UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

VICTOR CHELE VERA Petitioner, vs. **KEVIN RAYCRAFT, in his official capacity as Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement;** **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 Attorney General, U.S. Department of Justice;** Respondents.	Case No.: **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Victor Chele Vera ("Petitioner" or "Mr. Chele Vera"), a citizen and national of Ecuador, is unlawfully detained in the physical and legal custody of Respondents at the North Lake Processing Center in Baldwin, Michigan.

2. Petitioner was unlawfully detained without cause by Immigration and Customs Enforcement (ICE) on February 12, 2026.

3. Upon information and belief, Petitioner was paroled into the United States by U.S. Customs and Border Protection ("CBP"), an agency within the U.S. Department of

Homeland Security ("DHS") pursuant to section 212(d)(5) of the Immigration and Nationality Act. 8 U.S.C. § 1182(d)(5).

4. Respondents have detained the Petitioner based not on his personal circumstances or individualized facts but because of Respondents' incorrect categorical determination that the Fifth Amendment notwithstanding, noncitizens are not entitled to due process of law.

5. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court: (a) to find that Respondents' attempts to detain and transfer Petitioner are arbitrary and capricious and in violation of the law; (b) to immediately issue an order to show cause in writing within three (3) days why the writ of habeas corpus and other relief requested in the petition should not be granted.

JURISDICTION AND VENUE

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

7. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), the INA, 8 U.S.C. §§ 1101–1537, regulations implementing the INA, the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706, and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

8. 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., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

9. The federal government has waived its sovereign immunity and permitted judicial review of agency action under 5 U.S.C. § 702. In addition, sovereign immunity does not bar

claims against federal officials that seek to prevent violations of federal law (rather than provide monetary relief).

10. Venue is proper because Petitioner is detained in Respondents' custody at the North Lake Processing Center in Baldwin, Michigan. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their immigration detention. *See, e.g.*, *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

11. Venue is further proper 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 occurred in the Western District of Michigan.

12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Western District of Michigan, the judicial district in which the Petitioner is currently detained.

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

13. 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).

14. There is no statutory exhaustion requirement in 28 U.S.C § 2241. In the absence of a statutory exhaustion requirement, "prudential" exhaustion may be judicially required. *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 746 (6th Cir. 2019). Whether or not to require prudential exhaustion falls within this Honorable Court's sound judicial

discretion, provided that such discretionary requirement complies with statutory schemes and the intent of Congress. *See Shearson v. Holder*, 725 F.3d 588, 593-594 (6th Cir. 2013) (internal citation/quotation omitted).

15. The United States Court of Appeals for the Sixth Circuit has not yet issued a precedential decision as to whether courts or not should impose administrative exhaustion in the context of a noncitizen's habeas petition for unlawful mandatory detention. *See, e.g., Jose O. Puerto-Hernandez v. Robert Lynch, et al.*, No. 25-1097, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025) (internal citations omitted).

16. The fundamental question presented by this petition is whether Respondents properly arrested the Petitioner, an 8 U.S.C. §1182(d)(5) when they took him into custody. No further administrative record developed in immigration court or on appeal to the Board of Immigration Appeals will assist in the Court's assessment of whether or not the Petitioner's arrest was proper.

17. This Honorable Court is not bound by and is not required to give deference to any agency interpretation of a statute. *See Loper Bright Enter. v. Raimond*o, 603 U.S. 369, 413 (2024) (holding that federal judges are not required to, and pursuant to the APA are not to defer to an agency interpretation of the law simply because a statute is ambiguous, as that is the role of the federal courts).

18. Finally, the Petitioner's constitutional challenge to his detention does not require exhaustion. The Sixth Circuit has noted that due process challenges, such as the one raised by Petitioner here, generally do not require exhaustion because the BIA cannot review constitutional challenges. *See Sterkaj v. Gonzalez*, 439 F.3d 273, 279 (6th Cir. 2006).

19. Thus, requiring prudential exhaustion is a futile exercise, and will only result in the extended, unlawful detention of the Petitioner.

20. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC 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.*

21. Petitioner is "in custody" for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

PARTIES

22. Petitioner Victor Chele Vera is a 41-year-old citizen of Ecuador who has been in immigration detention since February 12, 2026.

23. Petitioner is present within the Western District of Michigan as of the time of filing this petition, as he is currently detained at the North Lake Processing Center in Baldwin, Michigan.

24. Kevin Raycraft is the Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, he is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

25. Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (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.

26. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

STANDARD OF REVIEW AND APPLICABLE LAW

27. A petition for writ of habeas corpus under 28 U.S.C. § 2241 is the proper vehicle to challenge the legality of immigration detention and to seek release or a bond hearing where custody violates the Constitution or federal law. *Jennings v. Rodriguez*, 583 U.S. 521 (2018).

28. While the REAL ID Act limits district court jurisdiction to review removal orders, it does not bar review of detention claims or constitutional challenges to custody. *See id.*; *Zadvydas v. Davis*, 533 U.S. 678 (2001).

29. The district court reviews such claims de novo, exercising independent judgment over statutory interpretation and constitutional questions. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024) (abolishing *Chevron* deference).

30. 8 U.S.C. § 1226(a) sets out the "default rule" for the discretionary detention of noncitizens "already present in the United States." *Jennings*, 583 U.S. at 303.

31. Under 8 U.S.C. 1226(a), immigration authorities may make an initial determination as to detention, but noncitizens may then request a bond hearing before an immigration judge. 8 C.F.R. § 1236.1(c)(8), (d)(1).

32. At that hearing, the noncitizen "may secure his release if he can convince the officer or immigration judge that he poses no flight risk and no danger to the community." *Nielsen*

v. Preap, 586 U.S. 392, 397–98 (2019) (citing 8 C.F.R. §§ 1003.19(a), 1236.1(d); *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006)).

33. By contrast, 8 U.S.C. § 1225 governs the detention of those "seeking admission." An applicant for admission is defined as a noncitizen "present in the United States who has not been admitted or who arrives in the United States," § 1255(a)(1), and "fall[s] into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." Jennings, 583 U.S. at 287.

34. The second category creates a catchall mandatory detention provision: "If the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for [full removal proceedings under § 1229]." 8 U.S.C. § 1225(b)(2)(A).

35. Unlike noncitizens detained under § 1226(a), those detained under § 1225 may only be released "for urgent humanitarian reasons or significant public benefit." *Jennings*, 583 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A))

36. Even where statutory authority exists, prolonged civil detention without an individualized bond hearing violates the Fifth Amendment's Due Process Clause. See *Jennings*, 583 U.S. at 540–41; *Mathews v. Eldridge*, 424 U.S. 319 (1976). The government must justify continued detention as necessary to ensure appearance or public safety, and less restrictive alternatives must be considered.

37. Although parole does not constitute an "admission" to the United States, expiration of parole does not automatically subject a noncitizen to mandatory detention under 8 U.S.C. § 1225(b)(2). Section 1225 governs the inspection and initial processing of noncitizens *at the time of arrival* or when an individual is treated as an arriving alien for purposes of

expedited or regular removal proceedings. It does not supply an open-ended detention authority for individuals who have already been physically present in the United States for an extended period with the government's authorization.

38. Once DHS affirmatively permits a noncitizen to enter the United States, reside in the community, apply for asylum, obtain employment authorization, and comply with supervision requirements over many months, continued treatment of that individual as an "alien seeking admission" becomes a legal fiction untethered to the statutory structure. At that point, detention authority, if any, must arise under 8 U.S.C. § 1226(a), which governs discretionary detention of noncitizens already present in the United States and expressly provides for individualized custody determinations.

39. The government may not revive § 1225(b)(2) months or years after entry to justify categorical detention without a bond hearing where the noncitizen has long since passed inspection, established physical presence, and submitted himself to the immigration court's jurisdiction. To permit such a retroactive application would convert a narrow inspection statute into a boundless detention power, contrary to congressional design and fundamental due process principles.

FACTUAL BACKGROUND

40. Mr. Chele Vera is a citizen and national of Ecuador.

41. On April 12 2024, Mr. Chele Vera entered the United States and was subject to an expedited removal order.

42. Upon information and belief, Petitioner was paroled into the United States for the purposes of attending a credible fear interview. Petitioner did not pass his initial interview and his case was referred to an Immigration Judge for review.

43. Upon information and belief, the Immigration Judge found that Petitioner had a credible fear of persecution or torture and vacated the asylum officer's negative credible fear determination.

44. On August 28, 2024, Petitioner timely submitted a bona fide and non-frivolous application for asylum and withholding of removal to the immigration court.

45. During the pendency of his immigration proceedings, Petitioner received a valid employment authorization document and was lawfully employed in the United States at the time of his arrest.

46. Petitioner remained in total compliance with all DHS requirements, attending every court date, appointment, and mandatory check-in since his entry.

47. Petitioner has no criminal record in the United States or abroad.

48. On February 12, 2026, Petitioner attended a scheduled ICE check in appointment. Despite his voluntary appearance and history of compliance with immigration appointments, ICE officers promptly arrested Petitioner without a warrant.

49. At the time of his arrest, Petitioner was not undergoing inspection, was not apprehended at or near the border, and was not being processed for admission. He had been physically present in the United States for almost two years, had filed a timely asylum application, had received employment authorization, had complied with all supervision requirements, and had been in active removal proceedings.

50. At the time of the arrest, ICE officers performed no independent analysis of whether Petitioner posed a flight risk or a danger to the public.

51. Petitioner was subsequently transferred to the North Lake Processing Center in Baldwin, Michigan, where he remains in the physical and legal custody of Respondents.

CLAIMS FOR RELIEF

COUNT I
Violation of the Fifth Amendment to the United States Constitution (Detention in Violation of Substantive Due Process)

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

52. The Fifth Amendment to the United States Constitution provides that no person shall "be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. This protection extends to all persons within the United States, including noncitizens, regardless of manner of entry. Zadvydas v. Davis, 533 U.S. 678, 693 (2001).

53. At the core of the liberty the Due Process Clause protects is freedom from physical restraint by the government, a right that may be curtailed only in the most exceptional circumstances and for purposes consistent with law. Id. at 690.

54. Immigration detention, though civil in form, must remain regulatory in purpose—it may not become punitive. Detention is justified only to ensure attendance at proceedings or to protect the community from danger. Jennings v. Rodriguez, 583 U.S. 521, 540–41 (2018).

55. When detention extends beyond the period reasonably necessary to achieve those purposes, or when it occurs without any individualized determination of necessity, it violates the substantive due process guarantee that government action not be arbitrary,

excessive, or purposeless. *Demore v. Kim*, 538 U.S. 510, 528 (2003); *Zadvydas*, 533 U.S. at 690.

56. Petitioner has now been detained without any opportunity to seek release or to demonstrate that he poses no risk of flight or danger.

57. His arrest and confinement served no regulatory purpose and was arbitrary and punitive in violation of substantive due process.

58. Courts across the country have recognized that prolonged detention under § 1225(b)(2) or § 1226(a) without a bond hearing offends the Constitution. In *Chogllo Chafla v. Scott*, No. 2:25-cv-00437-SDN (D. Me. Sept. 21, 2025), the court granted habeas relief to three noncitizens detained under the same circumstances, finding that detention without bond review "exceeds what due process tolerates."

59. Likewise, in *Giron Reyes v. Lyons*, No. 3:25-cv-302 (N.D. Iowa Sept. 23, 2025), the court issued a preliminary injunction requiring a bond hearing within fourteen days, holding that "[p]rolonged civil confinement without any opportunity to show that continued detention is unnecessary violates the Due Process Clause."

60. Petitioner's detention is unconstitutional not merely because of its duration, but because it was imposed categorically and without process from the outset. The Due Process Clause is violated when the government deprives an individual of liberty based solely on a legal classification, without any opportunity to demonstrate that detention is unnecessary to serve legitimate regulatory purposes.

61. Where, as here, the government has made no individualized finding of danger or flight risk and has denied any mechanism to contest detention, continued confinement bears no reasonable relation to immigration enforcement goals and instead functions as

impermissible punishment. Such detention violates the Fifth Amendment regardless of whether it has already become "prolonged."

62. Accordingly, Petitioner's continued mandatory detention under § 1225(b)(2) violates the substantive component of the Due Process Clause of the Fifth Amendment. Petitioner respectfully requests that this Court declare his detention unconstitutional and order his immediate release or, in the alternative, direct Respondents to provide a prompt, individualized custody hearing before a neutral immigration judge, at which the Government must justify continued detention by clear and convincing evidence.

COUNT II
Violation of the Fifth Amendment to the United States Constitution
(Substantive and Procedural Due Process)

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

64. The Petitioner was detained without a warrant, arbitrarily, seemingly punitively for requesting to relocate, and based on no individualized circumstances applicable to him. All the above violates his due process rights.

65. Respondents' detention of Mr. Lol Xitumul is not merely a misapplication of statute, but a punitive and arbitrary exercise of government power. While immigration detention is intended to be regulatory, it becomes impermissibly punitive when it bears no reasonable relation to a legitimate government goal.

66. This is especially true in Petitioner's case, where he had active and ongoing removal proceedings that were affirmatively terminated by the Immigration Judge three years prior. Instead of re-establishing contact with Petitioner, setting him up with alternatives to detention, or simply scheduling him a court hearing, ICE officers arrested him without

any individualized assessment of risk. This detention serves no regulatory purpose other than to punish Petitioner for the immigration court's decision three years prior.

67. Because this detention is untethered from any finding of danger or flight risk, it functions as an excessive and arbitrary deprivation of liberty in violation of the substantive component of the Fifth Amendment

68. Civil immigration detention is constitutionally permissible only when it is narrowly tailored to serve legitimate regulatory purposes, ensuring appearance at proceedings and protecting the community, and only when accompanied by meaningful procedural safeguards. *Jennings v. Rodriguez*, 583 U.S. 521, 540–41 (2018).

69. By classifying Petitioner under 8 U.S.C. § 1225(b)(2) and denying any opportunity for an individualized bond hearing, Respondents have imposed mandatory detention without process, thereby violating Petitioner's substantive and procedural due process rights.

70. The application of § 1225(b)(2) to an individual in Petitioner's situation, granted parole by the Respondents eight years prior bears no relation to Congress's stated objectives and results in an arbitrary deprivation of liberty. Substantively, detention that continues for months without individualized review ceases to serve a regulatory purpose and becomes punitive, contrary to *Zadvydas* and *Demore v. Kim*, 538 U.S. 510, 528 (2003).

71. Procedurally, Respondents' categorical denial of a bond hearing fails the *Mathews v. Eldridge*, 424 U.S. 319 (1976), balancing test. The private interest at stake, freedom from unlawful confinement, is of the highest order. The risk of erroneous deprivation is acute where, as here, no hearing exists to assess flight risk or danger.

72. The government's interests can be fully satisfied through individualized bond determinations that safeguard both liberty and the integrity of removal proceedings. *See*

Chogllo Chafla v. Scott, No. 2:25-cv-00437-SDN, 2025 U.S. Dist. LEXIS 184909, at *333 (D. Me. Sep. 21, 2025) ("In sum, the *Mathews* factors weigh in favor of the Petitioners and compel a hearing on detention before an Immigration Judge where they may have the opportunity to be heard.").

73. Petitioner has been gravely prejudiced by this misapplication of law and by the government's refusal to afford a bond redetermination hearing. His detention serves no lawful purpose and offends the fundamental guarantees of due process.

74. Petitioner respectfully requests that this Court declare his continued mandatory detention unconstitutional and order his immediate release or, in the alternative, direct Respondents to provide a prompt, individualized custody hearing before a neutral immigration judge, at which the government must justify continued detention by clear and convincing evidence.

COUNT III
Detention Under 8 U.S.C. § 1225(b)(2) Is Not Authorized by Statute

75. Respondents' continued reliance on 8 U.S.C. § 1225(b)(2) to justify mandatory detention under these circumstances is not a lawful application of the statute. Section 1225 governs the inspection and initial processing of noncitizens seeking admission, not the post-entry detention of individuals who have already been paroled into the United States, lived in the community for an extended period with DHS authorization, and submitted themselves to the jurisdiction of the immigration court.

76. Respondents' continued reliance on 8 U.S.C. § 1225(b)(2) to justify mandatory detention under these circumstances is not a lawful application of the statute. Section 1225 governs the inspection and initial processing of noncitizens seeking admission, not the post-entry detention of individuals who have already been paroled into the United States, lived in

the community for an extended period with DHS authorization, and submitted themselves to the jurisdiction of the immigration court. Treating Petitioner as perpetually "seeking admission" despite these facts reflects a categorical policy choice untethered from the statutory framework Congress enacted.

77. Even assuming Petitioner was properly classified as an applicant for admission at the moment of entry, § 1225(b)(2) does not authorize mandatory detention eight years later after removal proceedings have been terminated by Respondents themselves, absent a contemporaneous inspection determination by an examining immigration officer that the noncitizen is not clearly and beyond a doubt entitled to be admitted.

78. By invoking § 1225(b)(2) to justify categorical detention without any individualized assessment of flight risk or danger, Respondents have expanded that provision beyond its statutory role and collapsed the distinction Congress deliberately drew between arriving noncitizens and those already present in the United States. Where detention authority is uncertain, ambiguous, or misapplied, liberty, not incarceration, must prevail.

79. Because § 1225(b)(2) does not authorize Petitioner's continued detention, the only potentially applicable detention provision is 8 U.S.C. § 1226(a), which requires an individualized custody determination and provides access to a bond hearing before an immigration judge. Respondents' refusal to provide such a hearing therefore violates both the INA and the Constitution.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

a) Assume jurisdiction over this action pursuant to 28 U.S.C. § 2241;

b) Issue an Order to Show Cause requiring Respondents to explain why Petitioner's continued detention is lawful;

c) Declare that Respondents' detention of Petitioner without an individualized determination of flight risk or danger violates the Due Process Clause of the Fifth Amendment;

d) Declare that Respondents lack statutory authority to detain Petitioner under 8 U.S.C. § 1225(b)(2) under the circumstances presented in this case;

e) Order Petitioner's immediate release from custody, **or, in the alternative**, order Respondents to provide Petitioner with a prompt, individualized custody hearing before an immigration judge pursuant to 8 U.S.C. § 1226(a), at which the government bears the burden of justifying continued detention by clear and convincing evidence;

f) Enjoin Respondents from re-detaining Petitioner absent a material change in circumstances unless the requirements of due process have been satisfied and unless the detention is not contrary to the findings of the court.

g) Enjoin Respondents from transferring Petitioner out of this judicial district while this action is pending, absent prior approval of the Court;

h) Award Petitioner reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and

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

Dated: March 17, 2026

By: */s/ Robert Anthony Alvarez*
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CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2026 *Petitioner's Petition for Writ of Habeas Corpus* was filed with the Court Clerk via ECF system e-filing system which will give notice of such filing to all parties of record.

/s/ Robert Anthony Alvarez
Robert Anthony Alvarez