UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

ABDALLAH ALHASSAM
[redacted]

Petitioner,

v.

KRISTI NOEM, Secretary, U.S. Department of Homeland Security; PAMELA BONDI, U.S. Attorney General; GEORGE VALDEZ, Acting Field Office Director, Denver Field Office, Immigration and Customs Enforcement; and JUAN BALTAZAR, Warden of Denver Contract Detention Facility,

Respondents.

Case No. 1:26-cv-976

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Abdallah Alhassam ("Mr. Alhassam") is a native and citizen of Ghana who entered the United States in July 2025 and was detained by U.S. Immigration and Customs Enforcement ("ICE"). ICE subsequently issued him a Warrant of Arrest and a Notice to Appear, indicating that he is an alien present in the United States who has not been admitted or paroled. Despite ICE not treating Mr. Alhassam as an arriving alien under 8 U.S.C. § 1225(b), the Department of Homeland Security ("DHS") and the Executive Office of Immigration Review ("EOIR") have concluded that he is subject to mandatory immigration detention under 8 U.S.C. § 1225(b)(2), as an "applicant for admission" who is "seeking admission" to the United States.

2. DHS's interpretation of its detention authority under 8 U.S.C. § 1225(b)(2) marks a complete reversal of the interpretation of the statute that the government has embraced since its inception three decades ago, its prior practice, Supreme Court precedent, and the plain language of the Immigration and Nationality Act ("INA").

3. This Court should therefore intervene and grant Mr. Alhassam's petition for a writ of habeas corpus and order his release from immigration custody, or, alternatively, order EOIR to conduct a bond hearing at which 8 U.S.C. § 1225(b) cannot be applied.

JURISDICTION AND VENUE

4. Mr. Alhassam is detained at the Denver Contract Detention Facility in Aurora, Colorado, and is in physical custody of Respondents. *See* Ex. 1, ICE Detainee Locator.

5. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and 28 U.S.C. §§ 2201-02 (declaratory relief). Mr. Alhassam's detention by Respondents is a "severe restraint" on his individual liberty. *See Hensley v. Municipal Court, San Jose Milpitas Jud. Dist.*, 411 U.S. 345, 351 (1973).

6. 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.

7. Venue is proper because Mr. Alhassam's immediate custodian at Denver Contract Detention Facility is located in this District and a "substantial part of the events or omissions giving rise to the claim" occurred in this District. 28 U.S.C. § 1391(e)(1).

PARTIES

8. Petitioner Abdallah Alhassam is a native and citizen of Ghana. As of the filing of this Petition, ICE is detaining him at the Denver Contract Detention Facility in Aurora, Colorado.

9. 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 Mr. Alhassam's detention. Secretary Noem has ultimate custodial authority over Mr. Alhassam and is sued in her official capacity.

10. 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 and the immigration court system it operates is a component agency. She is sued in her official capacity.

11. Respondent George Valdez is the Acting Field Office Director of the ICE Denver Field Office and is responsible for ICE's operations in Colorado where Mr. Alhassam is held. He is sued in his official capacity.

12. Respondent Juan Baltazar is the Warden of the Denver Contract Detention Facility and is the immediate custodian of Mr. Alhassam. He is sued in his official capacity.

REQUIREMENTS OF 28 U.S.C. § 2243

13. The Court must grant the petition for a 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, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

14. 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).

15. Mr. Alhassam requests the Court issue an Order to Show Cause, and direct Respondents to file a response within three days, in light of the significant restraint on his liberty and clear Constitutional violations in this case.

TRANSFER OUTSIDE THE DISTRICT; ALL WRITS ACT

16. The All Writs Act, 28 U.S.C. § 1651(a), empowers the federal courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

17. Courts both in and outside this district have recently invoked the All Writs Act to prevent the transfer of individuals detained within the judicial district. *See Arostegui-Maldonado v. Baltazar*, No. 25cv2205-WJM-STV, --- F. Supp. 3d ---, 2025 WL 2280357, at *15-16 (D. Colo. Aug. 8, 2025) (listing cases); *see also Guevara Gomez v. Crawford*, No. 1:25-cv-1781-PTG-LRV (E.D. Va. Oct. 16, 2025).

18. Mr. Alhassam requests that this Court invoke the All Writs Act to prevent any transfer out of the District of Colorado during the pendency of his habeas action, given the likelihood that he will be ordered to appear at a bond hearing shortly after this Court rules upon the habeas petition. Mr. Alhassam's law firm operates primarily in Colorado. He will need to participate in the preparation for and attend his bond hearing should the Court order one. *See Ozturk v. Trump*, 779 F. Supp. 3d 462, 497 (D. Vt. 2025) (noting that presence in the judicial district where an action is pending "facilitate[s]" the petitioner's "ability to work with [his or] her attorneys, coordinate the appearance of witnesses," and generally present claims related to detention); *Suri v. Trump*, 785 F. Supp. 3d 128, 148 (E.D. Va. May 6, 2025).

EXHAUSTION

19. The failure to exhaust administrative remedies does not bar Mr. Alhassam's claim unless "Congress specifically mandates" exhaustion. *Miranda v. Garland*, 34 F.4th 338, 351 (4th Cir. 2022) (1993) (quoting *McCarthy v. Madigan*, 503. U.S. 140, 144 (1992)).

20. Moreover, detaining Mr. Alhassam without a significant likelihood of removal in the reasonably foreseeable future violates his right to due process, administrative exhaustion is excused. *See Guitard v. U.S. Sec'y of the Navy*, 967 F.2d 737, 741 (2d Cir. 1992) ("Exhaustion of administrative remedies may not be required when . . . a plaintiff has raised a 'substantial constitutional question.'").

21. Although the Court may impose exhaustion requirements as a prudential matter, it should not do so in this case because further administrative exhaustion would be futile. Upon information and belief, immigration judges across the country are determining that noncitizens like Mr. Alhassam are detained under 8 U.S.C. § 1225(b)(2) and ineligible for bond in light of *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). *But see Bautista v. Santacruz*, 5:25-CV-01873-SSS-BFM, 2025 WL 3713987, at *12 (C.D. Cal. Dec. 18, 2025) (concluding that the interpretation in *Yajure Hurtado* "is no longer controlling.").[1]

STATEMENT OF RELEVANT FACTS

22. Mr. Alhassam, a native and citizen of Ghana, entered the United States on July 22, 2025, without inspection or admission. The Department of Homeland Security ("DHS") encountered him shortly thereafter and detained him first in Krome North Service Processing Center before moving him to the South Florida Detention Facility, nicknamed Alligator Alcatraz.

23. He was subsequently moved to the Denver Contract Detention Facility in Aurora, Colorado.

[1] *But see Maldonato Bautista v. Santacruz*, 26-1044, ECF No. 5.1 (9th Cir. March 6, 2026) (granting an administrative stay insofar as the December 18, 2025 decision extends beyond the Central District of California).

24. Upon information and belief, ICE tried to remove Mr. Alhassam on October 7, 2025, but returned Mr. Alhassam to the Denver Contract Detention Facility because it lacked a removal order.

25. On October 8, 2025, DHS issued Mr. Alhassam a Notice to Appear stating that he is "an alien present in the United States who has not been admitted or paroled" and charging him with removability under 8 U.S.C. § 1182(a)(6)(A)(i) as an alien who is present in the United States without being admitted or paroled, or who entered into the United States at any time or place other than as designated by the Secretary of DHS, and 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an immigrant who, at the time of application for admission, is not in possession of a valid entry document. Ex. 2, Notice to Appear.

26. It is unclear if Mr. Alhassam was given a credible fear interview during this time, however, he was not processed for expedited removal. *See* Ex. 2 (the boxes relating to the issuance of proceedings after the vacatur of a Section 235(b)(1) order are not checked). Thus, Mr. Alhassam was never detained under 8 U.S.C. § 1225(b).

26. On October 8, 2025, ICE also issued Mr. Alhassam a Warrant for Arrest of Alien. This warrant explicitly states that it is issued to "pursuant to sections 236 [8 U.S.C. § 1226] and 287 [8 U.S.C. § 1357] of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations[.]" Ex. 3, Warrant of Arrest. Thus, ICE processed Mr. Alhassam for detention under 8 U.S.C. § 1226(a).

27. Although detention under § 1226(a) is permissive, Mr. Alhassam has not received an initial custody determination explaining the basis for his detention and he has remained in ICE custody since this time. He faces prolonged detention and separation from his family without relief from this Court.

LEGAL BACKGROUND

Immigration Detention Authority (8 U.S.C. §§ 1225 and 1226)

28. In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), Pub. L. 104-208, which set forth separates procedures for the removal and detention of arriving or recently arrived noncitizens and those who have entered and established a presence in the United States, even those who have done so in violation of the immigration laws. *Compare* 8 U.S.C. § 1225 ("Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing"), *with* 8 U.S.C. §§ 1226 ("Apprehension and detention of aliens"), 1229a ("Removal proceedings"). For those individuals with an established presence in the United States, the INA mandates that "an immigration judge shall conduct proceedings for deciding the inadmissibility or deportability of a [noncitizen]." 8 U.S.C. § 1229a(a)(1). Removal proceedings under 8 U.S.C. § 1229a(a)(1) "shall be the sole and exclusive procedure from the United States" unless otherwise specified in the INA. 8 U.S.C. § 1229a(a)(3).

29. During the pendency of standard removal proceedings under 8 U.S.C. § 1229a, § 1226 provides for the detention of noncitizens already in the United States, even those who entered illegally or without inspection. While § 1226(c) mandates the detention of certain classes of criminal noncitizens, § 1226(a) sets forth the rule for noncitizens subject to discretionary detention under § 1226. Under 8 U.S.C. § 1226(a), on a warrant issued by the government, a noncitizen "may be arrested and detained pending a decision on whether the alien is to be removed from the United States[.]" 8 U.S.C. § 1226(a). After an arrest, the noncitizen may continue to be detained, released on conditional parole, or released on a bond of at least $1,500. *Id.*

30. Under 8 C.F.R. § 236.1(c)(8), "any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien not described in section 236(c)(1) of the Act [8 U.S.C. § 1226(c)(1)], under the conditions at section 236(a)(2) and (3) of the Act [8 U.S.C. § 1226(a)(2)

and (3)]; provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding."

31. Once a noncitizen is detained, DHS makes an initial custody determination. 8 C.F.R. §§ 1003.19(a), 1236.1(d). The noncitizen may have the initial custody determination reviewed by an immigration judge, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), and ultimately by the Board, *see* 8 C.F.R. § 1236.1(d)(3).

32. As part of IIRIRA, Congress created an expedited removal process to be implemented during inspection at the border for certain "applicants for admission" deemed to be "arriving aliens." 8 U.S.C. § 1225(b). The INA defines an applicant for admission as a noncitizen "present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including a [noncitizen] who is brought to the United States after having been interdicted in international or United States waters)." 8 U.S.C. § 1225(a)(1). The INA further clarifies that the term "application for admission" has "reference to the application for admission *into* the United States," making clear that the term applies to those applying to enter into the United States. 8 U.S.C. § 1101(a)(4) (emphasis added). Notably, individuals subject to expedited removal are not eligible for bond pending completion of their removal hearings. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); *see id.* at 303 (distinguishing individuals subject to § 1225(b) from those "already present in the United States").

33. Critically, expedited removal proceedings do not apply to all "applicants for admission." Instead, they may be applied only to: (1) individuals who are arriving in the United States at a port of entry without valid documents; and (2) those without valid documents who have been in the United States for less than two years and have not been admitted or paroled. 8 U.S.C.

§ 1225(b)(1)(A)(iii)(II); *see Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 109 (2020). Further, this second subset of individuals—noncitizens who have been in the United States for less than two years and have not been admitted or paroled—only become subject to expedited removal if so designated by DHS. *See* 8 U.S.C. § 1225(b)(1)(A)(iii)(I) (granting discretionary authority to apply expedited removal to any or all noncitizens described in 8 U.S.C. § 1225(b)(1)(A)(iii)(II)); *See* Notice, Designating Aliens for Expedited Removal, 90 Fed. Reg. 8139, 8139 (Jan. 24, 2025) (designating the entire subset of noncitizens described in 8 U.S.C. § 1225(b)(1)(A)(iii)(II) subject to expedited removal: noncitizens "determined to be inadmissible under [8 U.S.C. § 1182(a)(6)(C) or (a)(7)] who have not been admitted or paroled into the United States and who have not affirmatively shown . . . that they have been physically present in the United States continuously for if so designated by DHS.").

34. Noncitizens placed in expedited removal proceedings are referred to standard removal proceedings under § 1229a if they establish a credible fear of persecution if removed. *See* 8 U.S.C. § 1225(b). This referral to removal proceedings before an immigration judge is recorded on the Notice to Appear, indicating that the "notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture." Otherwise, the noncitizen is ordered removed "without further hearing or review." 8 U.S.C. § 1225(b)(1)(B)(iii). Further, any noncitizen "subject to the procedures under [8 U.S.C. § 1225(b)] shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed." 8 U.S.C. § 1225(b)(1)(B)(iv).

35. Finally, § 1225(b)(2) mandates the detention of certain "applicants for admission" not covered by § 1225(b)(1). Yet in keeping with the statute's focus on arriving aliens, the statute does not mandate detention for all applicants for admission. Instead, § 1225(b)(2)(A) only mandates the

detention of "an applicant for admission" when "the examining immigration officer determines" that the noncitizen who "seeking admission is not clearly and beyond a doubt entitled to be admitted."

36. Courts and the U.S. Government have consistently taken the position that noncitizens who have entered without inspection and are encountered in the United States years after their initial entry are entitled to removal proceedings under § 1229a and subject to detention under § 1226. *See, e.g.*, *Jennings*, 583 U.S. at 303 ("While the language of §§ 1225(b)(1) and (b)(2) is quite clear, §1226(c) is even clearer. As noted, § 1226 applies to aliens *already present in the United States*.") (emphasis added); IIRIRA Implementing Regulation, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination."). This is because these individuals are not "seeking admission." *See Lopez Benitez v. Francis*, 795 F. Supp. 3d 475 (S.D.N.Y. 2025) (holding that a noncitizens who has been residing in the United States for more than two years cannot be classified as an "alien seeking admission"); *Martinez v. Hyde*, 792 F. Supp. 3d 211 (D. Mass. 2025); (rejecting the Government's "novel interpretation" that 1225(b) applies to noncitizens detained while present in the United States).

37. Despite amending the INA numerous times since passing IIRIRA, *see, e.g.*, REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 302, Congress has never seen fit to clarify or alter this universally accepted interpretation of the statute.

38. Yet in July 2025, the Government abruptly rejected the reading of 8 U.S.C. § 1226(a) it had embraced when IIRIRA was first enacted and over three decades since. In a complete reversal, "DHS, in coordination with the Department of Justice (DOJ) . . . revisited its legal position on

detention and release authorities," and issued guidance instructing all ICE employees that 8 U.S.C. § 1225 rather than § 1226 "is the applicable immigration detention authority for all applicants for admission."[2] This policy has since been vacated. *Maldonado Bautista*, 2025 WL 3713987, *32.

39. In September 2025, the Board of Immigration Appeals adopted DHS's novel statutory reading of 8 U.S.C. § 1225(b)(2)(A) in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board found no distinction between the statutory terms "applicant for admission" and "seeking admission," and concluded that § 1225(b)(2) must be read to include all noncitizens who have not been inspected and admitted at any point. *Id.* at 221-22. Further, the Board asserted that legislative history supported its construction, although it did not cite any legislative history addressing the detention statutes. *Id.* at 223-25. On February 18, 2026, this decision was vacated. *Maldonado Bautista, et al. v. Santacruz, et al.*, 2026 WL 468284, at *10 (C.D. Cal. Feb. 18, 2026).[3]

40. Courts that have reviewed this issue—including every case within this district—have almost universally rejected Respondents' new reading of the statute. *See, e.g., Martinez-Orellana v. Hagan*, 1:26-cv-355, at 4-5 (D. Colo. Feb. 13, 2026); *Singh v. Baltazar*, -- F. Supp. 3d --, 2026 WL 352870, at *2 (D. Colo. Feb. 9, 2026); *Garcia Abanil v. Baltazar*, -- F. Supp. 3d --, 2026 WL 100587, at *4 (D. Colo. Jan. 14, 2026); *Flores Marin v. Baltazar*, 2025 WL 3677019 (D. Colo. Dec. 18, 2025); *Hernandez Vazquez v. Baltasar*, 1:25-cv-3049 (D. Colo. Oct. 23, 2025); *Loa Caballero v. Baltazar*, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *Moya Pineda v. Baltasar*, No. 1:25-cv-2966 (D. Colo. Oct. 20, 2025); *Mendoza Gutierrez*, 2025 WL 2962908; *Garcia Cortes v. Noem*, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Salazar v. Dedos*, 2025 WL 2676729 (D.N.M.

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[2] Available at: https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (last visited March 2, 2026).

[3] But see *Maldonato Bautista v. Santacruz*, 26-1044, ECF No. 5.1 (9th Cir. March 6, 2026) (granting an administrative stay insofar as the December 18, 2025 decision extends beyond the Central District of California).

Sept. 17, 2025); *Galdamez Martinez v. Noem, et al.*, 2025 WL 3471575 (W.D. Tex. Nov. 26, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025).

41. Notwithstanding the resounding rejection of DHS and DOJ's policy and the *Maldonado Bautista* court's vacatur of the policy and Board decision in *Yajure Hurtado*, Respondents continue to defend the policy, insisting that all noncitizens who have not been admitted to the United States are considered subject to mandatory detention under 8 U.S.C. § 1225(b).

CLAIMS FOR RELIEF

COUNT ONE
Violation of the Immigration and Nationality Act
Arbitrary Detention; 8 U.S.C. §§ 1225 and 1226

42. Mr. Alhassam realleges and incorporates by reference the paragraphs above.

43. This Court should rule that Mr. Alhassam is subject to detention under 8 U.S.C. § 1226(a), and not detention under 8 U.S.C. § 1225(b). On October 8, 2025, ICE made the specific decision to detain Mr. Alhassam pursuant to the authority derived from 8 U.S.C. § 1226(a).

44. By issuing both a warrant and an NTA, ICE converted the statutory detention for Mr. Alhassam to 8 U.S.C. § 1226(a).

45. As recognized by the Board of Immigration Appeal, "DHS has discretion to put aliens in section 240 removal proceedings even though they may also be subject to removal under section 235(b)(1)(A)(i) of the Act." *Matter of E-R-M-& L-R-M-*, 25 I. & N. Dec. 520, 523 (BIA 2011); *see also Matter of J-A-B-& I-J-V-A-*, 27 I. & N. Dec. 168 (BIA 2017).

46. 8 U.S.C. § 1226(a) provides authority to detain a noncitizen pending removal from the United States, "on a warrant issued by the Attorney General." As recognized in *Jennings*, this statute "authorizes detention only '[o]n a warrant issued' by the Attorney General leading to the

alien's arrest." *Jennings*, 583 U.S. at 302–303 (emphasis added) quoting INA § 236(a), 8 U.S.C. § 1226(a)); *see also Matter of M-S-*, 27 I. & N. Dec. at 515 ("Section 236, however, permits detention only on an arrest warrant issued by the Secretary.").

47. Mr. Alhassam was not processed for expedited removal under 8 U.S.C. § 1225(b)(1) and cannot be held under that statute. The documentary evidence also establishes that DHS is not holding him pursuant to 8 U.S.C. § 1225(b)(2). By issuing a warrant pursuant to 8 U.S.C. § 1226(a) and an NTA that lists Mr. Alhassam as a noncitizen present in the United States who has not been admitted or paroled, it is clear that the proper authority to detain Mr. Alhassam is 8 U.S.C. § 1226(a) and he should have been afforded a bond hearing.

COUNT TWO
Violation of Substantive Due Process
Arbitrary Detention; 8 U.S.C. §§ 1225 and 1226

48. Mr. Alhassam realleges and incorporates by reference the paragraphs above.

49. 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*, 533 U.S. at 690. Indeed, the liberty interest in freedom from detention "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

50. Mr. Alhassam has a fundamental interest in liberty and being free from official restraint. While the government's documentary evidence indicates it is holding Mr. Alhassam pursuant to 8 U.S.C. § 1226(a), they are violating his right to be free from imprisonment by preventing him from seeking a bond hearing.

51. Respondents' insistence that Mr. Alhassam remain in immigration custody pursuant to these policies is a violation of his due process rights.

COUNT THREE
Violation of Procedural Due Process
Arbitrary Detention; 8 U.S.C. §§ 1225 and 1226

51. Mr. Alhassam realleges and incorporates by reference the paragraphs above.

52. The Supreme Court has been clear that for noncitizens "on the threshold of initial entry . . . [w]hatever the procedure authorized by Congress is, it is due process." *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (emphasis added). However, ICE does not consider Mr. Alhassam to be on the threshold of entry as evidenced by his NTA. "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Because Mr. Alhassam is not properly detained under § 1225(b), his detention does not comply with due process.

53. Mr. Alhassam has a strong private interest in remaining free from detention. Indeed, the Supreme Court has affirmed that even for noncitizens, "[f]reedom 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*, 533 U.S. at 690. And the Supreme Court, recognizing the strong private interest in remaining free from detention, has held "that detention violates that Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections, or, in certain special and narrow non-punitive circumstances where a special justification, such as harm-threatening mental illness, outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* (cleaned up).

54. While the government has an interest in ensuring Mr. Alhassam's appearance at his removal proceedings and protecting the community, the government cannot plausibly justify denying a bond hearing based on "administrative burdens" when it released Mr. Alhassam on his own recognizance over two years ago and he has never been convicted of a crime.

Commented [JD1]: I thought he was never released?

55. Finally, this case demonstrates the high risk of erroneous deprivation that would result from allowing DHS to detain noncitizens like Mr. Alhassam without any opportunity to challenge his detention. Without an order from this Court, there is a high probability that Mr. Alhassam will continue to be detained even though his continued detention serves no non-punitive purpose as it is unnecessary to protect the community or to ensure his appearance at his removal proceedings.

56. In Respondents' contrasting version of the INA, Mr. Alhassam may be stripped of any mechanism to require the government to justify his detention. Such a lack of any process, necessarily leading to an erroneous deprivation of liberty, cannot be supported by the Constitution. Release is the appropriate remedy. Alternatively, a bond hearing before a neutral arbiter at which the government bears the burden of proof and at which the immigration judge must consider the ability to pay is the only constitutionally sufficient process outside release without conditions. *See L.G. v. Choate*, 744 F. Supp. 3d 1172, 1181 (D. Colo. 2024).

57. Notably, civil detention is non-punitive and there is an important liberty interest at play such that the government must show a compelling justification for continued detention absence criminal activity. *L.G.*, 744 F. Supp. 3d at 1187 (D. Colo. 2024); *Diaz-Ceja v. McAleenan*, 2019 WL 2774211, at *8 (D. Colo. July 2, 2019); *Martinez Escobar v. Baltazar*, 2026 WL 503313, at *5 (D. Colo. Feb. 24, 2026).

PRAYER FOR RELIEF

Based on the foregoing, Mr. Alhassam requests that this Court:

(1) Assume jurisdiction over this matter;

(2) Order under the All Writs Act that Mr. Alhassam not be removed from this District while this petition is pending:

(3) Issue an order requiring Respondents to show cause why this Petition should not be granted within three days;

(4) Declare that 8 U.S.C. § 1226(a) governs Mr. Alhassam detention by U.S. immigration

authorities;

(5) Order that Mr. Alhassam be released from immigration custody with all of his personal belongings under the reporting and monitoring conditions of his prior release;

(6) Alternatively, order a bond hearing as authorized under 8 U.S.C. § 1226(a) at which 8 U.S.C. § 1225(b) cannot be applied, DHS bears the burden of proof, and the immigration judge considers Mr. Alhassam's ability to pay bond as part of the factors in setting bond; and

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

(8) Grant leave to seek attorneys' fees and costs of this suit under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412(2), *et seq.*;

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

Dated: March 10, 2026

Respectfully submitted,

/s/ Sarah L. Vuong

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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have reviewed documents provided by Petitioner and his immigration counsel and spoken with Petitioner relating to the events described in this Petition. Based on those discussions and documents these individuals have provided to me, I hereby verify that the statements made in this Petition for a Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: March 10, 2026

Respectfully submitted,

/s/ Sarah L. Vuong

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