2024) (government should bear burden of proof at §

1226(a) bond hearing); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 U.S. Dist. LEXIS 188232, at *35 (W.D. Tex. Sep. 21, 2025) ("vast majority"—an "overwhelming consensus"—of courts have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk.).

CLAIMS FOR RELIEF

COUNT I

Violation of 8 U.S.C. § 1182(d)(5)/CBPOne Parol

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

93. Respondents have categorically violated Petitioner's constitutional rights by violating this statute.

94. As a result, Petitioner has suffered irreparable harm and will continue to suffer irreparable harm if not released immediately.

COUNT II

Violation of the INA and APA

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

96. Petitioner's re-detention without notice and without an individualized determination regarding her parole status violates the INA and the APA.

COUNT III

Violation of Due Process

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

98. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

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

100. Petitioner's re-detention without a pre-arrest hearing violates his right to due process.

101. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others, and without any meaningful opportunity to contest his custody, violates his right to due process and renders his current detention unconstitutional and unlawful.

PRAYER FOR RELIEF

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

A. Assume jurisdiction over this matter;

B. Issue a writ of habeas corpus requiring that Respondents Petitioner from custody IMMEDIATELY and provide notice and a hearing before an immigration judge prior to re-detaining Petitioner;

C. Enjoin Respondents from transferring Petitioner from the jurisdiction of this District pending these proceedings;

D. To the extent the Court reaches the statutory issues, award Petitioner fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

E. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted,

By: **/s/ Joseph Williams**

Counsel for Petitioner

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Dated: 03/02/2026

PROOF OF SERVICE

I hereby certify that on 03/02/2026, I filed the above Petition for Writ of Habeas Corpus with the UNITED STATES DISTRICT COURT WESTERN DISTRICT OF MICHIGAN via PACER and I further certify that all parties and attorneys of record were served with same via email and PACER. I declare that the above statements are true to the best of my information, knowledge and belief.

/s/ Joseph Williams

Joseph Williams (P88177)

Attorney for Petitioner