UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

Bernardo Martinez-Teran, Petitioner, v. KEVIN RAYCRAFT, in his official capacity as Acting 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. **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Martinez-Teran is a 40-year-old Mexican national. He entered the United States on or about 2003, and was detained on or about February 20, 2026. See Ex 1. (Notice to Appear).

2. Department of Homeland Security (DHS) issued a Notice to Appear (NTA), initiating removal proceedings in the Detroit Immigration Court. See Ex. 1.

4. Petitioner has complied with all requirements and has continuously resided within the United States since his entry into the country.

5. On or about February 17, 2026, ICE arrested Petitioner. See Ex. 1.

6. A Notice to EOIR (Form I-830) reflects that Petitioner was "detained by ICE and transferred on February 17, 2026 to North Lake Correctional Facility in Baldwin, Michigan, an ICE contract facility under the jurisdiction of the Michigan Field Office. *See* Ex. 1.

7. Petitioner is currently set for a master calendar hearing in his case on March 4, 2026.

8. Petitioner had never failed to appear at an immigration appointment or hearing, never been accused of wrongdoing, yet Respondents abruptly determined him, upon information and belief, to be subject to mandatory, and to date have failed to provide Petitioner with proper due process and an opportunity to seek release.

9. Immigration and Nationality Act (INA) does not authorize the mandatory detention of § 240 respondents who have been living in the interior for over 2 years.

10. The only lawful detention authority applicable to Petitioner is 8 U.S.C. § 1226(a), which requires an individualized custody determination with the possibility of bond. Respondents have failed to provide him this statutory process.

11. Petitioner's detention is therefore ultra-vires, arbitrary, and unconstitutional. His continued detention without proper foundation renders his continued confinement punitive and unreasonable under the Fifth Amendment.

12. Petitioner respectfully seeks a writ of habeas corpus ordering his release, or at minimum, a prompt hearing where Respondents must justify detention by clear and convincing evidence, consistent with § 1226(a) and due process.

PARTIES

13. Petitioner Bernardo Martinez-Teran is a 40-year-old Mexican national detained at North Lake Correctional Facility in Baldwin, Michigan.

14. Respondent Kristi Noem, Secretary of DHS, oversees immigration enforcement policies and is sued in her official capacity.

16. Respondent Kevin Raycraft, Field Office Director for ICE's Michigan Field Office and the Warden North Lake Correctional Facility. He is the official responsible for Petitioner's custody and detention. He is sued in his official capacity.

JURISDICTION AND VENUE

17. 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 Nationality Act, 8 U.S.C. § 1101-1524, and the United States Constitution.

18. 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).

19. Under 28 U.S.C. § 2241 and § 1391(b), (e), venue is proper in this district. Venue is proper because, Petitioner is in Respondents' custody in the Western District of Michigan. See 28 U.S.C. § 1391(b)(2), (e)(1).

20. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for administration of the Executive Office for Immigration Review, which includes the U.S. Immigration Courts and the BIA.

EXHAUSTION OF REMEDIES

21. No statutory requirement of administrative exhaustion applies to Petitioner's case. 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 he 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).

22. More recently, in a published decision from the Board of Immigration Appeals (BIA), namely *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), the court 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." /d. at 225. Under the BIA's interpretation, Petitioner is ineligible for bond as a noncitizen who entered the United States without inspection, and nothing else about his time in the United States, his release from custody under 8 U.S.C. § 1226(a), or his placement into full removal proceedings matters. Accordingly, there are no administrative remedies that he could exhaust before seeking habeas relief. *See Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025) ("Because exhaustion would be futile and unable to provide Lopez-Campos with the relief he requests in a timely manner, the Court waives administrative exhaustion and will address the merits of the habeas petition.").

23. Further, neither an Immigration Judge (IJ) nor the BIA 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.L.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.").

LEGAL FRAMEWORK

A. CLAIMED DETENTION AUTHORITY

24. As relevant here, the INA prescribes two forms of detention for the vast majority of noncitizens in removal proceedings.

25. First, 8 U.S.C. § 1226 governs detention of noncitizens "already in the country." See *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Section 1226(a) "sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of a[] [noncitizen] 'pending a decision on whether the [noncitizen] is to be removed from the United States." Id. at 288 (quoting § 1226(a)). Individuals in Section 1226(a) detention are generally entitled to a bond hearing at the outset of their detention. See § 1226(a)(2); 8 C.F.R. $§ 1003.19(a), 1236.1(c)(8), (d)(1); *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1247 (W.D. Wash. 2025) ("those detained under Section 1226(a) are entitled to a bond hearing before an [immigration judge] at any time before entry of a final removal order."'). § 1226(a) is the default: discretionary detention with bond eligibility.

26. Section 1226(c) "carves out a statutory category" of noncitizens from Section 1226(a) for whom detention is mandatory, comprised of individuals who have committed certain "enumerated ... criminal offenses [or] terrorist activities." *Jennings*, 583 U.S. at 289 (citing § 1226(c)(1)). Among the individuals carved out and subject to mandatory detention are certain categories of "inadmissible" noncitizens. § 1226(c)(1)(A), (D), (E). Reference to such inadmissible noncitizens makes clear that, by default, people who are applicants for admission but encountered in the interior are afforded a bond hearing under subsection 1226(a). Courts have recently confirmed this understanding of Section 1226. *See Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (*citing Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)) ("When Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies.").

27. Second, 8 U.S.C. § 1225(b) governs inspection and detention of certain categories of noncitizens "seeking entry into the United States" under 8 U.S.C. § 1225(b). *Jennings*, 583 U.S. at 297; see § 1225(b) ("Inspection of applicants for admission'').

28. In Jennings, the Supreme Court explained that this mandatory 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 inadmissible." *Jennings*, 583 U.S. at 287 (emphasis added). Noncitizens subject to mandatory detention under Section 1225 may not be released except "for urgent humanitarian reasons or significant public benefit" under the parole authority provided by 8 U.S.C. § 1182(d)(5)(A). See id. at 300.

29. Section 1225 is split into two categories. Section 1225(b)(1) provides for mandatory detention of noncitizens charged with enumerated grounds of inadmissibility and placed in expedited removal proceedings. 8 U.S.C. § 1225(b)(1)(A)G). Meanwhile, Section 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry.

30. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)(H)(b).

31. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

32. Respondents have recently taken various steps seeking to expand their use of mandatory detention under Section 1225(b)(2) beyond its plain language.

33. On July 8, 2025, ICE, "in coordination with" Department of Justice (DOJ), announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. See ICE, Interim Guidance Regarding Detention Authority for Applicants for Admission (July 8, 2025), https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

34. The new policy claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225 and therefore are subject to mandatory detention 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.

35. On September 5, 2025, the BIA issued a published decision adopting this same position. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision holds that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bond hearings.

B. RESPONDENTS' POLICY ON SECTION 1225(B)(2) IS INCORRECT

36. Respondents' policy, that all undocumented noncitizens who entered without inspection are considered applicants for admission and subject to mandatory detention under Section 1225(b)(2)(A), is incorrect. Instead, the statutory text, the statutory framework, Congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation, including this one, limit Section 1225(b)(2)'s scope to recently arrived noncitizens seeking admission at a border or port of entry.

37. The text of Section 1225, along with its placement in the overall detention scheme of the INA, make clear that the terms "applicant for admission" and "seeking admission" in Section 1225(b)(2) do not include individuals who have entered without inspection and are apprehended when already inside the United States.

38. Section 1225 is titled: "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing." (emphasis added). As courts have recognized, "[t]he added word of 'arriving' indicates that the statute governs 'arriving' noncitizens, not those present already. *See Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025)). This limitation is particularly clear when compared to Section 1226's general title: "Apprehension and detention of aliens."

39. Further, Section 1225(b)(2)'s specific subheading, "Inspection of Other Aliens," subsection 1225(b)(2)(B)'s_ mention of "crewm[e]n" and "stowaway[s]," and subsection 1225(b)(2)(C)'s use of the active language "arriving," reinforce the limited scope of Section 1225(b)(2)'s applicability to those who have recently arrived at a border or port of entry.

40. Finally, the term "seeking" in "seeking admission" "implies action — something that is currently occurring, and in this instance, would most logically occur at the border upon inspection." *Lopez-Campos*, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025).

41. The statutory framework further supports that Section 1225(b)(2) does not apply to noncitizens, like Petitioner, who have lived in the United States for years and who were apprehended while residing within the United States.

42. The INA's entire framework is premised on Section 1225 governing detention of "arriving [noncitizens]" while Section 1226 "applies to [noncitizens] already present in the United States." *Jennings*, 583 U.S. at 288, 301.

43. A fundamental principle of statutory construction is that courts must interpret statutes to give meaning to all provisions and avoid reading out or rendering superfluous any single provision. *Corley v. United States*, 556 U.S. 303, 314 (2009) ("one of the most basic interpretive canons . . . [a] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant[.]") (cleaned up). The government's current reading of Section 1225(b)(2) violates this principle.

44. Section 1226(c) includes carve outs for certain categories of inadmissible noncitizens, who would otherwise fall under Section 1226(a), that are instead subject to mandatory detention. 8 U.S.C. § 1226(c)(1)(A), (D), (E). The inclusion of these carve outs in Section 1226(c) indicates that, contrary to Respondents' interpretation, there are noncitizens who have not been admitted and that are not governed

by Section 1225's mandatory detention scheme. Indeed, if the government's interpretation were correct, it would render these portions of Section 1226(c) superfluous since those same individuals would already be subject to mandatory detention under Section 1225(b)(2).

45. The recent amendment to Section 1226(c) confirms this statutory framework. Just this year, Congress passed the Laken Riley Act, which added additional categories of Section 1226(a) carve outs that are now subject to mandatory detention under Section 1226(c). Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c)(1)(E). Specifically, the Laken Riley Act mandates the detention of noncitizens who are inadmissible under §§ 1182(a)(6)(A) (noncitizens "present in the United States without being admitted or paroled"), 1182(a)(6)(C) (misrepresentation), or 1182(a)(7) (lacking valid documentation) and who have been arrested for, charged with, or convicted of certain crimes. Jd. Again, if Section 1225(b)(2) were already meant to subject these groups of inadmissible noncitizens to mandatory detention, it would render this portion of the Laken Riley Act redundant. *See Beltran Barrera*, 2025 WL 2690565, at *4; *Lopez-Campos*, 2025 WL 2496379, at *8.

46. Congressional intent and longstanding historical practice underscore Petitioner's reading of the statute.

47. The current detention system has been in place since the passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IRIRA) of 1996, Pub. L. No. 104—208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585.

48. Following the enactment of the ITRIRA, the EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under Section 1225 and that they were instead detained under Section 1226(a) and eligible for bond and bond redetermination. See 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

49. In the decades that followed, most people who entered without inspection and were apprehended inside the United States were detained under Section 1226(a) and received bond hearings, 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 immigration judge 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 Section 1226(a) simply "restates" the detention authority previously found at Section 1252(a)).

50. Having induced reliance through release, work authorization, and scheduled court proceedings, the government cannot now erase those determinations retroactively and pretend they never occurred. Due process does not permit the government to behave as though its own prior decisions are legally irrelevant. Here, Respondents have failed to provide such a hearing. Further, there is no information indicating that Petitioner is a flight risk or danger to the community.

51. Lacking any statutory basis for his detention, Respondents must release Petitioner or, in the alternative, promptly hold a bond hearing to determine whether he should remain in custody.

52. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993). To determine whether civil detention violates a noncitizen's Fifth Amendment due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

53. Under *Mathews*, courts weigh the following three factors: 1) "the private interest that will be affected by the official action;" 2) 'the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and 3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. at 335.

C. *MATHEWS FACTORS*

a) Private Interest

54. As to the first *Mathews* factor, "[t]he interest in being free from physical detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 531 (2004).

55. Petitioner has been detained since October 20, 2025. This detention prevents him from seeing his family, going to work to support himself, and deprives him of any privacy and freedom of movement.

b) Risk of Erroneous Deprivation

56. As to the second Mathews factor, courts must "assess whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Gunaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), 2025 WL 1459154, at *8 (D. Minn. May 21, 2025). The current procedures cause an erroneous deprivation of Petitioner's liberty interest in remaining free from detention. The second factor also favors Petitioner given that the risk of erroneous deprivation of Petitioner's liberty is far higher when Petitioner is forced to prove that he isn't a flight risk or danger, rather than Respondents being forced to prove that he is. The burden of attempting to prove a negative is daunting at best, and in most cases, a Sisyphean task which cannot be accomplished. *See Elkins v. United States*, 364 U.S. 206, 218, 80 S. Ct. 1437, 4 L. Ed. 2d 1669 (1960).

57. As discussed above, the statutory text, statutory framework, Congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation leave no doubt that Section 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry, not noncitizens who entered without inspection and were detained inside the country.

58. Here, Petitioner was not arriving at a border or port of entry when he was detained, nor was he ever seeking admission to the country. Instead, he entered without inspection, was processed by DHS, placed into full § 240 removal proceedings, released on his own recognizance, and then lived in the United States for nearly two years before being detained from the interior. As such, Petitioner is not subject to mandatory detention under Section 1225(b)(2).

59. Therefore, it is clear that the government's current procedure, subjecting Petitioner to mandatory detention under Section 1225(b)(2), creates a substantial risk of erroneous deprivation of Petitioner's interest in being free from arbitrary confinement.

60. Additionally, there are reasonable alternatives available for Respondents to pursue. As discussed above, Section 1226(a) applies to noncitizens facing charges of inadmissibility, including noncitizens like Petitioner who entered without inspection and were later detained while residing inside the country. As such, proper application of the INA's detention scheme allows for the possibility of detaining Petitioner under Section 1226(a) but first requires a bond hearing to make an individualized determination of his risk of flight or dangerousness. Such a hearing has not happened. Without it, the risk of erroneous deprivation of Petitioner's freedom is high. See *Martinez-Teran v. Lewis*, 2025 WL 2699219, at *9 ("the risk of erroneously depriving him of his freedom is high if the IJ fails to assess his risk of flight or dangerousness.").

61. What makes Petitioner's detention especially constitutionally offensive is not merely its length or severity, but its complete absence of judgment. No official reassessed danger. No officer reconsidered flight risk. No decisionmaker evaluated Petitioner's medical condition, compliance history, or reliance interests.

62. Instead, liberty was revoked categorically, by spreadsheet logic, because a policy memorandum instructed officers to stop thinking.

c) Government Interest

63. As to the third *Mathews* factor, the government's interest in maintaining the current procedure is minimal here. The new interpretation of Section 1225(b)(2) — that people like Petitioner who have resided in the United States for years are now subject to mandatory detention — flies in the face of the statutory text, statutory framework, Congressional intent, almost three decades of prior practice, and the decisions of federal courts across the nation.

64. Any government interest in public safety or ensuring that Petitioner attends future immigration proceedings would be satisfied through proper application of Section 1226(a), which requires a bond redetermination hearing where an immigration judge will consider Petitioner's individualized facts and circumstances to determine whether he is a danger to the community or a flight risk.

65. Civil detention must serve a legitimate regulatory purpose. Here, it serves none. Petitioner is not dangerous. He is not a flight risk. He has an incentive to appear, evidenced by years of compliance and a valid EAD through 2029.

66. If Respondents were to provide an individualized bond hearing, providing an actual review of Petitioner's case is paramount. The comprehensiveness of such a hearing is crucial to Petitioner's due process rights, as such is key to the nature of a habeas corpus claim, especially one revolving around providing due process to Petitioner, is to ensure that the immigration court provides not just a custody redetermination hearing, but one that fully accounts for Petitioner's circumstances. A boilerplate denial finding Petitioner is a flight risk after a cursory review of Petitioner's request does not give any more due process than a denial due to claimed lack of jurisdiction.

67. Courts have previously looked at the issue of the burden of proof required for a custody redetermination hearing, and have found that Respondents' placement of said burden solely on the alien is untenable. *See Soto-Medina v. Lynch*, 2026 U.S. Dist. LEXIS 11113, 2026 WL 161002. As noted in *Soto-Medina*, "Section 1226(a) is silent as to what burden of proof applies in bond hearings and who bears that burden." *See Soto-Medina* at 12, *citing Hernandez-Lara v. Lyons*, 10 F.4th 19, 26 (1st Cir. 2021). The court in Soto-Medina further noted the inequity present in Respondents' burden shifting, stating that "Under that standard, the government "need not show anything to justify incarceration for the pendency of removal proceedings, no matter the length of those proceedings." *See Soto-Medina* at 12-13, *citing Velasco Lopez v. Decker*, 978 F.3d 842, 849 (2d Cir. 2020).

68. While Respondents' may place the burden on Petitioner regarding proving that they are not a flight risk, this Court is not required to follow suit in imposing that burden on Petitioner, particularly given the

constitutional due process claims present in this instant matter. *See Sterkaj,* 439 F.3d 273 at 279; *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413, 144 S. Ct. 2244, 219 L. Ed. 2d 832 (2024). Further, the Supreme Court determined that Section 1226(a) does not delineate a burden of proof that Petitioner would need to be held to in a custody redetermination hearing, but that the Due Process Clause could. In other decisions, however, the Supreme Court has noted that, especially in civil proceedings (as is the case in Petitioner's removal matter), the burden is on the government to show that Petitioner is a flight risk or danger, given the incongruities in the potential harm both parties might face if due process were not properly followed. *See also Foucha v. Louisiana*, 504 U.S. 71, 80, 112 S. Ct. 1780, 118 L. Ed. 2d 437 (1992).

69. Detention under these circumstances does not further public safety or ensure court appearance.

CLAIMS FOR RELIEF

COUNT I

Violation of the Immigration and Nationality Act (8 U.S.C. §§ 1225, 1226)

70. Petitioner re-alleges and incorporates all prior paragraphs.

71. Respondents' detention of Petitioner under 8 U.S.C. § 1225(b)(2) is unlawful. That provision applies to recent arrivals at ports of entry, not to individuals like Petitioner who have lived and worked in the United States for nearly two years, hold valid employment authorization, and are in pending § 240 proceedings. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

72. Having already placed Petitioner in regular removal proceedings and released him on his own recognizance, DHS cannot now, by stroke of a policy memo, re-characterize him as an "arriving alien" years after entry.

73. Under 8 U.S.C. § 1226(a), DHS may detain a noncitizen pending proceedings only after an individualized assessment of danger or flight risk, subject to bond. When DHS released Petitioner in 2023, it made precisely that determination.

74. By invoking § 1225(b)(2) to mandate detention and by refusing to provide a § 1226(a) bond process where the INA authorizes discretion, Respondents have exceeded their statutory authority and violated the very framework Congress enacted. The law, unlike DHS guidance, still requires logic.

COUNT II Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A)

75. Petitioner re-alleges and incorporates all prior paragraphs.

76. Agency action is unlawful if it is "arbitrary, capricious, [or] an abuse of discretion." 5 U.S.C. § 706(2)(A). It is also unlawful when, as here, the agency pretends to reason but merely announces a policy. *See Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29 (1983).

77. By revoking Petitioner's prior release without any change in facts, danger, or flight-risk assessment, and solely to comply with an internal July 8, 2025 "interim guidance" redefining entire populations as "applicants for admission," Respondents acted arbitrarily and capriciously.

78. When DHS released Petitioner in 2024, it determined he was not dangerous and not a flight risk. Two years later, without individualized assessment, DHS changed its mind, not based on new evidence, but on new paperwork.

79. Government power cannot hinge on which memo circulates that week. By detaining Petitioner under an interpretation divorced from both fact and law, Respondents have committed precisely the sort of "policy-first, reasoning-later" error the APA forbids.

80. DHS's position is particularly indefensible because it punishes Petitioner for doing exactly what the government required of him. He reported. He appeared. He filed his asylum application promptly. He accepted employment authorization. He structured his life around DHS's express permissions.

81. Having demanded compliance and rewarded it with release and lawful work authorization, the government now treats that same compliance as irrelevant.

COUNT III Violation of the Fifth Amendment Due Process Clause

82. Petitioner re-alleges and incorporates all prior paragraphs.

83. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V.

84. The Due Process Clause protects all persons within the United States, regardless of status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). It forbids detention that is arbitrary, purposeless, or devoid of procedure.

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

Government decisions that are arbitrary are not compatible with due process. *See County of Sacramento v. Lewis*, 523 U.S. 833, 845 (1988).

86. The government has previously and affirmatively released Petitioner into the United States and allowed him to remain at liberty on his own recognizance while he applied for asylum.

87. As a matter of due process, the government may not arbitrarily reverse that previous decision. Respondents' decision to do so is arbitrary because it is not based on any justification, facts, or logic, including any individualized factors, that are compatible with due process. Bureaucratic amnesia is not due process.

88. Petitioner is not a danger, not a flight risk, and not subject to any criminal proceedings. He has complied with all requirements of his pending asylum case and maintained steady employment. His detention therefore serves no legitimate purpose beyond institutional inertia.

89. The government's blanket refusal to afford a bond hearing, the basic procedural safeguard distinguishing lawful civil detention from punishment, violates both statutory command and constitutional guarantee. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

90. Petitioner is entitled to immediate release or, at minimum, a prompt bond hearing where Respondents must justify continued confinement by clear and convincing evidence.

CONCLUSION

91. If Respondents' theory were correct, no release decision would ever carry legal weight. Any noncitizen once released could be re-arrested years later without explanation, without changed circumstances, and without hearing, simply because an agency reinterpreted the statute midstream.

92. Petitioner has a pending asylum application, a congressionally authorized lawful pathway under 8 U.S.C. § 1158. DHS's pattern of arresting asylum applicants reflects bad-faith enforcement designed to circumvent statutory protections.

93. Any custody redetermination hearing should be with the direction that it is Respondents' burden of proof to show that Petitioner is not a flight risk or danger to the community, particularly in light of the balancing of the *Mathews* factors.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

A) Assume jurisdiction over this matter;

B) Enjoin Respondents from transferring Petitioner outside this District without Court approval;

C) Declare that Petitioner's current detention without an individualized determination is unlawful;

D) Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody, or, in the alternative, hold a prompt bond hearing, where Respondents bear the burden of proof to show that Petitioner is not a flight risk or danger to the community;

E) Order Respondents to file a status report within six business days of the date of this Court's Opinion and Judgment;

F) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

G) Grant any further relief this court deems just and proper.

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Executed March 2, 2026.

s/ *Christopher J. Acklin*

Acklin Law Office

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of March, 2026, a copy of the foregoing was filed electronically with the Court. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

United States Attorney Eastern District of Michigan

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Counsel for Respondents

Respectfully submitted,

/s/ *Christopher J. Acklin*

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