UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEAN CARLOS CONTRERAS PERNIA, (A [redacted])	)	
Petitioner,	)	
v.	)	
	)	Case No. 26-cv-757
KRISTI NOEM, Secretary, U.S. Department of Homeland Security; KEVIN RAYCRAFT, Field Office Director, Detroit Field Office, Immigration And Customs Enforcement.	)	
Respondents.	)	

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR EMERGENCY INJUNCTIVE RELIEF

The Petitioner, JEAN CARLOS CONTRERAS PERNIA, by and through his own and proper person and through his attorneys, BRITTNI RIVERA, of the LAW OFFICES OF KRIEZELMAN BURTON & ASSOCIATES, LLC, petition this Honorable Court to issue a Writ of Habeas Corpus to review his unlawful detention during his pending removal proceedings, in violation of his constitutional and statutory rights.

Introduction

1. Petitioner is presently being detained by U.S. Immigration and Customs Enforcement ("ICE") at the North Lake Processing Center, in Baldwin, Michigan.
2. Petitioner is a native and citizen of Venezuela. He has been present in the United States since May 2023. He is the primary financial support for his family.
3. Petitioner's detention is a substantial deprivation and burden that puts Petitioner and his family at risk without his support.

4. Petitioner's detention became unlawful in October 2025 when he was taken into custody by ICE/ERO officials. Petitioner was taken into custody at an ICE check, even though he had been granted parole by DHS/ICE. Upon information and belief, ICE did not have a warrant for his arrest. His continued detention is an unlawful violation of due process and an incorrect interpretation of immigration law.
5. At the time of his detention, Petitioner had a pending asylum case with the immigration court, which was filed timely with the court. He had received a valid work permit and social security number.
6. Petitioner has no criminal record in the United States.
7. Respondents did not present any evidence that Petitioner's parole had been terminated or revoked, let alone any evidence to support its revocation when they arrested him.
8. Petitioner respectfully asks this Court to issue a temporary restraining order directing Petitioner's immediate release, subject to any conditions that existed under Petitioner's § 1182(d)(5)(A) parole, as well as enjoin Respondents' continued detention of Petitioner.
9. In the alternative, Petitioner respectfully requests the Court order Respondents to show cause why this Petition should not be granted within three days. *See* 28 U.S.C. § 2243.

Jurisdiction and Venue

10. The action arises under the Constitution of the United States, the Immigration and Nationality Act of 1952, as amended ("INA"), 8 U.S.C. § 1101 *et seq.*, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 *et seq.*
11. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. § 2241, and Article I, section 9, clause 2 of the United States Constitution (the "Suspension Clause"), as

Petitioner is presently subject to immediate detention and custody under color of authority of the United States government, and said custody is in violation of the Constitution, law or treaties of the United States.

12. This action is brought to compel the Respondents, officers of the United States, to accord Petitioner the due process of law to which he is entitled under the Fifth and Fourteenth Amendments of the United States Constitution.

13. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1361 (mandamus), and the All Writs Act, 28 USC § 1651.

14. Venue is proper in the Western District of Michigan because Petitioner is presently detained by Respondents at North Lake Processing Center – which is located within the Western District. 28 U.S.C. § 1391(b), (e)(1).

Parties

15. Petitioner JEAN CARLOS CONTRERAS PERNIA is a native and citizen of Venezuela. Petitioner is presently detained at North Lake Processing Center, in Baldwin, Michigan.

16. Respondent KRISTI NOEM is being sued in her official capacity only. Pursuant to the Homeland Security Act of 2002, Pub. L. 107-296, Defendant NOEM, through her delegates, has broad authority over the operation and enforcement of the immigration laws.

17. Respondent KEVIN RAYCRAFT is being sued in his official capacity only, as the Field Office Director of the Detroit Field Office of ICE. As such, he is charged with

the detention and removal of aliens which fall under the jurisdiction of the Detroit Field Office.

Custody

18. Petitioner JEAN CARLOS CONTRERAS PERNIA is being unlawfully detained by ICE and he is not likely to be removed in the reasonably foreseeable future.

Factual and Procedural Background

19. Petitioner JEAN CARLOS CONTRERAS PERNIA is a native and citizen of Venezuela.
20. Petitioner has been present in the United States since May 2023.
21. On or about October 3, 2025, Petitioner received a notification granting parole from Immigration and Customs Enforcement. *See* Exhibit 1.
22. Petitioner has at no time received any termination letter of his parole status.
23. Petitioner resides in Detroit, Michigan, and is the primary financial support for his family.
24. Petitioner has no criminal record in the United States and has been gainfully employed since his entry into the United States.
25. Petitioner was recently detained by DHS during an ICE Check in, and taken to North Lake Processing Center, in Baldwin, Michigan.
26. At the time of his detention by ICE/ERO, Petitioner had a pending asylum case with the immigration court. His application was filed timely. He had received work authorization and a valid social security number.
27. On September 5, 2025, the Board of Immigration Appeals ("BIA") issued the decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). This decision, for

the first time in immigration history, proclaimed that any person who crossed the border unlawfully and is later taken into immigration detention is no longer eligible for release on bond.

28. Before September 5, 2025, just 3 months prior, the official position of the BIA was that the Immigration Judge had power to grant release on bond under UNA section 236(a) if the person did not have a disqualifying criminal record and the judge was satisfied, after a hearing, that the person was not a danger to the community or a flight risk. *Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025).

29. Moreover, ICE had a longstanding practice of treating noncitizens taken into custody while living in the United States as detained pursuant to 8 U.S.C. section 1226(a). *Rocha Rosado v. Figueroa*, 2025 WL 2337099, (D. Arizona August 11, 2025); *see Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024) ("[T]he longstanding practice of the government—like any other interpretive aid—can inform [a court's] determination of what the law is."). However, this position changed on July 8, 2025, when internal "interim guidance" was released regarding a change in their longstanding interpretation of which noncitizens are eligible for release on bond. ICE's position is that only those already admitted to the U.S. are eligible to be released from custody during their removal proceedings, and that all others are subject to mandatory detention under 8 U.S.C. § 1225, instead of 8 U.S.C. § 1226, and will remain detained with only extremely limited parole options at ICE's discretion. *See id.*

30. Petitioner's continued detention, without the possibility to request a bond hearing, separates him from his family, prohibits him from being able to financially provide

for his family, and inhibits his removal defense in many ways, including by making it difficult to communicate with witnesses, gathering evidence, and afford legal representation, among other related harm.

31. Since the September 5, 2025 BIA decision, Petitioner now has no opportunity to seek a request for bond redetermination and must remain detained away from his family, counsel, and support system and continues to be subjected to the aforementioned harms.

Legal Framework

Due Process Clause

32. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "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." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

33. In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. A noncitizen may only be detained based on these two justifications if they are otherwise statutorily eligible for bond. *Zadvydas*, 533 U.S. at 690.

34. "The fundamental requirement of due process is the opportunity be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). In this case, to determine the due process to be afforded to Petitioner, the Court should consider (1) the private interest affected by the government action; (2)

the risk that current procedures will cause an erroneous deprivation of that private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures, including the governmental function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Id.* at 335.

Humanitarian Parole and Recent Detention

35. As a threshold matter, the specific issues related to humanitarian parole and detention, have recently been reached by several District Courts all over the United States. *See Patel v. Tindall*, 2025 WL 2823607 *at 6 (W.D. Ky. Oct 3, 2025) (finding that "an individual who has been paroled without first having been placed in expedited removal cannot later be designated for expedited removal."); *Perez Guerra. v. Woosley*, 2025 WL 3046187 (W. D. Ky. Oct 31, 2025); *Rodriguez Martinez v. Raycraft et al.*, 2025 WL 3511093 (W.D. Mich. Dec. 8, 2025); *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123 (D. Or. 2025); *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 146 (W.D.N.Y. 2025) (citations omitted) (addressing this issue, and granting the petitioner's motion for preliminary injunction and ordering that the petitioner be released); *see, e.g., Y-Z-L-H*, 792 F. Supp. 3d at 1137–47 (addressing this issue, and granting the petitioner's habeas petition and ordering that the petitioner be released from custody); *Loaiza Arias*, 2025 WL 3295385, at *2–4 (same); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149, at *10–13 (S.D. Cal. Oct. 1, 2025) (same); *Munoz Materano v. Arteta*, No. 25 CIV. 6137 (ER), --- F. Supp. 3d ----, 2025 WL 2630826, at *14–17 (S.D.N.Y. Sept. 12, 2025) (same); *Gabriel B.M. v. Bondi*, No. 25-cv-4298 (KMM/EMB), 2025 WL 3443584, at *6–7 (D. Minn. Dec. 1, 2025)

(addressing this issue, and granting the petitioner's request for a preliminary injunction and ordering the petitioner's release from custody); *Orellana v. Francis*, No. 25-cv-04212 (OEM), 2025 WL 2822640, at *2–3 (E.D.N.Y. Oct. 3, 2025) (addressing the issue in the context of a motion for reconsideration filed by the respondents, and affirming the court's grant of habeas relief to the petitioner and the court's order to release the petitioner).

36. The Immigration and Nationality Act "establishes the framework governing noncitizens' entry into and removal from the United States, with regulations promulgated by the enforcing agencies providing further governance." *Y-Z-L-H v. Bostock*, 792 F. Supp. At 1123.

37. The statute and applicable regulations set out specific mandatory guidelines that dictate how the government can place a person into expedited removal proceedings, under 8 U.S.C. § 1225(b)(1), or into regular removal proceedings under 8 U.S.C. § 1229(a), upon arriving at a port of entry. Indeed, "noncitizens who arrive at a port of entry without a visa or other entry document, like Petitioner, are deemed 'inadmissible' under 8 U.S.C. § 1182(a)(7)" due to their lack of entry documents. *Id.* at 1132 & n.7 (noting that "[d]epending on the circumstances, other categories of inadmissibility may also apply, but § 1182(a)(7) applies for noncitizens without proper documentation").

38. Once a noncitizen is deemed inadmissible, "the immigration officer must order the noncitizen's removal unless the noncitizen indicates an intention to apply for asylum or fear of prosecution." *Id.* (citing 8 U.S.C. § 1225(b)(1)(A)(i)).

39. Further, section 1225(b)(2)(A) provides that "in the case of an alien who is an

applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A). However, "applicants for admission may be temporarily released on parole [into the United States] 'for urgent humanitarian reasons or significant public benefit,'" as set forth in 8 U.S.C. § 1182(d)(5)(A). *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)). The decision to grant parole pursuant to 8 U.S.C. § 1182(d)(5)(A) is determined "on a case-by-case basis." 8 U.S.C. § 1182(d)(5)(A).

40. Then, "when the purpose of the parole has been served," section 1182(d)(5)(A) provides that "the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States." *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)).

41. The process to terminate a previously granted parole is also captured in the regulations and applicable statutes. Pursuant to 8 C.F.R. § 212.5(e)(2)(i), which governs the "[t]ermination of parole,"

> In cases not covered by paragraph (e)(1) of this section, upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in paragraph (a) of this section, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States, parole shall be terminated upon written notice to the alien and he or she shall be restored to the status that he or she had at the time of parole.

8 C.F.R. § 212.5(e)(2)(i). In other words, parole can only be terminated if the purpose of parole is either accomplished, or humanitarian reasons and the public benefit no

longer warrant parole." *Rodriguez Martinez v. Raycraft et al.*, 1:25-cv-1504 at 8 (W.D. Mich. Dec. 8, 2025) (citing *Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025) (citing 8 C.F.R. § 212.5(e))).

42. Respondents have failed to follow the applicable statutory and regulatory framework necessary to terminate Petitioner's parole. To start, the purpose of the Petitioner's parole has not been accomplished. He came to the United States in October 2024 fleeing the regime from his country. He followed the rules at the time of his entry; he waited for an appointment through CBPOne, before presenting himself at a port of entry. At that time, Petitioner was granted parole pursuant to 8 U.S.C. § 1182(d)(5)(A), which provides for parole into the United States "for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A).

43. As a result, when Petitioner was recently arrested and detained, Petitioner was still seeking asylum. And even more concerning, Respondents did not provide any notice or explanation about Petitioner's parole revocation and the circumstances at play do not indicate that the humanitarian reason or public benefit that provided justification for Petitioner to be paroled into the country no longer exists or applies.

44. Several district courts nationwide have further explained that similar to how grant of parole requires an individualized review, revocation of parole also requires a case-by-case assessment to comply with the statute. *See Mata Velasquez*, 794 F. Supp. 3d at 146; *Y-Z-L-H*, 792 F. Supp. 3d at 1137–47; *Loaiza Arias*, 2025 WL 3295385, at *2–4; *Noori*, 2025 WL 2800149, at *10–13; *Munoz Materano*, No. 25 CIV. 6137 (ER), --- F. Supp. 3d ----, 2025 WL 2630826, at *14–17; *Gabriel B.M.*, No. 25-cv-4298

(KMM/EMB), 2025 WL 3443584, at *6–7; *Orellana v. Francis*, No. 25-cv-04212 (OEM), 2025 WL 2822640, at *2–3.

45. Respondents did not present any evidence to Petitioner when he was detained regarding their case-by-case determination regarding the specific revocation of his parole. In fact, Petitioner's coworkers were similarly arrested by ICE that day. Indeed, Petitioner appears to have been a collateral arrest as part of ICE/ERO's increased efforts for mass deportations, that targeted those in the construction industry, without any case-by-case determination.

46. Respondents failed to follow the requirements under the law to revoke Petitioner's parole and as such they lacked the authority to arrest and detain him, unless there was another reason to arrest him. *See Mata Velasquez*, 794 F. Supp. 3d at 145; *cf. Norfolk S. Ry. Co. v. U.S. Dep't of Lab.*, No. 21-3369, 2022 WL 17369438, at *6 (6th Cir. Dec. 2, 2022) (discussing that "an agency's action that fails to observe the procedures required by its own regulations should be set aside" (citation omitted)); *Wilson v. Comm'r of Soc. Sec.*, 378 F.3d 541, 545 (6th Cir. 2004) ("It is an elemental principle of administrative law that agencies are bound to follow their own regulations[,] . . . [and] '[a]n agency's failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual's constitutional right to due process.'" (additional internal quotation marks omitted) (quoting *Sameena, Inc. v. U.S. Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998))). Respondents had no other reason to arrest and detain Petitioner than his status as a noncitizen.

47. Alternatively, even assuming, *arguendo*, that Respondents argue any noncitizen,

regardless of whether they are already present and residing in the United States, is "an alien seeking admission" subject to mandatory detention under § 1225, several courts in this District have rejected this argument. *See* Appendix.

48. In *Jennings v. Rodriguez*, the Supreme Court analyzed 8 U.S.C. section 1225 and 8 U.S.C. 1226. 583 U.S. at 287. The Court held that section 1225(b) "applies primarily to aliens seeking entry into the United States." *Id.* at 297. Then, the Court noted that section 1226 "applies to aliens already present in the United States." *Id.* at 303.

49. The Court specifically found that "Section 1226(a) creates a default rule for those aliens by permitting- but not requiring- the Attorney General to issue warrants for their arrest and detention pending removal proceedings. Section 1226(a) also permits the Attorney General to release those aliens on bond, 'except as provided in subsection (c) of this section.'" (subsection pertains to aliens who fall into categories involving criminal offenses or terrorist activities). *Id.* at 303. "Federal regulations provide that alien detained under § 1226(a) receive bond hearings at the outset of detention." *Id.* at 306; 8 C.F.R. § 236.1(d)(1), 1236.1(d)(1).

50. The Supreme Court's analysis in *Jennings* demonstrates the difference between detention of arriving aliens who *are seeking* entry into the United States under section 1225 and the detention of those who are already present in the United States under section 1226.

51. A key phrase in § 1225 states that "[I]n the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien ***seeking admission*** is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a[.]" 8 U.S.C. § 1225(b)(2)(A)

(emphasis added). In other words, mandatory detention applies when "the individual is: (1) an 'applicant for admission'; (2) 'seeking admission'; and (3) 'not clearly and beyond a doubt entitled to be admitted.'" *Martinez*, 2025 WL 2084238, at *2.

52. The "seeking admission" language, "necessarily implies some sort of present tense action." *Martinez*, 2025 WL 2084238, at *6; *see also Matter of M- D-C-V-*, 28 I&N Dec. 18, 23 (BIA 2020) ("The use of the present progressive tense 'arriving,' rather than the past tense 'arrived,' implies some temporal or geographic limit . . . ."); *U.S. v. Wilson*, 503 U.S. 329, 333 (1992) ("Congress' use of verb tense is significant in construing statutes.").

53. In other words, the plain language of § 1225 applies to immigrants currently seeking admission into the United States at the nation's border or another point of entry. It does not apply to noncitizens "already present in the United States"—only § 1226 applies in those cases. *See Jennings*, 583 U.S. at 303.

54. When interpreting a statute, "every clause and word . . . should have meaning." *United States ex rel. Polansky, M.D. v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023) (internal quotation marks and citation omitted). And "the words of the statute must be read in their context and with a view to their place in the overall statutory scheme." *Gundy v. United States*, 588 U.S. 128, 141 (2019) (quotation omitted).

55. This Court is not required, and should not, give deference to the recent *Matter of Yajure Hurtado* decision. In *Loper Bright*, the Supreme Court was clear that "[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority," and indeed "may not defer to an agency interpretation of the law simply because a statute is ambiguous." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024). Rather,

this Court can simply look to the Supreme Court's own words in *Jennings* that held that for decades, § 1225 has applied only to noncitizens "seeking admission into the country"—i.e., new arrivals at a port of entry, and that this contrasts with § 1226, which applies to noncitizens "already in the country." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

Immediate Release as Proper Remedy

56. The proper remedy for unlawful detention is release, as consistently held by courts across the nation. *Beltran Barrera v. Tindall*, 2025 WL 2690565, at *7 (W.D. Ky. Sep. 19, 2025); *Roble v. Bondi*, --- F.Supp.3d ---, 2025 WL 2443453, at *5 (D. Minn. Aug. 25, 2025) (ordering petitioner's "release from custody as a remedy for ICE's illegal re-detention"). The proper remedy for unlawful detention is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008); *see also Espinoza*, 2025 WL 2675785, at *11; *Ramirez Clavijo v. Kaiser*, 2025 WL 2419263, at *6 (N.D. Cal. Aug. 21, 2025); *Munoz Materano v. Arteta*, --- F.Supp.3d ---, 2025 WL 2630826, at *20 (S.D.N.Y. Sept. 12, 2025).

57. A bond determination by a DHS officer or an immigration judge would not remedy the core constitutional violation at issue here. "[Petitioner's] detention was unlawful from its inception because ICE detained [him] under the wrong statute and without any notice or opportunity to be heard, much less the procedures required under section 1226(a). In this situation a post-deprivation bond hearing before a DHS officer or even an immigration judge would provide no genuine opportunity to relief because the detention without adequate pre-deprivation procedures has already been carried out." *Rodriguez-Acuro v. Almovodar*, 2025 WL 3314420 (E.D.N.Y. Nov. 28, 2025); *Barco Mercado v. Francis*, --- F.Supp.3d ---, 2025 WL 3295903 (S.D.N.Y. Nov. 26, 2025); *AMM v. Thompson*, 2025 WL 3296316 (S.D. Tex. Nov. 18, 2025); *Lopez Benitez v. Francis*, 795 F.Supp.3d 475, 484 (S.D.N.Y. 2025).

58. If this Court finds immediate release inappropriate, Petitioner requests that this court order a bond hearing within five days, where the burden is on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk. *Ochoa Ochoa v. Noem*, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *Lopez-Alvarez v. Ripa*, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025) (ordering a bond hearing within seven day or release); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025) (same); *Roman v. Noem*, 2025 WL 2710211 (D. Nev. 23, 2025).

Claims for Relief

FIRST CAUSE OF ACTION

Violation of the Due Process Clause of the Fifth Amendment of the United States Constitution

59. Petitioner repeats and incorporates by reference all allegations above as though set forth fully herein.

60. The Due Process Clause asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived Petitioner of his liberty by refusing him the opportunity to request a bond hearing.

61. The government's detention of Petitioner is unjustified. Respondents have not demonstrated that Petitioner needs to be detained. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community). Petitioner has no criminal record. There is no credible argument that Petitioner cannot be safely released back to his community and family. There are no credible arguments that there have been material changes justifying a termination of

Petitioner's parole.

62. The *Matter of Yajure Hurtado* decision wrongly interprets the Immigration and Nationality Act. While Petitioner's case is tangentially related to *Matter of Yajure Hurtado*, this Court is not required to give deference to the Board of Immigration Appeals. In *Loper Bright*, the Supreme Court was clear that "[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority," and indeed "may not defer to an agency interpretation of the law simply because a statute is ambiguous." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024).

63. Rather, this Court can simply look to the Supreme Court's own words in *Jennings* that held that for decades, § 1225 has applied only to noncitizens "seeking admission into the country"—i.e., new arrivals, and that this contrasts with § 1226, which applies to noncitizens "already in the country." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). By keeping Petitioner detained today, his detention is unconstitutional as applied to him and in violation of his due process rights. Petitioner should have the opportunity to be released under Petitioner's § 1182(d)(5)(A) parole, subject to any conditions that existed prior to his detention.

64. Petitioner is "experiencing [many of] the deprivations of incarceration, including loss of contact with friends and family, loss of income earning, . . . lack of privacy, and, most fundamentally, the lack of freedom of movement." *See Günaydin*, 784 F. Supp. 3d at 1187.

65. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

SECOND CAUSE OF ACTION

Violation of the Immigration and Nationality Act

66. Petitioner repeats and incorporates by reference all allegations above as though fully set forth fully herein.

67. Petitioner has been detained and will not be afforded the opportunity to challenge any termination of his parole before the immigration court.

68. 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. Mandatory detention does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

100. The BIA has wrongfully issued its decision in *Matter of Yajure Hurtado* finding all noncitizens, such as Petitioner, are subject to mandatory detention under § 1225(b)(2).

101. The unlawful application of § 1225(b)(2) to Petitioner violates the INA.

Prayer for Relief

WHEREFORE, Petitioner respectfully request that this Honorable Court:

A. Accept jurisdiction over this action;

B. Order Respondents not to transfer Petitioner out of the Western District of Michigan during the pendency of these proceedings to preserve jurisdiction and access to counsel;

C. Declare that Respondents' actions to detain Petitioner violate the Due Process Clause of the Fifth Amendment and violates the Immigration and Nationality Act;

D. Issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and order the immediate release of Petitioner, subject to any conditions that existed under Petitioner's § 1182(d)(5)(A) parole;

E. Award reasonable attorneys' fees and costs for this action; and

F. Grant such further relief as the Court deems just and proper.

Dated: March 9, 2026

Respectfully Submitted,

/s/ Brittni Rivera

Brittni Rivera, Esq.
KRIEZELMAN BURTON &ASSOCIATES
200 West Adams Street, Suite 2211
Chicago, Illinois 60606
(312) 332-2550, brivera@krilaw.com