**UNITED STATES DISTRICT COURT**
**FOR THE WESTERN DISTRICT OF MICHIGAN**

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| Leonardo Fabio MARTINEZ-ROJAS<br><br>Petitioner,<br><br>v.<br><br>KEVIN RAYCRAFT, in his official capacity as Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; ANGELA DUNBAR, in her official capacity as Warden of the North Lake Processing Center; Kristi NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, in her official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,<br><br>Respondents. | Case No.<br><br>Hon.<br><br>**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS** |

## INTRODUCTION

1. This petition arises from Respondents violation of Due Process rights under the U.S. Constitution, and the U.S. government's new policy—which contradicts both the plain language of the Immigration and Nationality Act (INA)

and decades of agency practice—of erroneously interpreting the INA to mandate detention without the possibility of bond for noncitizens who entered the United States without inspection, even if they have been residing here for years.

2. This policy has led to the unlawful detention of countless noncitizens nationwide. Hundreds of habeas corpus petitions for their release have been filed in jurisdictions across the country, including many in the Eastern District of Michigan. Virtually every merits decision in those cases has found for the petitioners, either granting them a bond hearing or ordering their immediate release.

3. Petitioner Leonardo Fabio Martinez Rojas has been unlawfully detained for over five months, without access to counsel, without hearings of any kinds and most egregious without the possibility of bond in furtherance of this policy. Petitioner came to the United States over 2 years ago and has lived here ever since.

4. Petitioner was taken into immigration custody on October 22, 2025 after being arrested in the Chicago area at the Home Depot parking lot while exiting the store with purchased construction materials. Respondents placed Petitioner in civil immigration removal proceedings, alleging that he had entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

5. Petitioner is currently in the physical custody of Respondents at North Lake Detention Facility, in Baldwin Michigan, which falls under the purview of the

Detroit Field Office of Immigration and Customs Enforcement (ICE), which has responsibility for immigration detention centers in Michigan and Ohio.

6. Under 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond, Petitioner is entitled to a bond determination. That statute expressly applies to people who, like Petitioner, are residing in the United States but are charged as inadmissible for having initially entered the United States without inspection. In accordance with 8 U.S.C. § 1226(a), the Department of Homeland Security (DHS) and Executive Office of Immigration Review (EOIR) have for decades provided bond determinations and bond hearings to people like Petitioner who have been living in the United States but allegedly entered without inspection.

7. However, pursuant to a new governmental policy announced on July 8, 2025,[1] Petitioner is now being unlawfully detained without bond. The new policy instructs all ICE employees to no longer apply 8 U.S.C. § 1226(a) to people charged with being inadmissible under § 1182(a)(6)(A)(i)—i.e., those who initially entered the United States without inspection. Instead, under the new policy, ICE employees are to subject people like Petitioner to mandatory detention without bond under §

[1] ICE Memo: Interim Guidance Regarding Detention Authority for Applicants for Admission (Jul. 8, 2025), https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission [https://perma.cc/8SP7-TDDD].

1225(b)(2)(A)—a provision that has historically been applied only to recent arrivals at the U.S. border—no matter how long they have resided in the United States.

8. Detaining Petitioner without bond is plainly contrary to the statutory framework of the INA and contrary to both agency regulations and decades of consistent agency practice applying § 1226(a) to people like Petitioner. It also violates Petitioner's right to due process by depriving him of his liberty without any consideration of whether such a deprivation is warranted.

9. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately released from custody unless Petitioner is provided with a bond hearing under § 1226(a) that meets constitutional and statutory requirements for due process within seven days.

10. Petitioner is not challenging any discretionary denial of bond; he is challenging the legal determination that he is not eligible for bond under § 1226(a) in the first place.

## JURISDICTION

11. Petitioner Leonardo Fabio Martinez Rojas is in the physical custody of Respondents. Petitioner is detained at the North Lake Detention Facility in Baldwin, Michigan.

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

13. 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.

**VENUE**

14. Venue is proper in the Eastern District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is detained in an immigration detention facility at the direction of, and is in the immediate custody of, Respondent Kevin Raycraft. *See Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

15. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims and relevant facts occurred in the Eastern District.

**REQUIREMENTS OF 28 U.S.C. § 2243**

16. 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, the Respondents must file a

return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

17. 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).

**PARTIES**

18. Petitioner Leonardo Fabio Martinez Rojas is a citizen of Colombia who has resided in the United States since 2024. He has been in immigration detention since October 22, 2025, and is currently detained at North Lake Detention Facility. After taking custody of Petitioner, ICE did not set bond. Petitioner did not have access to counsel until recently, nor did he have any hearings before the Immigration Judge until March 03, 2026, therefore he did not know how to or if he could request a bond hearing or any other relief.

19. Respondent Kevin Raycraft is the Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Director Raycraft

is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

20. Respondent Angela Dunbar is the warden of the North Lake Detention Facility where Petitioner is detained by ICE. The North Lake Detention Facility holds immigration detainees pursuant to a contract with ICE.

21. 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 Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

22. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

23. 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 are component agencies. She is sued in her official capacity.

24. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

## FACTS

25. Petitioner Leonardo Fabio Martinez Rojas has resided in the United States since March 2024 and lives in Chicago, Illinois. Petitioner is 38 years old.

26. Petitioner fled his home country of Colombia after suffering persecution by [redacted] After entering the United Staes, he was released on his own recognizance after establishing a credible fear of torture with a USCIS Asylum officer. After released Petitioner lived in Chicago, where he rented a room from his employer, and worked as a construction laborer. Petitioner has no criminal record.

27. On October 22, 2025, Petitioner was exiting the Home Depot store in after purchasing some construction materials, upun approaching his parked vehicle, a pick-up truck, he was approached by ICE officers who proceeded to arrest without a warrant. Petitioner is now detained at North Lake Detention Facility, in Baldwin, Michigan.

28. DHS placed Petitioner in removal proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with

being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

29. Following the initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue detaining Petitioner without providing an opportunity to post bond or be released under other conditions.

30. Given Petitioner's initial contact at the border with immigration authorities, Petitioner's immigration counsel advised that seeking a bond hearing would be futile, as judges at the Detroit Immigration Court are currently deeming people who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

31. Petitioner is clearly neither a flight risk nor a danger to the community, as demonstrated by his lack of criminal record, and substantial interest in seeking protection from torture after having been a victim of traffic.

32. Without relief from this court, Petitioner faces the prospect of months—or even years—in immigration custody, separated from family and community. Furthermore, while in detention Petitioner suffered a severe injury to his knee when falling on a wet floor at the North Lake Detention Facility. Despite the emergency room doctor advising Petitioner that he needed surgery for his broken patella, Respondents have failed to provide such medical care for Petitioner. Petitioner is

now living in constant pain, having difficulty to perform simple daily tasks, and being deprived of the necessary medical care which would remedy this situation.

## LEGAL FRAMEWORK

33. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

34. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens who are in removal proceedings. *See* 8 U.S.C. § 1229a. *See also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings"). Under § 1226(a), individuals who are taken into immigration custody pending a decision on whether they are to be removed can be detained but are generally entitled to seek release on bond.[2] The bond may be set by ICE itself as part of an initial custody determination, *see* 8 C.F.R. § 1236.1(c)(8), and/or the individual may seek a bond hearing in immigration court at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Section 1226(a) is the statute that, for decades, has been applied to people like Petitioner who have been living in the United States and are charged with inadmissibility under § 1182(a)(6)(A)(i).

[2] Section § 1226 contains an exception for noncitizens who have been arrested, charged with, or convicted of certain crimes, who are subject to mandatory detention without bond. 8 U.S.C. § 1226(c). That exception does not apply to Petitioner here.

35. Second, the INA provides for mandatory detention of certain recently arrived noncitizens, namely those subject to expedited removal under 8 U.S.C. § 1225(b)(1), and other recent arrivals seeking admission under § 1225(b)(2). *See Jennings*, 583 U.S. at 287, 289 (explaining that § 1225(b)(2)'s mandatory detention scheme applies "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the United States."). Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Petitioner.

36. Third, the INA also provides for detention of noncitizens who have already been ordered removed, *see* 8 U.S.C. § 1231. Section 1231 is not relevant here.

37. This case challenges Respondents' erroneous decision that Petitioner is subject to mandatory detention without bond under §1225(b)(2), rather than being bond-eligible under § 1226(a).

38. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 582–583, 585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

39. Following the 1996 enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without

inspection were not detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (explaining that "[d]espite being applicants for admission, [noncitizens] 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.").

40. Thus, in the three decades that followed, people who entered without inspection and were subsequently placed in removal proceedings received bond hearings if ICE chose to detain them, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

41. However, on July 8, 2025, ICE, "in coordination with" the Department of Justice, suddenly announced a new governmental policy that rejected the well-established understanding of the statutory framework and reversed decades of agency practice.

42. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection are subject to mandatory detention without bond under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even for decades or since infancy.

43. In decision after decision, federal courts—both nationwide and here in the Eastern District of Michigan—have rejected Respondents' sudden reinterpretation of the statutory scheme, and have instead held that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *See, e.g.*, *Demirel v. Fed. Det. Ctr. Phila.*, 25-cv-5488, 2025 WL 3218243, at *5-13 (E.D. Pa. Nov. 18, 2025) (cataloging ***288 cases*** granting habeas relief as of November 18, 2025); *Maldonado Bautista v. Santacruz*, No. 25-cv-01873, 2025 WL 3713987, at *32 (C.D. Cal. Dec. 18, 2025) (granting relief to a nationwide class that includes the Petitioner here).

44. This list is undoubtedly incomplete. As the media has reported, "[f]ederal judges are increasingly exasperated by the Trump administration's effort to lock up nearly everyone facing deportation proceedings . . . . The legal rejections are so frequent that one judge compared the Trump administration's effort to Sisyphus rolling a rock uphill." Kyle Cheney, *Hundreds of Judges Reject Trump's*

*Mandatory Detention Policy, With No End in Sight*, Politico (Jan. 5, 2026, at 5:55 AM ET), https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494 (noting that more than 300 judges across over 1,600 cases have granted habeas petitions).

45. In recent months, the Eastern District of Michigan has repeatedly rejected Respondents' interpretation of the INA and granted writs of habeas corpus to detained noncitizens to whom Respondents denied a bond hearing. On August 29, 2025, Judge Brandy McMillion granted a writ of habeas corpus to an identically situated petitioner, concluding that "There can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a noncitizen who has resided in this country for . . . years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border." *Lopez-Campos*, 797 F. Supp. 3d at 784. And on September 9, 2025, Judge Robert White issued the same relief to another identically situated petitioner, reasoning that "the legislative history and agency guidance . . . in conjunction with the statutory interpretation" clearly entitles the petitioner to a bond hearing under § 1226(a). *Pizarro Reyes*, No. 25-cv-12546, 2025 WL 2609425, at *8. More recent decisions holding the same include: *Contreras-Cervantes v. Raycraft*, No. 25-cv-13073, 2025 WL 2952796 (E.D. Mich. Oct. 17, 2025); *Romero Garcia v. Raycraft*, No. 25-cv-13407, 2025 WL 3252286 (E.D. Mich. Nov. 21, 2025); *Hurado-Medlina v. Raycraft*,

No. 25-cv-13248, 2025 WL 3268896 (E.D. Mich. Nov. 24, 2025); *Ali Kadagan v. Raycraft*, No. 25-cv-13602, No. 2025 WL 3268895 (E.D. Mich. Nov. 24, 2025); *Zambrano Paz v. Raycraft*, No. 25-cv-13563, 2025 WL 3473361 (E.D. Mich. Dec. 3, 2025); *Brito Hidalgo v. Raycraft*, No. 25-cv-13588, 2025 WL 3473360 (E.D. Mich. Dec. 3, 2025); *Lopez Herrera v. Raycraft*, No. 25-cv-13627, 2025 WL 3473358 (E.D. Mich. Dec. 3, 2025); *Torres-Vasquez v. Raycraft*, No. 25-cv-13571, 2025 WL 3473359 (E.D. Mich. Dec. 3, 2025); *Alvarez-Lopez v. US Dep't of Homeland Sec.*, No. 25-cv-13098, 2025 WL 3525956 (E.D. Mich. Dec. 9, 2025); *Amaya v. Raycraft*, 25-cv-13539, 2025 WL 3530273 (E.D. Mich. Dec. 9, 2025); *Morales Rodriguez v. Raycraft*, No. 25-cv-13560, 2025 WL 3543614 (E.D. Mich. Dec. 10, 2025); *Morales Rodriguez v. Raycraft*, No. 25-cv-13560, 2025 WL 3543614 (E.D. Mich. Dec. 10, 2025) *Cervantes Morales v. Raycraft*, No. 25-cv-13434, 2025 WL 3543611 (E.D. Mich. Dec. 10, 2025).

46. On September 5, 2025, the BIA issued a precedential decision that rejected the overwhelming consensus of the federal courts. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision held that all noncitizens who entered the United States without admission or parole are ineligible for bond hearings before an IJ.

47. The *Yajure Hurtado* decision—like the government policy it seeks to uphold—defies the INA. As Judge Robert White wrote—after noting that federal

district courts are not bound by agency interpretations of statutes—the BIA's reasoning is unpersuasive and "at odds with every District Court that has been confronted with the same question of statutory interpretation." *Pizarro Reyes*, 2025 WL 2609425, at *7.

48. As court after court has explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

49. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

50. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez*, 779 F. Supp. 3d at 1256-57 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

51. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

52. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). *See Jennings*, 583 U.S. at 287 (explaining that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.").

53. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people who have already entered and were long residing in the United States at the time they were apprehended by immigration authorities and detained. Because § 1226(a), not § 1225(b), is the applicable statute, Petitioner's detention without eligibility for bond is unlawful.

54. Furthermore, Petitioner is part of a nationwide class of noncitizens that has obtained declaratory relief rejecting the government's reading of the INA and the BIA's reasoning in *Yajure Hurtado*. *See Maldonado Bautista v. Santacruz*, No. 25-cv-01873, 2025 WL 3713987, at *12 (C.D. Cal. Dec. 18, 2025) . The court granted declaratory relief to "[a]ll noncitizens . . . who (1) have entered or will enter

the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination." *Id.* at *32. The court also vacated the July 8 policy under the Administrative Procedure Act (APA). *Id.* at *22. Because the court in *Maldonado Bautista* entered final judgement as to these conclusions, *id.* at *32, Respondents are bound by them.

55. Petitioner seeks relief from this Court because any months-long appeal to the BIA of an IJ's decision denying bond would be futile. A new request for a bond hearing is likewise futile. First, the agency's position is clear: both IJs and future panels of the BIA must follow the *Yajure Hurtado* decision. Further, the new governmental policy was issued "in coordination with DOJ," which oversees the immigration courts, including the BIA—up to and including the ability of the Attorney General to modify or overrule decisions of the BIA, *see* 8 C.F.R. § 1003.1(h). It is therefore unsurprising that the BIA has (erroneously) held that persons like Petitioner are subject to mandatory detention under § 1225(b)(2)(A), rather than being bond-eligible under § 1226(a). Moreover, in the numerous identical habeas corpus petitions that have been filed nationwide, EOIR and the Attorney General are often respondents and have consistently affirmed via briefing and oral argument that individuals like Petitioner are applicants for admission and subject to

detention under § 1225(b)(2)(A). *See, e.g.,* Resp. to Pet., *Lopez Campos v. Raycraft*, No. 25-cv-12546 (E.D. Mich. Aug. 9, 2025), Dkt. 9; Resp. to Pet., *Pizarro Reyes v. Raycraft*, No. 25-cv-12546 (E.D. Mich. Aug. 27, 2025), Dkt. 4.

56. Second, by the time the BIA could even issue an appeal—a process that typically takes at least six months, *Rodriguez*, 779 F. Supp. 3d at 1245, and in many cases roughly a year, *id.*—the harm of Petitioner's unlawful detention will be impossible to remediate.

57. Third, neither IJs nor the BIA have the authority to decide constitutional claims. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006). Here, Petitioner claims not only that Respondents are unlawfully detaining him without bond hearings under an inapplicable statute, but also that such detention violates Petitioner's constitutional right to due process if the government seeks to deprive him of his liberty.

58. Due process further requires that the burden of proving that a noncitizen is a flight risk or poses a danger to the community is placed on ICE. *See* Soto-Medina v. Lynch, No. 1:25-cv-01704 (W.D. Mich. Jan. 21, 2026) (ECF No. 8, PageId.77-78); see also *Hernandez-Lara v. Lyons*, 10 F.4th 19, 24 (1st Cir. 2021); *Velasco-Lopez v. Decker*, 978 F.3d 842, 847 (2d Cir. 2020). Longstanding agency rules require ICE to establish a sufficient change in circumstances. *See Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981); see also *Bumbila Iza v. Arnott*, No. 6:25-cv-3392

at *5 (W.D. Mo. Jan. 8, 2026) (ordering immediate release); *Mejia Orozco v. Lyons*, No. 1:25-cv-01762 at * 6 and n.5 (E.D. Va. Dec. 1, 2025).

59. The Sixth Circuit has long recognized that immigration detention must remain reasonable in both purpose and duration. *Ly*, 351 F.3d at 269; *Rosales-Garcia v. Holland*, 322 F.3d 386, 412 (6th Cir. 2001).

60. Indeed, the "vast majority"—an "overwhelming consensus"—of courts have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk in bond hearings under 8 U.S.C. § 1226(a). *Id.*

61. Petitioner is entitled to a bond hearing before an immigration judge where the government bears the burden of proof by clear and convincing evidence that he is a flight risk or danger to the community.

**_Castañon Nava_ Consent Decree**

62. The Petitioner in this case is a *Castañon Nava* class member.

63. In May 2018, persons arrested by ICE and impacted organizations, including the Illinois Coalition for Immigrant and Refugee Rights ("ICIRR") and Organized Communities Against Deportation ("OCAD"), challenged ICE's widespread, indiscriminate immigration sweeps in the Chicago area, which resulted in the collateral arrest of hundreds of individuals through warrantless arrests and pretextual vehicle stops, in *Castañon Nava et al. v. Dep't of Homeland Security et*

*al.*, No. 18-cv-3757 (N.D. Ill.), arguing that ICE failed to comply with immigration law and the constitution in carrying out these arrests.

64. After the U.S. District Court for the Northern District of Illinois denied the government's motion to dismiss, the parties negotiated a settlement, which was approved on February 8, 2022. The settlement took effect on May 13, 2022 and remains in effect until February 2, 2026, and may be extended given recent and ongoing violations of the settlement agreement.

65. "Class members" covered by the settlement agreement are persons who have been arrested, or are arrested in the future, without a warrant within the jurisdiction of the ICE Chicago Field Office, consisting of Illinois, Indiana, Wisconsin, Missouri, Kentucky, and Kansas, with additional terms of the agreement applying nationwide, such as training and documentation requirements.

66. If a class member is arrested in a manner that violates the settlement in the Chicago Area of Responsibility—which includes in Illinois, Indiana, Wisconsin, Kansas, Kentucky, and Missouri— they may be able to seek individual remedies—including immediate release from detention.

67. Under the settlement agreement, ICE was required to issue a nationwide policy regarding warrantless arrests and vehicle stops, share that policy with all ICE officers, and train them on its requirements.

68. Under the policy, ICE must document the facts and circumstances surrounding a warrantless arrest or vehicle stop in the individual's arresting documentation, called an I-213, including whether the individual was arrested without an administrative warrant; the location of the arrest (e.g., place of business, residence, vehicle, or a public area); if arrested at a business, whether the individual is an employee of the business; if arrested at a residence, whether the person resides at that place of residence; ties to the community, if known at the time of arrest, including family, home, or employment; the specific, particularized facts supporting the conclusion that the individual was likely to escape before a warrant could be obtained; and a statement of how the ICE officers identified themselves as ICE and "state[d] that the person is under arrest and the reason for the arrest." With respect to vehicle stops, ICE must also document specific facts that formed the basis for its reasonable suspicion that a person in the vehicle did not have legal status.

69. On information and belief, the Respondents' arrest of the Petitioner violated the settlement agreement in *Castañon Nava*, and the Petitioner's arrest has been reported to class counsel. Under the terms of the settlement, in the event of a violation and arrest contrary to the terms of the agreement, a class member must be released from ICE custody as soon as practicable, without paying a bond or being subject to conditions of release.

70. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

## CLAIMS FOR RELIEF

### COUNT I

### Violation of the INA

71. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

72. Respondents are unlawfully detaining Petitioner without bond pursuant to the mandatory detention provision at 8 U.S.C. § 1225(b)(2).

73. Section 1225(b)(2) does not apply to Petitioner, who previously entered the country and has long been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents.

74. Instead, Petitioner should be subject to the detention provisions of § 1226(a) and are therefore entitled to a custody determination by ICE, and if custody is continued, to a custody redetermination (i.e., a bond hearing) by an immigration judge.

75. Respondents' application of 8 U.S.C. § 1225(b)(2) to Petitioner results in Petitioner's unlawful detention without the opportunity for a bond hearing and violates the INA.

## COUNT II

### Violation of Fifth Amendment Right to Due Process Procedural Due Process

76. Petitioner restates and realleges all paragraphs as if fully set forth here.

77. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

78. To determine whether a civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852 (6th Cir. 2020) (applying the *Matthews v. Eldridge* test in the context of immigration).

79. *Matthews v. Eldridge* requires a court to consider the following three factors: "(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest,

including the fiscal and administrative burdens that the additional or substitute procedures entail." *See Lopez-Campos v. Raycraft, et al.*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) at *9 (*citing Mathews*, 424 U.S. at 335).

80. The Petitioner was detained without a warrant, based on no individualized circumstances applicable to him and in violation of the *Castañon Nava* consent decree. Further, the Petitioner was detained based upon the Administration's novel interpretation of existing law, and without notice or any opportunity to contest the redetermination of his custody. All of the foregoing violates his due process rights.

81. Subjecting the Petitioner to indefinite, mandatory detention violates his due process rights.

## COUNT III

### Violation of Due Process

82. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

83. 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 v. Davis*, 533 U.S. 678, 690 (2001).

84. Regardless of whether the INA provides Petitioner with a bond hearing, Petitioner has a fundamental interest in liberty and being free from official restraint.

85. The government's detention of Petitioner without an opportunity for a custody determination or bond where the government proves by clear and convincing evidence that he is a flight risk or danger violates Petitioner's right to due process.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that Respondents release Petitioner from custody or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 3 days where the government bears the burden of proof by clear and convincing evidence that Petitioner is a flight risk or danger to the community;

c. Enjoin Respondents from transferring Petitioner from the jurisdiction of this District pending these proceedings;

d. Declare that 8 U.S.C. § 1226(a)—and not 8 U.S.C. § 1225(b)(2)(A) — is the appropriate statutory provision that governs Petitioner's detention and eligibility for bond because Petitioner is not a recent arrival "seeking admission" to the United States, and instead was already

residing in the United States when apprehended and charged as inadmissible for having allegedly entered the United States without inspection;

e. Declare that Petitioner's warrantless arrest and detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;

f. Award Petitioner fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

Dated: March 16, 2026

Respectfully submitted,

/s/ Maria Eugenia Daniel
Maria Eugenia Daniel
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*Counsel for Petitioner*

**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 discussed with the Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge.

Dated: March 16, 2026

Respectfully submitted,

/s/ Maria Eugenia Daniel
Maria Eugenia Daniel
CARRERA LAW OFFICES PLLC

*Counsel for Petitioner*