UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
JOHNSTOWN DIVISION

ABDUAZIM Z. DJABAROV, Petitioner, v. LEONARD ODDO, Warden of the Moshannon Valley ICE Processing Center; BRIAN MCSHANE, Acting Director of Enforcement and Removal Operations, Philadelphia Field Office, U.S. Immigration and Customs Enforcement; TODD M. LYONS, Acting Director of U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; and PAMELA JO BONDI, Attorney General of the United States, *each in their official capacities,* Respondents.	Case No: 3:26-cv-429

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

Petitioner Abduazim Zoirovich Djabarov ([redacted]) ("Petitioner"), by and through undersigned counsel, hereby challenges his unlawful detention, which relies entirely on an incorrect statutory classification. Petitioner is not an individual seeking admission at the border today; rather, he is a long-term resident who entered the United States without inspection on or about November 24, 2022, near Tecate, California, together with his father, for the purpose of

seeking asylum. Upon entry, the Government charged Petitioner under INA § 212(a)(6)(A)(i) as an alien present in the United States without having been admitted or paroled — not as an arriving alien. He was placed into removal proceedings before the New York Immigration Court, has had a Form I-589 Application for Asylum pending before the Immigration Court as a derivative respondent on his father's application, and has since obtained a valid Employment Authorization Document and a Pennsylvania Commercial Driver's License, working lawfully as a commercial truck driver in Philadelphia. Despite his over three-year continuous presence in the United States, his active asylum proceedings, his valid work authorization, his full compliance with all immigration obligations, and the Government's own charging document classifying him as a noncitizen present in the interior — not an arriving alien — Respondents have detained him under 8 U.S.C. § 1225(b), a provision textually limited to noncitizens seeking admission at the border, in direct contradiction of the statutory framework and the Government's own records.

INTRODUCTION

1. Petitioner, a citizen of Uzbekistan, entered the United States at or near Tecate, California on or about November 24, 2022. He entered together with his father, Zoir Djabarov ([redacted]), for the purpose of seeking asylum protection from persecution based on nationality and religion in Uzbekistan.

2. Upon entry, Petitioner was processed by immigration authorities and a Notice to Appear ("NTA") was issued against him charging him as an alien present in the United States who had not been admitted or paroled, under INA § 212(a)(6)(A)(i). Petitioner was placed into removal proceedings under 8 U.S.C. § 1229a before the New York Immigration Court. Petitioner was initially residing at [redacted].

3. Petitioner's father, Zoir Djabarov, timely filed a Form I-589, Application for Asylum and for Withholding of Removal, with the New York Immigration Court. Petitioner was included in his father's I-589 application as a derivative respondent. The I-589 application was submitted on March 14, 2023.

4. Petitioner has an active removal case before the immigration court. An Individual Hearing is scheduled before Immigration Judge Gioia Maiellano on May 24, 2029. No final order of removal has been issued against Petitioner. Petitioner's case is pending.

5. Following his placement into removal proceedings, Petitioner applied for and received a valid Employment Authorization Document ("EAD") issued by the United States Citizenship and Immigration Services ("USCIS"), valid from February 29, 2024, through February 27, 2029. Category C08 employment authorization is issued to asylum applicants with pending asylum applications. Petitioner exercised this authorization by maintaining lawful employment as a commercial truck driver, as reflected by his Commercial Driver's License, issued March 5, 2025. He subsequently relocated to Philadelphia, Pennsylvania, where he resided at [redacted].

6. Petitioner was detained by Immigration and Customs Enforcement ("ICE") officers and is currently held at the Moshannon Valley ICE Processing Center ("MVPC"), 555 Geo Drive, Philipsburg, Pennsylvania 16866.

7. Petitioner has no criminal history and has never failed to appear for any immigration proceeding or appointment. At the time of his detention, he had been continuously residing in the United States for over three years, was lawfully employed pursuant to a valid USCIS-issued work authorization, and had an active asylum case with an Individual Hearing pending before an Immigration Judge.

8. The circumstances of Petitioner's detention mirror those addressed by this Court in *Coc Ixim v. Oddo*, 3:26-cv-129 (W.D. Pa. Feb. 19, 2026), and *Lopez Zhiminaicela v. Rose*, 3:26-cv-130 (W.D. Pa. Feb. 24, 2026). In both cases, this Court granted habeas relief and ordered that the petitioner receive a bond hearing before a neutral immigration judge within ten days. As in *Coc Ixim* and *Lopez Zhiminaicela*, Respondents have treated Petitioner as an "arriving alien" subject to mandatory detention under 8 U.S.C. § 1225(b), without eligibility for a bond hearing, despite the fact that Petitioner has resided in the United States for over three years and was working lawfully at the time of his arrest.

PETITIONER'S DETENTION UNDER 8 U.S.C. § 1225(B) IS UNLAWFUL

9. Despite the pendency of his removal proceedings and his Individual Hearing before the immigration court, Petitioner remains detained without bond. The basis for this continued detention is a misapplication of the statute. Although Petitioner has been present in the United States for an extended period, ICE is detaining him under 8 U.S.C. § 1225(b). By classifying a long-term resident as an "applicant for admission" seeking entry at the border, Respondents have categorically denied him the opportunity for a bond hearing.

10. Respondents' invocation of 8 U.S.C. § 1225(b) rests on a fundamental legal error. That statute is textually and structurally limited to noncitizens seeking admission at the border or apprehended immediately upon entry. It does not grant DHS the authority to reach into the interior of the country and retroactively apply mandatory detention to an individual who entered over three years ago, was placed into removal proceedings, obtained lawful work authorization, and has been living and working in the United States ever since. Petitioner's detention did not occur at the border; it occurred while he was residing and working in Philadelphia in full compliance with U.S. immigration law. By treating a long-time interior

resident as an "arriving alien" standing at the threshold of entry, Respondents are relying on an incorrect statutory classification to deny Petitioner his statutory right to a bond hearing.

11. This Court in *Coc Ixim* and *Lopez Zhiminaicela* granted habeas relief and ordered bond hearings for noncitizens who entered the United States without inspection and were later detained by ICE in the interior. The Court held that Section 1226 applies to aliens who are "already present in the United States," *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018), while Section 1225 governs only "applicants for admission" to the United States—not noncitizens who are not seeking admission at a port of entry but rather are already present in the country. *Coc Ixim* at 1–2; *Lopez Zhiminaicela* at 1–2 (citing *Bethancourt Soto v. Soto*, No. 25-CV-16200, 2025 WL 2976572, at *2 (D.N.J. Oct. 22, 2025)).

12. Similarly, in *Lopez Zhiminaicela*, this Court held that Section 1225(b)(2) does not govern the detention of a noncitizen who entered without inspection and had long been present in the United States. The Court held that such a noncitizen is "already present in the United States" and not an "applicant for admission," and therefore Section 1226(a), not Section 1225(b), governs his detention. *Id.* at 1–2. The Court ordered that the petitioner receive a bond hearing before a neutral immigration judge within ten days, joining "the overwhelming majority of district courts" in holding that Section 1226(a) applies to aliens similarly situated to Petitioner. *Id.* at 2.

13. In *Coc Ixim*, this Court noted that the petitioner had not requested a bond hearing before the immigration court, but that his failure to do so was of no moment because it would have been futile given the BIA's recent precedential decisions. *Coc Ixim* at 1. This Court's holdings in *Coc Ixim* and *Lopez Zhiminaicela* are consistent with the decisions of numerous other district courts that have addressed the same issue. See, e.g., *Kashranov v. Jamison*, No. 2:25-cv-5555,

2025 WL 3188399 (E.D. Pa. Nov. 14, 2025); *Cantu-Cortes v. O'Neill*, No. 2:25-cv-6338, 2025 WL 3171639 (E.D. Pa. Nov. 13, 2025); *Hyppolite v. Noem*, 2025 U.S. Dist. LEXIS 197628 (E.D.N.Y. Oct. 6, 2025).

14. This Court in *Coc Ixim* and *Lopez Zhiminaicela* held that Section 1225(b)(2) does not govern the detention of noncitizens who have long resided in the interior of the United States, and that such individuals are detained under Section 1226(a) with the right to a bond hearing before a neutral immigration judge. *Coc Ixim* at 1–2; *Lopez Zhiminaicela* at 1–2. The same principle has been recognized by courts in other districts. See *Kashranov*, 2025 WL 3188399, at *5–6 (such individuals detained under Section 1226(a) have "due process rights, including a right to an individualized detention and a bond hearing"); *Cantu-Cortes*, 2025 WL 3171639, at *1–2; *Demirel v. Fed. Det. Ctr. Philadelphia*, No. 2:25-cv-05488, 2025 WL 3218243, at *4–5 (E.D. Pa. Nov. 18, 2025); *Ndiaye v. Jamison*, No. 2:25-cv-06007, 2025 WL 3229307, at *1 (E.D. Pa. Nov. 19, 2025).

15. The *Coc Ixim* and *Lopez Zhiminaicela* Courts further emphasized that Section 1226 applies to aliens who are "already present in the United States," while Section 1225 governs detention of "applicants for admission"—those seeking to enter at a port of entry, not noncitizens who have long resided in the interior. *Coc Ixim* at 1–2 (quoting *Jennings*, 583 U.S. at 303). At the time of his detention, Petitioner was living and working in Pennsylvania. He was not arriving at a border or port of entry. He was not an "applicant for admission."

16. In *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the Board of Immigration Appeals held that Immigration Judges lack bond jurisdiction where DHS classifies a noncitizen's detention as arising under 8 U.S.C. § 1225(b). Nothing in *Q. Li* purports to resolve whether § 1225(b) lawfully applies to noncitizens who have long resided in the interior and were not apprehended

at or near the border. Nevertheless, as applied in practice, *Q. Li* has resulted in Immigration Judges declining to exercise bond jurisdiction once DHS invokes § 1225(b), without adjudicating whether that detention provision properly governs the circumstances of such interior arrests.

17. Respondents' legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice of instead applying 8 U.S.C. § 1226(a), which allows for release on conditional parole or allows for an Immigration Judge to consider bond requests or make bond redeterminations.

18. Because Petitioner has been residing in the United States for an extended period and is not currently seeking admission, his detention is governed, if at all, by 8 U.S.C. § 1226(a), which authorizes release on bond or conditional parole and requires an individualized custody determination. ICE's refusal to provide such process violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

19. Petitioner has not been afforded an individualized custody determination or the opportunity to seek release on bond. Because DHS's asserted detention framework forecloses bond jurisdiction as a matter of nationwide administrative practice, Petitioner lacks any meaningful administrative forum in which to challenge the legality of his detention.

20. Petitioner respectfully requests that this Court order a bond hearing before a neutral immigration judge within ten days, consistent with the relief granted by this Court in *Coc Ixim* and *Lopez Zhiminaicela*. In the alternative, should the Court determine that immediate release is warranted, Petitioner respectfully requests an order directing Respondents to release him from custody immediately, as his continued detention without a bond hearing violates 8 U.S.C. § 1226(a) and the Due Process Clause of the Fifth Amendment.

PARTIES

21. Petitioner Abduazim Z. Djabarov is a citizen of Uzbekistan who resided at [redacted], prior to his detention. Petitioner entered the United States at or near Tecate, California on or about November 24, 2022. He has been continuously present in the United States for over three years. Petitioner has a pending asylum application (Form I-589) before the immigration court. Petitioner holds a valid Employment Authorization Document and a Pennsylvania Commercial Driver's License. Petitioner has a pending removal case with an Individual Hearing scheduled before Immigration Judge Gioia Maiellano on May 24, 2029. No final order of removal has been issued against Petitioner.

22. Respondents are the federal officials responsible for Petitioner's custody and the enforcement of the immigration detention laws, including: Leonard Oddo, Warden of the Moshannon Valley ICE Processing Center; Brian McShane, Acting Field Office Director of Enforcement and Removal Operations, Philadelphia Field Office, Immigration and Customs Enforcement; Todd M. Lyons, Acting Director of U.S. Immigration and Customs Enforcement; Kristi Noem, Secretary of the Department of Homeland Security; and Pamela Jo Bondi, Attorney General of the United States. Respondents are all sued in their official capacities.

JURISDICTION

23. This Court has jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, which authorizes federal courts to grant habeas relief to individuals who are "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(1), (3). This action also arises under 28 U.S.C. § 1331, as it presents federal questions under the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., as amended by the Illegal

Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 1570. Relief is further available pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651, and the Suspension Clause of the United States Constitution, art. I, § 9, cl. 2.

24. Petitioner is currently detained within this District at the Moshannon Valley ICE Processing Center, 555 Geo Drive, Philipsburg, Pennsylvania 16866. Jurisdiction and venue are therefore proper in this Court. See *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004).

25. Although the INA limits the Court's jurisdiction over certain immigration matters, none of the jurisdiction-stripping provisions identified by the Government bar this Court's review. As this Court confirmed in *Coc Ixim* and *Lopez Zhiminaicela*, each of these provisions is inapplicable. *Coc Ixim* at 1–2; *Lopez Zhiminaicela* at 1–2.

26. Section 1252(a) does not strip this Court of jurisdiction because Petitioner is not challenging a discretionary decision. See *Coc Ixim* at 1–2; *Lopez Zhiminaicela* at 1–2; see also *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001).

27. Section 1252(b)(9) does not strip this Court of jurisdiction because the question before the Court—whether a bond hearing is required prior to detention—is "collateral to the removal process." *Coc Ixim* at 1–2; *Lopez Zhiminaicela* at 1–2; see also *Jennings*, 583 U.S. at 292–95 (plurality); *E.O.H.C. v. Secretary, U.S. Dep't of Homeland Sec.*, 950 F.3d 177, 185–86 (3d Cir. 2020). Petitioner's challenge here is not "inextricably linked" to his potential removal proceedings; Petitioner challenges the Government's authority to detain him without a bond hearing, a question that is not "the very issue decided through the PFR process."

28. Section 1252(g) does not strip this Court of jurisdiction because Petitioner is not challenging the Government's authority to commence or adjudicate his potential removal proceedings. See *Reno v. Am.-Arab Anti-Discrimination Committee*, 525 U.S. 471, 482 (1999); see also *Coc Ixim* at 1–2; *Lopez Zhiminaicela* at 1–2.

29. The jurisdiction-stripping provision of 8 U.S.C. § 1226(e) does not bar this Court's review. Section 1226(e) limits judicial review only with respect to discretionary judgments regarding detention or release. It does not foreclose constitutional challenges to the statutory framework governing detention. The Supreme Court has made clear that § 1226(e) does not preclude jurisdiction where a petitioner challenges the extent of the Government's detention authority under the statutory framework as a whole. *Jennings*, 583 U.S. at 296. Similarly, § 1226(e) poses no bar to a constitutional challenge to the legislation authorizing detention without bail. *Demore v. Kim*, 538 U.S. 510, 517 (2003).

VENUE

30. The Western District of Pennsylvania has recognized habeas jurisdiction over challenges to the statutory authority for civil immigration detention. This Court has exercised § 2241 jurisdiction over habeas petitions filed by noncitizens detained at the Moshannon Valley ICE Processing Center, found that their detention was governed by 8 U.S.C. § 1226(a), and ordered Respondents to provide individualized bond hearings before a neutral immigration judge. See *Coc Ixim v. Oddo*, 3:26-cv-129 (W.D. Pa. Feb. 19, 2026); *Lopez Zhiminaicela v. Rose*, 3:26-cv-130 (W.D. Pa. Feb. 24, 2026). The circumstances of the instant case are materially identical.

31. Venue is also proper in this District pursuant to 28 U.S.C. § 1391(e) because Respondents are officers, employees, and agencies of the United States acting in their official capacities, a

substantial part of the events and omissions giving rise to Petitioner's claims occurred within this District, and Petitioner is currently detained at the Moshannon Valley ICE Processing Center within the Western District of Pennsylvania. The immediate custodian responsible for Petitioner's confinement is located within this District. Accordingly, venue properly lies in this Court.

REQUIREMENTS OF 28 U.S.C. § 2243

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

33. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. Habeas corpus is "perhaps the most important writ known to 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).

LEGAL FRAMEWORK

34. The Immigration and Nationality Act ("INA") prescribes three basic detention frameworks applicable to noncitizens encountered by the Department of Homeland Security during the removal process.

35. First, 8 U.S.C. § 1226 governs the detention of noncitizens placed in standard removal proceedings before an Immigration Judge ("IJ") under 8 U.S.C. § 1229a. As this Court explained in *Coc Ixim* and *Lopez Zhiminaicela*, Section 1226 authorizes the detention of

noncitizens pending a decision on whether the noncitizen is to be removed from the United States, but unlike a noncitizen detained under Section 1225, a noncitizen detained under Section 1226 may be released while they await a decision on removal. *Coc Ixim* at 1–2; *Lopez Zhiminaicela* at 1–2. Immigration authorities make the initial custody determination, after which the noncitizen may request a bond hearing before an immigration judge. See 8 C.F.R. §§ 1003.19(a), 1236.1(d).

36. Second, the INA provides for mandatory detention under 8 U.S.C. § 1225(b), which governs detention of "applicants for admission" to the United States. As this Court explained in *Coc Ixim* and *Lopez Zhiminaicela*, Section 1225 applies to "applicants for admission"—that is, those seeking to enter the United States at a port of entry. *Bethancourt Soto*, 2025 WL 2976572, at *2. It does not apply to noncitizens who are not seeking admission at a port of entry but are already present in the country. *Coc Ixim* at 1–2; *Lopez Zhiminaicela* at 1–2 (citing *Jennings*, 583 U.S. at 303.)

37. Third, the INA authorizes detention under 8 U.S.C. § 1231(a) for noncitizens subject to a final order of removal.

38. This case concerns the misapplication of § 1225(b) to a noncitizen who entered the United States in November 2022, was placed into removal proceedings, was included as a derivative respondent on a pending I-589 asylum application, subsequently obtained a valid Employment Authorization Document (Category C08) based on his pending asylum application, and was working lawfully as a commercial truck driver in Philadelphia when arrested. Petitioner has a pending removal case before the immigration court; no final order of removal has been issued. Section 1226(a) governs Petitioner's custody.

39. Federal courts have repeatedly held that DHS may not detain noncitizens who entered without inspection but have long resided in the interior under § 1225(b). Rather, such individuals fall squarely within § 1226(a) and are entitled to an individualized custody determination. See, e.g., *Hyppolite*, 2025 U.S. Dist. LEXIS 197628. The same reasoning applies here. Petitioner has been residing in the United States for over three years, holds a valid EAD issued based on his pending asylum application, and is engaged in standard removal proceedings before the immigration court. At the time of his detention, Petitioner was not seeking admission at any border or port of entry—he was working as a commercial truck driver in Philadelphia. ICE therefore lacks statutory authority to detain him under § 1225(b).

40. The *Coc Ixim* and *Lopez Zhiminaicela* Courts also expressly disagreed with the Fifth Circuit's recent opinion in *Buenrostro-Mendez v. Bondi*, --- F.4th ----, 2026 WL 323330 (5th Cir. Feb. 6, 2026), finding it neither binding on this Court nor persuasive. *Coc Ixim* at 2; *Lopez Zhiminaicela* at 2. This Court joins the overwhelming majority of district courts in holding that § 1226(a), rather than the mandatory detention provision of § 1225(b), applies to aliens similarly situated to Petitioner, who are not seeking admission at a port of entry but rather are already present in the country. *Coc Ixim* at 2; *Lopez Zhiminaicela* at 2.

41. Because Petitioner is neither an arriving alien seeking admission nor subject to a final order of removal, his continued detention under any framework other than § 1226(a) is *ultra vires*. Accordingly, Petitioner's detention is not authorized by statute, and habeas relief is warranted.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

42. Exhaustion of administrative remedies is not required in this case. 28 U.S.C. § 2241 contains no statutory exhaustion requirement, and courts apply only a prudential exhaustion doctrine in

immigration habeas matters. See *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992); *Hernandez v. Gonzales*, 424 F.3d 42, 49 (1st Cir. 2005).

43. Exhaustion would be futile. As this Court recognized in *Coc Ixim* and *Lopez Zhiminaicela*, the Board of Immigration Appeals ("BIA") issued precedential decisions adopting a broad reading of 8 U.S.C. § 1225(b)(2) and holding that an immigration judge has no authority to consider a bond request from any individual who entered the United States without admission. See *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). Because immigration judges are bound by the BIA's holdings in *Yajure Hurtado* and *Q. Li*—and therefore, must deny requests for bond hearings from detainees like Petitioner—it would be futile for Petitioner to request a bond hearing before an immigration judge. *Coc Ixim* at 1; see also *Lyons v. U.S. Marshals*, 840 F.2d 202, 205 (3d Cir. 1988) (exhaustion not required where futile).

44. Accordingly, this Court has waived the exhaustion requirement in identical circumstances.

CLAIMS FOR RELIEF

CLAIM ONE

Detention Violates the Immigration and Nationality Act (INA)

45. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

46. The Government is unlawfully detaining Petitioner pursuant to 8 U.S.C. § 1225(b), despite the fact that § 1225(b) governs detention arising in connection with the inspection and admission process at the border. Petitioner is not such an individual. He entered the United States in November 2022, was placed into removal proceedings, was included as a derivative respondent on a pending I-589 asylum application filed by his father, subsequently obtained a valid

USCIS-issued Employment Authorization Document based on his pending asylum application, and was working lawfully as a commercial truck driver in Philadelphia at the time of his arrest. He was not apprehended at the border or during any contemporaneous effort to enter the country. The statutory framework and decades of established agency practice make clear that individuals who entered years ago, were placed into standard removal proceedings, and were not apprehended at or near the border are detained, if at all, under 8 U.S.C. § 1226(a), which provides for discretionary custody and guarantees the right to an individualized bond hearing before a neutral decisionmaker.

47. This Court has rejected the Government's attempt to apply mandatory detention under § 1225(b) to noncitizens who have long resided in the United States. In *Coc Ixim* and *Lopez Zhiminaicela*, this Court held that a noncitizen who had entered without inspection and was already present in the United States was not subject to mandatory detention under § 1225(b)(2)(A) because Section 1225 applies to "applicants for admission" seeking entry at a port of entry, not noncitizens already present in the country. *Coc Ixim* at 1–2. In *Lopez Zhiminaicela*, this Court held that when a noncitizen who entered without inspection has long been present in the United States and is not seeking admission at a port of entry, Section 1225(b)(2) does not govern their detention. *Lopez Zhiminaicela* at 1–2 (citing *Kashranov*, 2025 WL 3188399, at *6; *Cantu-Cortes*, 2025 WL 3171639, at *2).

48. Courts have held that the right to a bond hearing is not merely statutory, but constitutional. This Court in *Coc Ixim* and *Lopez Zhiminaicela* held that § 1226(a) governs Petitioner's detention and that he has a statutory right to a bond hearing. *Coc Ixim* at 2; *Lopez Zhiminaicela* at 2. Numerous other courts have similarly held that noncitizens detained under § 1226 have constitutional due process rights, including the right to an individualized bond hearing. See

Kashranov, 2025 WL 3188399, at *5; *Ndiaye*, 2025 WL 3229307, at *1; *Demirel*, 2025 WL 3218243, at *5; *Cantu-Cortes*, 2025 WL 3171639, at *2.

49. Because Petitioner is not subject to detention under § 1225(b), his continued detention without access to a custody redetermination hearing violates the INA, exceeds DHS's statutory authority, and is unlawful. Petitioner is entitled to habeas relief, including immediate release, or in the alternative, a constitutionally compliant bond hearing under 8 U.S.C. § 1226(a).

CLAIM TWO

Violation of the Due Process Clause of the Fifth Amendment

50. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

51. Petitioner's continued detention without a bond hearing or individualized determination of flight risk or danger violates the Due Process Clause of the Fifth Amendment. The government asserts that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b), even though he entered the United States over three years ago, was placed into formal removal proceedings, has a pending I-589 asylum application, holds a valid USCIS-issued Employment Authorization Document, was working lawfully as a commercial truck driver, and has established ties to the Philadelphia community.

52. Treating Petitioner as an "applicant for admission" and subjecting him to indefinite, mandatory detention without procedural safeguards is arbitrary, punitive, and contrary to the basic guarantees of due process.

53. As the Supreme Court explained in *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), freedom from bodily restraint lies at the core of the liberty protected by the Due Process Clause. As the Supreme Court has held, the Due Process Clause of the Fifth Amendment extends to all persons

within the United States, including noncitizens, whether their presence here is lawful, unlawful, temporary, or permanent. *Zadvydas*, 533 U.S. at 693. Even where the government possesses authority to detain individuals for immigration purposes, such detention must bear a reasonable relation to its asserted purpose and be accompanied by adequate procedural protections. See *Demore*, 538 U.S. at 531.

54. This Court has found that ICE's mandatory detention of noncitizens without a bond hearing violates the Due Process Clause. In *Coc Ixim* and *Lopez Zhiminaicela*, this Court held that § 1226(a) governs Petitioner's detention and that he has a statutory right to a bond hearing, granting habeas relief. *Coc Ixim* at 2; *Lopez Zhiminaicela* at 2. The government provides no mechanism for Petitioner to contest his detention or seek release, resulting in effectively indefinite detention without process, which the Supreme Court has repeatedly condemned. See *Zadvydas*, 533 U.S. at 690–92; *Clark v. Martinez*, 543 U.S. 371, 386–87 (2005).

55. Accordingly, Petitioner's continued detention violates the Fifth Amendment, and this Court should grant habeas relief and order Petitioner's immediate release, or, at a minimum, a prompt bond hearing with the government bearing the burden to justify continued detention by clear and convincing evidence.

CLAIM THREE

Violation of the Suspension Clause of the U.S. Constitution

56. Petitioner incorporates by reference all preceding paragraphs. The Suspension Clause, U.S. Const. art. I, § 9, cl. 2, guarantees that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

Petitioner's continued detention, without access to judicial review or a mechanism to challenge the legality of custody, violates this constitutional guarantee.

57. The Supreme Court has long held that habeas relief remains available to noncitizens seeking to challenge unlawful executive detention. See *INS v. St. Cyr*, 533 U.S. 289, 301 (2001). The writ cannot be withdrawn where, as here, the Executive detains an individual without statutory authority and without due process safeguards. See *Boumediene v. Bush*, 553 U.S. 723, 779 (2008).

58. Because Petitioner's detention without access to meaningful judicial review of his custody constitutes an effective suspension of the writ of habeas corpus, this Court must exercise jurisdiction and grant relief. Petitioner respectfully requests an order directing his immediate release, or, in the alternative, a prompt individualized custody hearing at which the government must justify continued detention by clear and convincing evidence.

REQUEST FOR IMMEDIATE RELEASE

59. As reflected in the Declaration of Jorge E. Artieda, Esq., a former attorney with U.S. Immigration and Customs Enforcement and former Special Assistant United States Attorney, submitted as an exhibit to this Petition, immigration judges have recently begun systematically denying bond in post-habeas cases based on generalized and speculative findings of flight risk, even where respondents demonstrate strong community ties, lack of criminal history, and viable forms of relief from removal. Mr. Artieda explains that, based on more than two decades of experience in immigration enforcement and detention litigation, this pattern represents a dramatic shift in bond adjudications, in which immigration judges increasingly rely on abstract rationales — such as the speculative nature of relief applications, lack of financial sponsorship,

or immigration status violations common to virtually all detained individuals — to deny bond without meaningful individualized analysis.

60. This Court has recognized that the appropriate remedy in these circumstances is a bond hearing before a neutral immigration judge. In *Coc Ixim v. Oddo*, 3:26-cv-129 (W.D. Pa. Feb. 19, 2026), this Court granted habeas relief and ordered that Petitioner receive a bond hearing before a neutral immigration judge within ten days pursuant to 8 U.S.C. § 1226. *Coc Ixim* at 2. Similarly, in *Lopez Zhiminaicela v. Rose*, 3:26-cv-130 (W.D. Pa. Feb. 24, 2026), this Court ordered that Petitioner receive a bond hearing within ten days, with the parties reporting the outcome within seven days thereafter, joining "the overwhelming majority of district courts" in holding that Section 1226(a) applies to aliens similarly situated to Petitioner. *Lopez Zhiminaicela* at 2. Other courts have reached the same conclusion in materially identical circumstances. In *Kashranov v. Jamison*, No. 2:25-cv-5555, 2025 WL 3188399 (E.D. Pa. Nov. 14, 2025), the court held that noncitizens similarly situated to Petitioner detained under Section 1226(a) have "due process rights, including a right to an individualized detention and a bond hearing." *Kashranov* at *5. In *Ndiaye v. Jamison*, No. 2:25-cv-06007, 2025 WL 3229307 (E.D. Pa. Nov. 19, 2025), the court similarly granted habeas relief and ordered an individualized bond hearing. *Ndiaye* at *1. Petitioner Djabarov's case presents a strong basis for this relief: he entered the United States in November 2022, was placed into formal removal proceedings, was included as a derivative respondent on a pending asylum application filed by his father, obtained a valid USCIS-issued Employment Authorization Document based on his pending asylum application, and built a stable life in Philadelphia for over three years as a licensed commercial truck driver holding a Pennsylvania Non-Domiciled Commercial Driver's License (Class A) before his arrest. The same result is warranted here.

61. The record establishes that Petitioner poses no danger to the community and no risk of flight. Petitioner has no criminal history of any kind. He entered the United States at or near Tecate, California on or about November 24, 2022 together with his father, was placed into formal removal proceedings before the New York Immigration Court, was included as a derivative respondent on his father's timely filed Form I-589 Application for Asylum, obtained a valid Employment Authorization Document from USCIS pursuant to his pending asylum application, and built a stable life in Philadelphia, Pennsylvania, as a licensed commercial truck driver holding a Pennsylvania Non-Domiciled Commercial Driver's License (Class A). He was not evading immigration authorities at the time of his arrest — he was engaged in lawful employment. These undisputed facts leave no legitimate basis for continued detention.

62. Petitioner's case illustrates precisely the constitutional defect at issue. Because DHS has invoked § 1225(b), Immigration Judges are categorically precluded under current BIA precedent from exercising bond jurisdiction over Petitioner's custody. See *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Petitioner has therefore been held without any opportunity whatsoever to appear before a neutral decisionmaker and present the overwhelming evidence that he is neither a danger to the community nor a flight risk. This is not a case where a bond hearing was held but produced an inadequate result — it is a case where the Government's statutory misclassification has foreclosed any bond forum entirely.

63. Mr. Artieda's declaration confirms that even where bond hearings do occur in analogous cases, immigration judges have adopted a practice of denying bond in post-habeas proceedings by relying on boilerplate findings that an applicant's form of relief is "speculative," that the applicant lacks sufficient financial sponsorship, or that the applicant's immigration status itself

constitutes evidence of flight risk — rationales inherent to virtually every detained noncitizen and which cannot constitute the individualized assessment that due process requires. Where, as here, the Government's classification forecloses bond jurisdiction entirely, the risk of this systemic failure is not merely theoretical; it is guaranteed. Ordering a bond hearing under a § 1225(b) framework would subject Petitioner to a process that is constitutionally deficient from its inception.

64. Under these circumstances, ordering another bond hearing would not cure the constitutional defect. Courts have recognized that where the existing detention framework cannot reliably safeguard a detainee's liberty interest, habeas relief in the form of immediate release is appropriate. See *Coc Ixim*, 3:26-cv-129, at 2 (W.D. Pa. Feb. 19, 2026) (granting habeas relief and ordering bond hearing within ten days pursuant to § 1226); *Lopez Zhiminaicela*, 3:26-cv-130, at 2 (W.D. Pa. Feb. 24, 2026) (same, ordering respondents to report outcome within seven days); *Kashranov*, 2025 WL 3188399, at *5–6 (E.D. Pa. Nov. 14, 2025) (holding that noncitizens detained without individualized hearing have due process rights that must be vindicated). The purpose of habeas review is not to require repetitive administrative proceedings that cannot provide meaningful relief, but to ensure that unlawful detention ceases.

65. Accordingly, the appropriate remedy is not another bond hearing, but Petitioner's immediate release from custody under reasonable conditions of supervision.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter pursuant to 28 U.S.C. § 2241;

2. Grant the Petition for a Writ of Habeas Corpus and hold that Petitioner's continued detention violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment;

3. Issue a Writ of Habeas Corpus directing Respondents to immediately release Petitioner from immigration detention, as continued detention without constitutionally adequate procedures is unlawful;

4. In the alternative, should the Court determine that release is not immediately warranted, order Respondents to provide Petitioner with a constitutionally adequate individualized bond hearing within seven (7) days, at which the Government bears the burden of proving dangerousness or flight risk by clear and convincing evidence;

5. Order that if Respondents fail to provide such a hearing within the specified time, or fail to meet their burden of proof, Petitioner must be immediately released from custody;

6. Temporarily enjoin the Government from re-detaining Petitioner for seven (7) days following his release from custody;

7. If the Government pursues re-detention after the seven-day period, order that it must first provide Petitioner with a bond hearing at which a neutral immigration judge shall determine whether detention is warranted pending the resolution of his removal proceedings;

8. Pending a bond hearing, enjoin the Government from removing, transferring, or otherwise facilitating the removal of Petitioner from the Western District of Pennsylvania;

9. Upon Petitioner's release, order Respondents to return all of Petitioner's personal belongings confiscated upon his detention, including identification documents; and

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

Respectfully submitted on March 11, 2026.

COUNSEL FOR PETITIONER

/s/ Harun Taskin
Harun Taskin, Esq.
**Pro Hac Vice Pending*
Illinois State Bar # 6342748
Kent Law Partners LLC
1701 E. Woodfield Rd., Ste. 820
Schaumburg, IL 60173
Phone: (312) 724-5555
Fax: (312) 724-5555
htaskin@kentlawpartners.com

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have reviewed the relevant documentation of the events described in this Petition that was reasonably available to me prior to and at the time of filing. Based on those documents and on discussions with individuals whom the Petitioner authorized to speak on his behalf, I hereby verify that the statements made in this Verified Petition are true and correct to the best of my knowledge.

Respectfully submitted on March 11, 2026.

COUNSEL FOR PETITIONER

/s/ Harun Taskin
Harun Taskin, Esq.
**Pro Hac Vice Pending*
Illinois State Bar # 6342748
Kent Law Partners LLC
1701 E. Woodfield Rd., Ste. 820
Schaumburg, IL 60173
Phone: (312) 724-5555
Fax: (312) 724-5555
htaskin@kentlawpartners.com