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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

NOE JOEL SORIANO TORRES

Petitioner,

V.

KRISTI NOEM, *Secretary of the Department of Homeland Security*, TODD M. LYONS, *Acting Director, United States Immigration and Customs Enforcement*, in their official capacity, KENNETH GENALO, *Field Office Director of the New York Field Office of U.S. Immigration and Customs Enforcement*, in their official capacity, in their official capacity, RAUL MALDONADO JR., *Warden of the Metropolitan Detention Center*, in their official capacity

Respondents.

Case File No: 1:26-cv-01475

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Noe Joel Soriano Torres ("Petitioner"), ([redacted]), by and through his undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging his unlawful detention by the United States Department of Homeland Security ("DHS") and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is a native and citizen of El Salvador who has resided in the United States for over twenty years.

2. Petitioner is currently detained at the Metropolitan Detention Center in Brooklyn, New York, within the Eastern District of New York. On information and belief, Respondents are detaining Petitioner under 8 U.S.C. § 1225(b)(2)(A), which provides for the mandatory detention of "applicants for admission." However, Petitioner is not an "applicant for admission" within the meaning of that statute. He has been in full removal proceedings under INA § 240, and was served with a Notice to Appear ("NTA") charging him with removability under INA § 212(a)(6)(A)(i) as an individual present in the United States without being admitted or paroled. His detention is properly governed by 8 U.S.C. § 1226(a), which affords him the right to an individualized custody determination and the opportunity for a bond hearing before an Immigration Judge.

3. Until recently, noncitizens in Petitioner's position have been able to seek bond before the Executive Office for Immigration Review ("EOIR"), as their detention is clearly discretionary under 8 U.S.C. § 1226. DHS has recently and significantly altered its interpretation of the government's detention authority during the pendency of removal proceedings to require mandatory detention of all noncitizens charged with entering the United States without inspection, subjecting millions of noncitizens such as Petitioner to mandatory prolonged detention without opportunity for release on bond, allegedly under 8 U.S.C. § 1225, no matter how long they have resided in the country.

4. The plain language of § 1225 does not apply to Petitioner, and the denial of a bond hearing violates the INA and the Due Process Clause of the Fifth Amendment. An overwhelming and lopsided majority of federal courts to consider the question have held that 8 U.S.C. § 1225(b)(2) does not authorize mandatory detention of noncitizens like Petitioner who entered the

United States without inspection and have been residing in the country for an extended period, as opposed to "arriving aliens" presenting themselves at a port of entry. *See Ye v. Maldonado*, No. 25-CV-6417, 2025 WL 3521298 (E.D.N.Y. Dec. 8, 2025); *O.F.B. v. Maldonado*, No. 25-CV-6336, 2025 WL 3277677 (E.D.N.Y. Nov. 25, 2025); *Sarmiento Guerrero v. Noem*, No. 25-cv-05881, 2025 WL 3214787 (E.D.N.Y. Nov. 18, 2025); *J.U. v. Maldonado*, No. 25-cv-04836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475 (S.D.N.Y. 2025); *Tumba Huamani v. Francis*, No. 25-cv-8110, 2025 WL 3079014 (S.D.N.Y. Nov. 4, 2025).

5. Petitioner further challenges his prolonged detention without a bond hearing. Petitioner has been detained since May 30, 2025, a period now exceeding nine months, without a constitutionally adequate bond hearing. The Immigration Judge has three times denied Petitioner's requests for a bond hearing on jurisdictional grounds. Such prolonged detention without a hearing before a neutral decision maker violates the Due Process Clause of the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 527–28 (2003).

6. Petitioner asks this Court to find that Respondents' detention of Petitioner is unlawful, to order his immediate release or, in the alternative, to order an individualized bond hearing before an Immigration Judge at which the government bears the burden of justifying his continued detention by clear and convincing evidence, and to immediately issue an order preventing Petitioner's transfer out of this District.

JURISDICTION AND VENUE

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

10. A petition for a writ of habeas corpus under 28 U.S.C. § 2241 "authorizes a district court to grant a writ of habeas corpus whenever a petitioner is 'in custody in violation of the Constitution or law or treaties of the United States.'" *Wang v. Ashcroft*, 320 F.3d 130, 140 (2d Cir. 2003) (quoting 28 U.S.C. § 2241(c)). Federal courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the constitutionality of their detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001).

11. Although certain provisions of the INA limit judicial review of discretionary custody determinations, *see* 8 U.S.C. § 1226(e), those provisions do not preclude habeas review of constitutional claims, questions of law, or challenges to the legal basis for detention itself. Petitioner does not ask this Court to review or second guess any discretionary bond decision. Rather, he challenges Respondents' authority to detain Petitioner without any individualized custody determination and the constitutionality of prolonged detention without meaningful

review. Such claims fall within the scope of habeas review. *See Jennings v. Rodriguez*, 583 U.S. 281 (2018).

12. Venue is proper in this District because Petitioner is currently in Respondents' custody within the Eastern District of New York, detained at the Metropolitan Detention Center in Brooklyn, New York. *See Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents "forthwith," unless the 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.*

14. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, 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). Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

15. Petitioner is a native and citizen of El Salvador. He has resided in the United States for over twenty years. He is currently detained at the Metropolitan Detention Center in Brooklyn, New York.

16. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is sued in her official capacity. Secretary Noem has authority over immigration enforcement, including the policies and practices that have resulted in Petitioner's continued detention.

17. Respondent Todd Lyons is the Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement. He is sued in his official capacity.

18. Respondent Kenneth Genalo is the Field Office Director of the New York Field Office of U.S. Immigration and Customs Enforcement. He is sued in his official capacity.

19. Respondent Raul Maldonado Jr is the Warden of the Metropolitan Detention Center, Brooklyn, and is the individual currently exercising day to day custodial control over Petitioner. He is sued in his official capacity.

STATEMENT OF FACTS

20. Petitioner is a native and citizen of El Salvador. He has resided in the United States for over twenty years. During his time in this country, he has established deep roots in his community. He worked his way up from a laborer to a manager at a prestigious vineyard in New York. He has no criminal history in the United States.

21. On May 30, 2025, Petitioner was taken into the custody of U.S. Immigration and Customs Enforcement. He has remained in continuous detention since that date, a period now exceeding nine months.

22. On June 2, 2025, DHS served Petitioner with a Form I-862, Notice to Appear, charging him with removability pursuant to INA § 212(a)(6)(A)(i), in that he was present in the United States without admission or parole.

23. On June 20, 2025, Petitioner filed a Form I-589 application for asylum, withholding of removal under INA § 241(b)(3), and protection under the Convention Against Torture ("CAT").

24. At a master calendar hearing on June 23, 2025, Petitioner, through counsel, admitted all factual allegations contained within the NTA and conceded the charge of removability. The Immigration Court found removability established by clear and convincing evidence and designated El Salvador as the country of removal. INA § 240(c)(3)(A); 8 C.F.R. §§ 1240.8(a), 1240.10(c), (d).

25. On August 19, 2025, Petitioner appeared before an Immigration Judge and testified in support of his applications for relief from removal. On October 24, 2025, an expert witness testified in support of Petitioner's application.

26. On December 30, 2025, the Immigration Judge denied Petitioner's applications for relief and ordered his removal to El Salvador.

27. On January 12, 2026, Petitioner timely filed an appeal of the Immigration Judge's decision to the Board of Immigration Appeals ("BIA" or "The Board"). That appeal remains pending before The Board.

28. Petitioner has sought a bond hearing before the Immigration Court on three occasions. The Immigration Judge denied Petitioner's request on jurisdictional grounds on July 9, 2025, December 4, 2025, and December 17, 2025.

29. Upon information and belief, the Immigration Judge denied each bond hearing request on the theory that noncitizens who entered the United States without inspection are subject to

mandatory detention under 8 U.S.C. § 1225(b)(2) and that Immigration Judges lack jurisdiction to conduct bond hearings for such individuals.

30. Petitioner is currently detained at the Metropolitan Detention Center in Brooklyn, New York.

31. On information and belief, Respondents are currently detaining Petitioner pursuant to 8 U.S.C. § 1225(b)(2)(A) on the theory that he is an "applicant for admission" subject to mandatory detention. However, Petitioner was placed in full removal proceedings under INA § 240, and was served with a Notice to Appear charging him with removability under INA § 212(a)(6)(A)(i) as an individual present in the United States without admission or parole. He is not an "arriving alien" and is not "seeking admission" at a port of entry. Because Petitioner's proceedings are still pending on appeal, he is not subject to an administratively final order of removal.

32. Respondents have not conducted any individualized assessment as to whether Petitioner poses a flight risk or danger to the community to justify his continued detention. Petitioner has been denied any meaningful opportunity to contest the basis for his detention before a neutral decision maker.

LEGAL FRAMEWORK

33. The INA generally provides for three forms of civil detention for noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens arrested "on a warrant" pending the resolution of standard removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229(a). Unless they have been arrested, charged with, or convicted of certain enumerated crimes, which would subject them to mandatory detention until their removal proceedings are concluded, *see* 8 U.S.C. § 1226(c), an individual detained under §

1226(a) can be released by ICE on bond or conditional parole. *See* 8 U.S.C. § 1226(a)(1); 8 C.F.R. § 236.1(c)(8). If release is denied by ICE, the detainee can seek a custody redetermination before an Immigration Judge at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). At the hearing, the noncitizen may present evidence to show they are not a flight risk or danger to the community and should therefore be released on bond.

34. Second, the INA imposes mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and of 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" under § 1225(b)(2). Individuals detained under § 1225(b) receive no bond hearing, *see* 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV), (b)(2)(A), and can only be released under humanitarian parole at the arresting agency's discretion. *See Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018); 8 U.S.C. § 1182(d)(5).

35. Lastly, and not relevant here, the INA provides for detention of noncitizens who have been issued a final order of removal. *See* 8 U.S.C. § 1231(a).

36. This case concerns the mandatory versus discretionary detention provisions under § 1225(b)(2) and § 1226(a). For nearly thirty years, § 1225 has applied to noncitizens who are either seeking entry to the United States or have a close nexus to the border, and § 1226 has applied to those noncitizens arrested within the interior of the United States. The Supreme Court in *Jennings* explicitly adopted this distinction, describing § 1225 as the detention statute for noncitizens affirmatively "seeking admission" into the United States, and § 1226 as the detention statute for noncitizens who are "already in the country." *Jennings*, 583 U.S. at 289. Although the *Jennings* Court characterized § 1225(b)(2) as the "catchall" detention provision

for noncitizens who are "seeking admission," it identified § 1226(a) as the "default rule" for the arrest, detention, and release of noncitizens who are already present in the United States. *Id.* at 303.

37. An overwhelming majority of federal courts have held that § 1225(b)(2)(A) does not authorize mandatory detention of noncitizens like Petitioner who entered the United States without inspection and have been residing in the country for an extended period. *See Ye v. Maldonado*, No. 25-CV-6417, 2025 WL 3521298 (E.D.N.Y. Dec. 8, 2025); *O.F.B. v. Maldonado*, No. 25-CV-6336, 2025 WL 3277677 (E.D.N.Y. Nov. 25, 2025); *J.U. v. Maldonado*, No. 25-cv-04836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Artiga v. Genalo*, No. 25-cv-05208, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475 (S.D.N.Y. 2025).

38. Courts have given great weight to the manner in which DHS treated the petitioner in determining which detention statute applies. *See Lopez Benitez*, 795 F. Supp. 3d at 487 (holding that § 1225 did not apply because DHS had consistently treated the petitioner as subject to discretionary detention under § 1226(a) and because the "plain text, overall structure, and uniform case law interpreting" the statutory provision compelled that conclusion). Here, Petitioner was placed in removal proceedings under INA § 240 and charged with removability under INA § 212(a)(6)(A)(i) as an individual present in the United States without admission or parole. The NTA reflects that DHS exercised its authority under § 240 to place Petitioner in removal proceedings, not under § 235 to process him as an applicant for admission.

39. Respondents' longstanding practice has been to apply § 1226(a) to noncitizens like Petitioner, who are charged as removable under INA § 212(a)(6)(A)(i).

40. If the government's reading of § 1225 were correct, "it would have made no sense for Congress to enact a special provision implementing mandatory detention for certain noncitizens meeting specific criminal criteria" under § 1226(c), because "mandatory detention would have already applied to each such noncitizen regardless of their criminal history." *Tumba Huamani v. Francis*, No. 25-cv-8110, 2025 WL 3079014, at *4 (S.D.N.Y. Nov. 4, 2025); *see also Ye v. Maldonado*, 2025 WL 3521298, at *4 (E.D.N.Y. Dec. 8, 2025) (adopting the same reasoning and holding that the government's interpretation of § 1225 is "entirely inconsistent" with the broader statutory scheme); *Sarmiento Guerrero v. Noem*, 2025 WL 3214787, at *3 (E.D.N.Y. Nov. 18, 2025) (same).

41. Furthermore, "a noncitizen cannot be subject to both mandatory detention under § 1225 and discretionary detention under § 1226," so if a petitioner was "detained pursuant to one provision, [he] cannot be subject to the other." *Lopez Benitez*, 795 F. Supp. 3d at 485. *See also Chipantiza-Sisalema v. Francis*, No. 25-CV-5528, 2025 WL 1927931 (S.D.N.Y. July 13, 2025).

42. Accordingly, Petitioner's detention is properly governed by 8 U.S.C. § 1226(a), and he is entitled to an individualized custody determination and a bond hearing before an Immigration Judge. Under 8 C.F.R. § 1236.1(d)(1), Immigration Judges have the general authority to grant bond to noncitizens in removal proceedings under INA § 240. Respondents' detention of Petitioner under 8 U.S.C. § 1225(b)(2)(A) exceeds their statutory authority and violates the INA.

43. The Due Process Clause of the Fifth Amendment provides that "[n]o person shall . . . be deprived 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 Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Clause "applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

44. Petitioner has been detained for over nine months. He has been denied any individualized determination as to whether he poses a flight risk or a danger to the community since his detention began on May 30, 2025.

45. Federal courts in this District and elsewhere have repeatedly held that the government's detention of noncitizens "with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates [their] due process rights." *Ye v. Maldonado*, 2025 WL 3521298 (E.D.N.Y. Dec. 8, 2025); *O.F.B. v. Maldonado*, 2025 WL 3277677, at *8 (E.D.N.Y. Nov. 25, 2025) (granting habeas and ordering immediate release); *see also Valdez v. Joyce*, 2025 WL 1707737, at *4 (S.D.N.Y. June 18, 2025); *Tumba Huamani*, 2025 WL 3079014 (S.D.N.Y. Nov. 4, 2025) (granting habeas and ordering immediate release).

46. Even if Section 1225 applied to Petitioner's detention, which it does not, Petitioner would still be entitled to due process before the government detained him. *See J.G.I. v. Genalo*, No. 26-CV-581 (AMD) (E.D.N.Y. Feb. 2026) ("Under either section of the INA, the government has unlawfully detained the petitioner . . . because it denied him due process."). The "typical

remedy" for "unlawful executive detention" is "of course, release." *Munaf v. Green*, 553 U.S. 674, 693 (2008).

47. Petitioner's prolonged detention without a bond hearing further violates due process. In *Demore v. Kim*, the Supreme Court upheld mandatory detention under INA § 236(c) only for the "brief period necessary for removal proceedings," a period the Court described as averaging 45 days for those who do not appeal an IJ order, and five months for those who do. 538 U.S. 510, 513 (2003). *Demore* did not address the constitutionality of prolonged mandatory detention.

48. In *Black v. Decker*, 103 F.4th 133 (2d Cir. 2024), reh'g en banc denied, 2025 WL 2989687 (2d Cir. Oct. 24, 2025), the Second Circuit held that "due process bars the Executive from detaining . . . individuals for an unreasonably prolonged period under section 1226(c) without a bond hearing." *Id.* at 145. Although the Second Circuit "reject[ed] a bright-line constitutional rule" requiring a bond hearing after a fixed period of detention, it held that courts should apply the balancing test in *Mathews*, 424 U.S. 319, "to assess, case by case, whether an individual's prolonged section 1226(c) detention violates due process." *Black*, 103 F.4th at 150. Applying the *Mathews* factors, the Second Circuit determined that two petitioners who were detained under § 1226(c) without a bond hearing for seven months and twenty-one months, respectively, were entitled to "individualized bond hearings by an IJ." *Id.* at 155. The Court further held that the government must "bear the burden of proving the need for continued detention" "by clear and convincing evidence." *Id.* at 155, 157.

49. Petitioner has been detained since May 30, 2025, a period now exceeding nine months, without any constitutionally adequate bond hearing. The Immigration Judge has three times

denied Petitioner's bond hearing requests on jurisdictional grounds. More than nine months have passed since Petitioner was taken into custody, and Petitioner has had no opportunity for an individualized assessment of whether his continued detention is justified. *See Black*, 103 F.4th at 151 (citing *Demore*, 538 U.S. at 513); *J.G.I. v. Genalo*, No. 26-CV-581 (AMD) (E.D.N.Y. Feb. 2026) (granting habeas and ordering immediate release on both statutory and due process grounds). *See also M.P.L. v. Arteta*, No. 25-CV-5307 (VSB) (S.D.N.Y. 2025) (applying *Black* and granting habeas where petitioner was detained for over seven months without a constitutionally adequate bond hearing); *J.M.P. v. Arteta*, No. 25-CV-4987, 2025 WL 2614688, at *2 (S.D.N.Y. Sept. 10, 2025) (same). Petitioner's detention surpasses any period that could be characterized as "brief."

50. Under the *Mathews v. Eldridge* balancing test, 424 U.S. 319 (1976), all three factors weigh in Petitioner's favor. The first factor, the private interest affected, weighs heavily in Petitioner's favor, as "the private interest affected by the official action is the most significant liberty interest there is—the interest in being free from imprisonment." *Black*, 103 F.4th at 151 (quoting *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)). The second factor, the risk of erroneous deprivation through the procedures used, also weighs in Petitioner's favor, as he has been erroneously subjected to mandatory detention under § 1225 since the Board of Immigration Appeals issued *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The risk of erroneous deprivation through continued detention without future ability for an individualized assessment is high. The third factor, the government's interest, is weak. Petitioner's mandatory detention is not authorized by § 1225, serves no legitimate purpose, and amounts to punitive detention warranting habeas relief.

51. To the extent Respondents argue that Petitioner must exhaust administrative remedies before seeking habeas relief, such exhaustion is excused.

52. Judicial exhaustion may be excused when "available remedies provide no genuine opportunity for adequate relief" or exhaustion "would be futile." *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003). Both exceptions apply here. Petitioner has three times requested a bond hearing from the Immigration Court and been denied on all three occasions on jurisdictional grounds. The Immigration Judge has made clear that he will not conduct a bond hearing based on *Matter of Yajure Hurtado*. Requiring Petitioner to further exhaust administrative remedies would be futile.

CLAIMS FOR RELIEF

FIRST CLAIM
Violation of the Immigration and Nationality Act

53. Petitioner repeats and realleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

54. 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. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being detained by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

55. Respondents' detention of Petitioner under 8 U.S.C. § 1225(b)(2)(A) exceeds their statutory authority and violates the INA. Petitioner's detention is properly governed by 8 U.S.C. § 1226(a), and he is entitled to an individualized custody determination and a bond hearing before an Immigration Judge.

SECOND CLAIM
Violation of the Due Process Clause of the Fifth Amendment (Procedural Due Process)
5 U.S.C. §§ 702, 706

56. Petitioner repeats and realleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

57. The Due Process Clause of the Fifth Amendment protects all "person[s]" from deprivation of liberty "without due process of law." The Due Process Clause entitles Petitioner to a meaningful process assessing whether his continued detention is justified. Respondents detained Petitioner without any individualized assessment of whether he poses a flight risk or a danger to the community, without prior notice, without any showing of changed circumstances, and without an opportunity to respond. This complete absence of process prior to and contemporaneous with the deprivation of Petitioner's liberty violates the Due Process Clause of the Fifth Amendment. *See Ye v. Maldonado*, No. 25-CV-6417, 2025 WL 3521298 (E.D.N.Y. Dec. 8, 2025); *O.F.B. v. Maldonado*, No. 25-CV-6336, 2025 WL 3277677 (E.D.N.Y. Nov. 25, 2025); *Valdez v. Joyce*, No. 25-CV-4627, 2025 WL 1707737, at *4 (S.D.N.Y. June 18, 2025); *Chipantiza-Sisalema v. Francis*, No. 25-CV-5528, 2025 WL 1927931 (S.D.N.Y. July 13, 2025). Without a prospective opportunity for Petitioner to contest his detention in front of a neutral decision maker, after he had been residing in the United States for over twenty years, Respondents have provided insufficient process in violation of the Due Process Clause of the Fifth Amendment of the Constitution. Furthermore, Petitioner's detention has become unreasonably prolonged without a constitutionally adequate bond hearing since May 30, 2025, in violation of the framework established by the Second Circuit in *Black v. Decker*, 103 F.4th 133 (2d Cir. 2024).

THIRD CLAIM
Violation of the Due Process Clause of the Fifth Amendment (Substantive Due Process)
5 U.S.C. §§ 702, 706

58. Petitioner repeats and realleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

59. Petitioner is not a flight risk nor is he a danger to the community. Petitioner has resided in the United States for over twenty years, has strong ties to his community, has worked as a manager at a prestigious vineyard, and has no criminal history. Respondents' detention of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in violation of his Constitutional right to due process under the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause directing Respondents to show cause why a writ of habeas corpus should not be granted within three days;

(3) Issue a Temporary Restraining Order enjoining Respondents from transferring Petitioner outside of this District;

(4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;

(5) Grant the writ of habeas corpus and order Petitioner's immediate release from custody, or, in the alternative, order that Petitioner receive an individualized bond hearing before an Immigration Judge within fourteen days, at which the government must bear the burden of showing, by clear and convincing evidence, that Petitioner presents a flight risk or threat to the community that cannot be mitigated by reasonable conditions of supervision or monetary bond;

(6) Award such other and further relief as this Court deems just and proper.

Respectfully submitted,

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PALACIOS LAW GROUP
15 Roslyn Road
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Attorney for Petitioner

Dated: March 13, 2026

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Noe Joel Soriano Torres, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.