UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF MICHIGAN

EDWIN CARIAS-RIVERA, Petitioner, **V.** **KEVIN RAYCRAFT,** in his official capacity as Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement, **MARK WAYNE MULLIN,** Secretary, U.S. Department of Homeland Security, **ROBERT LYNCH,** Field Office Director, Detroit Field Office, Immigration and Customs Enforcement, Respondents.	)	**Case No.: 26-cv-** **Petition for Writ of Habeas Corpus and Complaint for Emergency Injunctive Relief**

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR EMERGENCY INJUNCTIVE RELIEF

I. INTRODUCTION

At the time of filing the instant Petition, Petitioner Edwin Carias-Rivera is in the physical custody of Respondents at the Immigration and Customs Enforcement (ICE) North Lake Correctional Facility in Baldwin, Michigan. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention and have re-detained him in violation of his Constitutional protections.

Petitioner is unlawfully detained by ICE following the reopening of removal

proceedings that were administratively closed for more than two years. In 2015, ICE conducted an individualized custody assessment and affirmatively granted Petitioner release on his own recognizance. At the time of that decision, ICE was fully aware of Petitioner's manner of entry, and nonetheless determined that detention was unnecessary because Petitioner posed neither a danger to the community nor a risk of flight. Nonetheless, Petitioner was re-detained on January 13, 2026.

Petitioner is charged with, *inter alia*, having entered the United States without admission or inspection and 212(a)(7)(A)(i)(I), and being a noncitizen not in possession of valid entry documents. See 8 U.S.C. § 1182(a)(6)(A)(i); § 1182(a)(7)(A)(i)(I). Based on these allegations in Petitioner's removal proceedings, DHS has denied Petitioner's release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. See *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are

subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection. DHS's new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless the Government provides a bond hearing under § 1226(a) within seven days.

Recently, numerous federal courts—including this very District—have uniformly held that the government's policy of detaining interior noncitizens under § 1225(b)(2) is unlawful. *See, e.g., Salgado Mendoza v. Noem*, 2025 WL 3077589 (W.D. Mich. Nov. 4, 2025); *Ruiz Mejia v. Noem*, 2025 WL 3041827 (W.D. Mich. Oct. 31, 2025); *De Jesus Ramirez v. Noem*, 2025 WL 3039266 (W.D. Mich. Oct. 31, 2025). Likewise, the Central District of California recently granted summary judgment reaching the exact same conclusion regarding the statute's plain text in *Bautista v. Santacruz*, No. 5:25-cv-01873 (C.D. Cal. Nov. 25, 2025)[1]. Because Petitioner remains

[1] While the Ninth Circuit Court of Appeals has stayed the nationwide application of the *Bautista* class relief pending appeal, the underlying statutory analysis of the Central District of California remains highly persuasive and aligns squarely with the prior independent rulings of this District.

unlawfully detained within this District, he seeks a Writ of Habeas Corpus from this Court—the only court with jurisdiction over his immediate custodian—relying on this Court's independent Article III power and established local precedent to secure his immediate release or a bond hearing.

Every day Petitioner spends in detention subjects him to further irreparable harm. Immediate relief is necessary to ensure that Petitioner is no longer subjected to continued violations of his substantive and procedural rights.

Petitioner respectfully asks this Court to hold that his arrest was unlawful, to hold that his continued detention is unlawful, and to order his release from custody. Petitioner also respectfully asks that this Court order Respondents not to transfer him outside of this District for the duration of this proceeding.

II. JURISDICTION

1. Petitioner is in the physical custody of Respondents. Petitioner is being held by ICE at Lake County Correctional Facility in Baldwin, Michigan.
2. This Court has jurisdiction under 8 U.S.C. §§2241(a) and 2241(c)(3) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).
3. 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.
4. **Administrative Remedies have been exhausted:** Petitioner has filed two separate bond requests. The first bond request was filed in the

Cleveland Immigration Court on February 5, 2026. The Immigration Judge denied such request and issued an Order stating, "The Court has no authority to redetermine bond in this case." (See Exhibit A). Respondent filed his second bond request in the Detroit Immigration Court on February 27, 2026. The Immigration Judge issued an Order denying Respondent's bond and stated, "No Jurisdiction." (See Exhibit B). Judges across the country are denying bond and declining to hold bond hearings citing lack of jurisdiction based on the holding in *Matter of Yajure Hurtado*.

5. Furthermore, while Petitioner's legal claims align with the nationwide consensus of district courts rejecting the government's interpretation of § 1225(b)(2), this Court retains exclusive habeas jurisdiction over his immediate physical confinement. A district court in California or elsewhere lacks jurisdiction to issue a Writ of Habeas Corpus directed at Respondent Raycraft regarding a detainee physically confined in Michigan. *See Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004). Therefore, a standalone habeas petition in this District—the district of confinement—is the proper and necessary mechanism to vindicate Petitioner's statutory and constitutional rights, independent of any class-wide declaratory relief litigated in other circuits.

III. VENUE

6. Venue is proper in the Western District of Michigan, as Petitioner is detained at the North Lake Processing Center in Baldwin, Michigan, within this District. See 28 U.S.C. § 1391(b)(2), (e)(1).

7. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agents of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in Baldwin, Michigan—housed in the Western District of Michigan.

IV. REQUIREMENTS OF 28 U.S.C § 2243 AND EMERGENCY INJUNCTIVE RELIEF

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

9. Emergency injunctive relief, whether temporary restraining order or a preliminary injunction, is warranted when a plaintiff demonstrates (1) a likelihood of success on the merits; (2) a likelihood of irreparable harm in the absence of preliminary relief; (3) that the equities balance in the plaintiff's favor; and (4) that preliminary injunctive relief would serve the public

interest. *See Winter v. NRDC*, 555 U.S. 7, 20 (2008); *Obama for Am. v. Husted*, 697 F.3d 423, 428 (6th Cir. 2012).

V. PARTIES

10. Petitioner is a citizen of Honduras who has been in immigration detention since January 13, 2026, when he was re-detained. After arresting Petitioner, ICE has not yet set bond, and Petitioner is unable to obtain review of his custody by an Immigration Judge, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

11. 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.

12. Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security and is responsible for enforcement of immigration laws. He is sued in his official capacity.

13. Robert Lynch is the Field Office Director for ICE's Detroit Field Office and is responsible for Petitioner's detention. He is sued in his official capacity.

VI. STANDARD OF REVIEW AND APPLICABLE LAW

14. 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).

15. 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).

16. 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).

17. 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. 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).

18. 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)).

19. By contrast, 8 U.S.C. § 1255 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.

20. 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).

21. 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)).

22. On July 8, 2025, ICE, "in coordination with" the Department of Justice, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of firmly-rooted immigration law precedent.

23. The new policy, entitled *"Interim Guidance Regarding Detention Authority for Applicants for Admission,"* claims that all persons who entered the United States without inspection shall now be subject to mandatory detention 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 decades.

24. On September 5, 2025, the Board of Immigration Appeals adopted this same position in a published decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under §

1225(b)(2)(A) and are ineligible for immigration judge bond hearings.

25. Since DHS adopted its new policies, dozens of federal courts have rejected this interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

26. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the text of the INA, as clarified by the United States Supreme Court in *Jennings*. 583 U.S. at 303. See, e.g., *Singh v. Lyons*, 2025 WL 2932635 (E.D. Va. Oct. 14, 2025); *Sanchez Ballestros v. Noem*, 2025 WL 2880831 (W.D. Ky. Oct. 9, 2025); *D.S. v. Bondi*, 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Lepe v. Andrews*, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025); *Hasan v. Crawford*, No. 25-cv-1408, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Velasquez Salazar v. Dedos*, 2025 WL 2676729 (D. N.M. Sept. 17, 2025); *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9 2025); *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Salgado Mendoza v. Noem*, 2025 WL 3077589, at *6 (W.D. Mich. Nov. 4, 2025); *Ruiz Mejia v. Noem*, No. 1:25-cv-1227, 2025 WL 3041827, at *5–6 (W.D. Mich. Oct. 31,

2025); *De Jesus Ramirez v. Noem*, No. 1:25-cv-1261, 2025 WL 3039266, at *5 (W.D. Mich. Oct. 31, 2025).

27. The Sixth Circuit has repeatedly held that immigration detention must remain reasonably related to its regulatory purpose and may not be arbitrary or punitive in accordance with *Zadvydas*, (see *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003)), and that detention untethered from current flight risk or danger violates due process.

28. The law prohibits federal agents from rearresting individuals merely because they are subject to removal proceedings," and additionally requires "evidence of materially changed circumstances—namely, evidence that the noncitizen is in fact dangerous or has become a flight risk, or is now subject to a final order of removal." *Saravia v. Sessions*, 280 F.Supp.3d 1168, 1176 (N.D. Cal. 2017).

VII. FACTUAL BACKGROUND

29. Petitioner has continuously resided in the United States since 2015 and has lived at his previous residence in Westerville, Ohio.

30. On August 10, 2015, Petitioner was detained by ICE ERO and was placed in removal proceedings pursuant to 8 U.S.C. § 1229a, where DHS charged him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for being present in the United States without admission or parole and § 1182(a)(7)(A)(i) for being an applicant for admission who does not possess a valid unexpired immigrant visa, re-entry permit, border crossing card, or other required valid entry document. (See Exhibit C).

31. On August 9, 2015 Petitioner was released from ICE custody, and on October 13, 2021 the Immigration Judge granted termination of his removal proceedings. On September 19, 2022, the Board of Immigration Appeals reversed the Immigration Judge's decision terminating the removal proceedings and reinstated the proceedings. However, on June 5, 2023, Petitioner's proceedings were administratively closed (Exhibit D).
32. On January 13, 2026 Petitioner was re-detained by ICE agents. He was initially detained and held at the Butler County Correctional Complex in Hamilton, Ohio, but was transferred to the North Lake Correctional Facility in Baldwin, Michigan on or around February 27, 2026, where he remains detained.
33. At the time of his arrest, DHS filed a motion to re-calendar his removal proceedings.
34. ICE's decision to re-detain Petitioner upon the re-calendar of proceedings was not based on any new or materially changed circumstances. The sole change was procedural, namely the re-calendaring of a dormant case.
35. Petitioner has lived in the United States for more than ten (10) years, during which he has developed substantial and enduring ties to the community. He has been married to his United States citizen spouse since December 14, 2018, and they have two United States citizen daughters together. (See Exhibits E-G).
36. Petitioner does not have a criminal history.

37. Petitioner poses no danger to the community and no risk of flight. He qualifies for –and intends to seek– lawful permanent residence through consular processing abroad. On October 7, 2021 U.S. Citizenship and Immigration Services (USCIS) approved Form I-130, Petition for Alien Relative, filed on Petitioner's behalf by his spouse. (Exhibit H).

38. Consequently, Petitioner remains detained with no opportunity for an individualized bond hearing to assess whether he presents any danger or risk of flight. Absent relief from this Court, he faces prolonged—and potentially indefinite—detention, separated from his family, community, and U.S. citizen spouse, based solely on an erroneous application of immigration law and regulations.

VIII. CLAIMS FOR RELIEF

COUNT I
Violation of the Immigration and Nationality Act (INA)

39. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

40. 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.

41. As relevant here, it does not apply to those who previously entered the country without permission and have been residing in the United States prior to being apprehended and placed in removal proceedings by

Respondents. Such noncitizens are detained under 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA. The mandatory-detention clause at 8 U.S.C. § 1225(b)(2)(A) applies only to *arriving aliens* or to noncitizens *caught in the act of seeking admission* at a port of entry.

42. It does not extend to individuals who entered the United States years earlier and were apprehended within the interior after establishing residence, family ties, and employment. Such individuals are governed by 8 U.S.C. § 1226(a), which authorizes discretionary custody and release on bond, unless they fall within the narrow mandatory-detention categories of § 1225(b)(1) (expedited removal), § 1226(c) (certain criminal aliens), or § 1231 (post-order detention).

43. Respondents and DHS's reliance on § 1225(b)(2)(A) to mandate Petitioner's detention contradicts the statutory text, structure, and history of the INA. Congress deliberately separated the detention provisions for *arriving* and *present* noncitizens; reading § 1225(b) to subsume § 1226(a) renders that distinction meaningless, violating the canon against surplusage. *See Chogllo Chafla v. Scott*, No. 2:25-cv-00437-SDN (D. Me. Sept. 21, 2025); *Giron Reyes v. Lyons*, No. 3:25-cv-302 (N.D. Iowa Sept. 23, 2025) (holding that individuals apprehended in the interior are detained under § 1226(a), not § 1225(b)(2)).

44. The District Court in *Bautista* confirmed this reading, holding that §

1225(b)(2)(A) requires a specific factual predicate: a determination by an 'examining immigration officer' that occurs during an inspection. *Bautista*, Order on Motion for Partial Summary Judgment, Dkt. 81 at 40. Because Petitioner entered without inspection decades ago and was apprehended later, this statutory condition precedent was never met. To apply § 1225(b)(2) here would be to rewrite the statute and render § 1226(a) superfluous.

45. Moreover, after *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), agency interpretations such as *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), are not entitled to *Chevron* deference; they are reviewed *de novo* and accorded weight only to the extent they are persuasive.

46. The Board's inconsistent reading of § 1225(b)(2) lacks such persuasive force and has been rejected by multiple district courts.

47. Accordingly, application of § 1225(b)(2) to Petitioner unlawfully mandates continued detention, exceeds statutory authority, and violates the INA. Petitioner is entitled to a custody determination under § 1226(a) and immediate consideration for release on bond or conditional parole.

COUNT II
Violation of the Bond Regulations

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

49. Following the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA), EOIR drafted new regulations explaining that,

in general, people who entered the country without inspection were not considered 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. 10312, 10323 (Mar. 6, 1997).

50. That contemporaneous interpretation—binding until lawfully amended through notice-and-comment rulemaking—confirmed that noncitizens apprehended in the interior after entering without inspection fall under 8 U.S.C. § 1226(a), not § 1225(b), and are entitled to individualized bond consideration under 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

51. Nonetheless, following *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), EOIR has adopted a policy and practice of reclassifying such individuals as § 1225(b)(2) detainees, thereby stripping immigration judges of bond jurisdiction.

52. This abrupt reversal of a 25-year-old rule contradicts the plain text of the governing regulations, which remain unamended, and constitutes agency action "not in accordance with law," arbitrary, and *ultra vires* under 5 U.S.C. § 706(2)(A), (C). *See Choglllo Chafla v. Scott*, No. 2:25-cv-00437-SDN (D. Me. Sept. 21, 2025) (finding *Yajure-Hurtado* inconsistent with the INA and 1997 regulations).

53. By detaining Petitioner under § 1225(b)(2) and denying him access to bond redetermination procedures mandated by §§ 236.1 and 1003.19, Respondents

have acted beyond their statutory and regulatory authority.

54. Accordingly, application of § 1225(b)(2) to Petitioner violates the INA's implementing regulations and the Administrative Procedure Act, and his continued mandatory detention is unlawful.

COUNT III
Violation of the Administrative Procedure Act (APA) and the Immigration and Nationality Act (INA)
(Arbitrary, Capricious, and Ultra Vires Agency Action)

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

56. The APA requires that agency action be set aside when it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," or when it is "in excess of statutory jurisdiction, authority, or limitations." 5 U.S.C. § 706(2)(A), (C).

57. Respondents' classification of Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A)—rather than the discretionary-bond framework of § 1226(a)—is contrary to both the plain language of the INA and the regulations that have governed immigration custody for nearly three decades.

58. When Congress enacted IIRIRA in 1996, the DOJ and the former Immigration and Naturalization Service jointly promulgated the interim rule *Apprehension, Custody, and Detention of Aliens*, which expressly provided that "[d]espite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as

aliens who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (emphasis added).

59. These regulations—codified at 8 C.F.R. §§ 236.1, 1236.1, 1003.19—have never been amended through notice-and-comment rulemaking. DHS's current practice, adopted through *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), summarily reclassifies interior arrests as "applicants for admission" subject to § 1225(b)(2), thereby extinguishing immigration judges' bond jurisdiction. That shift represents an unexplained departure from the agencies' settled interpretation and an exercise of authority Congress never conferred.

60. Because *Yajure-Hurtado* reversed twenty-five years of consistent policy without engaging in reasoned analysis or formal rulemaking, it constitutes arbitrary and capricious agency action under *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29 (1983).

61. The decision also conflicts with the governing statute, which limits § 1225(b) to arriving aliens and those caught in the act of seeking admission, and thus is *ultra vires*.

62. After *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), courts no longer defer to agency interpretations that expand statutory reach beyond Congress's text. Recent district courts have uniformly rejected *Hurtado*'s reasoning and held that noncitizens apprehended in the interior fall under §

1226(a) and are entitled to bond hearings. *See Chogllo Chafla v. Scott*, No. 2:25-cv-00437-SDN (D. Me. Sept. 21, 2025); *Giron Reyes v. Lyons*, No. 3:25-cv-302 (N.D. Iowa Sept. 23, 2025).

63. By detaining Petitioner pursuant to an unlawful interpretation of the INA and contrary to controlling regulations, Respondents have not acted in accordance with law, without observance of required procedure, and in excess of their statutory authority, in violation of 5 U.S.C. § 706(2)(A) and (C).

64. Petitioner therefore seeks a declaration that DHS's application of § 1225(b)(2) to him is unlawful, and an order directing his immediate release or, at a minimum, a prompt individualized custody redetermination hearing under § 1226(a) before a neutral immigration judge.

COUNT IV

Violation of the Suspension Clause of the United States Constitution (U.S. Const. art. I, § 9, cl. 2)

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

66. The Suspension Clause of Article I, Section 9 of the Constitution provides that "*The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.*"

67. This constitutional safeguard predates the Bill of Rights and stands as the fundamental guarantee that government officials may not imprison

individuals without accountability to an independent judiciary. The Great Writ is not a mere procedural device; it is the constitutional mechanism through which the people ensure that executive detention remains subject to law. *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *Boumediene v. Bush*, 553 U.S. 723, 739–46 (2008).

68. By classifying Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)—a provision that forecloses any individualized custody determination and disclaims Immigration Judge jurisdiction—the Government has effectively extinguished all statutory and administrative avenues for review of Petitioner's confinement.

69. The BIA does not entertain bond appeals where the Immigration Judge finds no jurisdiction, and no other administrative process exists to test the legality of detention. Absent habeas review in this Court, Petitioner would have no forum whatsoever in which to challenge the basis of his custody or the agency's misapplication of the law. Such a regime amounts to an unconstitutional suspension of the writ of habeas corpus.

70. The Supreme Court has consistently held that the writ must remain available to test the legality of executive detention, even in the immigration context. In *St. Cyr*, 533 U.S. at 305–06, the Court reaffirmed that "a serious Suspension Clause issue would be presented if a federal court were denied jurisdiction to hear a pure question of law" regarding detention or removal.

71. Likewise, in *Boumediene*, 553 U.S. at 779, the Court emphasized that the

writ's core function is to ensure that the Executive "does not detain individuals except in accordance with law."

72. These decisions confirm that the constitutional minimum requires a judicial forum capable of determining whether the Government has lawful authority to detain a person and to order release if that authority is lacking.

73. The post-*Hurtado* detention framework deprives Petitioner of that constitutional protection. EOIR and ICE have erected a system in which a noncitizen apprehended in the interior can be held indefinitely under § 1225(b)(2) without a bond hearing and without access to any reviewing tribunal.

74. This administrative black hole is precisely what the Framers sought to forbid: executive imprisonment unreviewable by the judiciary. As Professor Kamin explains in *The Great Writ as Popular Sovereignty*, 77 Stan. L. Rev. 297 (2025) the Suspension Clause embodies the principle that the legitimacy of government itself depends upon the continual availability of the writ to test the lawfulness of confinement. When the Government constructs a scheme that removes an entire category of persons from judicial review, it acts in derogation of the people's reserved right to demand legal justification for state restraint and the principles of popular sovereignty. S*ee id.* at 302 ("[T]he principal purpose of American habeas is the vindication not of individual physical liberty, but of popular sovereignty. More simply put, we should understand American habeas as a Great Writ of Popular

Sovereignty.").

75. Petitioner's detention under § 1225(b)(2) thus violates not only the INA and the APA but the structural command of the Constitution. The Suspension Clause protects against exactly this scenario—where an individual is held by executive order with no opportunity to obtain judicial scrutiny of the detention's legality.

76. Because Respondents' actions have eliminated all practical means for Petitioner to challenge his confinement, the statutory scheme as applied to him constitutes an unconstitutional suspension of the writ of habeas corpus.

77. Petitioner therefore respectfully requests that this Court (1) declare that the application of § 1225(b)(2) to his case violates the Suspension Clause; (2) exercise its habeas jurisdiction under 28 U.S.C. § 2241 to review the legality of his detention; and (3) order his immediate release or, at minimum, a prompt individualized custody hearing under 8 U.S.C. § 1226(a) before a neutral immigration judge.

COUNT V
Violation of the Fifth Amendment to the United States Constitution
(Re-Detention in Violation of Procedural Due Process)

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

79. 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.

80. 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). 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.

81. 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).

82. When detention extends beyond the period reasonably necessary to achieve those purposes, or w*hen 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 (emphasis added).

83. Petitioner's detention violates his substantive due process rights. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Noncitizens unquestionably have a substantive liberty interest to be free from detention. *See id.* Because "liberty is the norm, and detention prior to trial or without trial is the carefully limited exception," the government may imprison people as a

preventive measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *U.S. v. Salerno*, 481 U.S. 739, 755 (1987)). Immigration detention is civil and must "bear[] a reasonable relation to the purpose for which the individual [is] [detained]" so that it remains "nonpunitive in purpose and effect." *Zadvydas*, 533 U.S. at 690 (cleaned up); *see also Schall v. Martin*, 467 U.S. 253, 264 (1984) (finding detention must be a proportional—not excessive—response to a legitimate state objective).

84. Courts have identified only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *Velasco Lopez v. Decker*, 978 F.3d 842, 853-54 (2d. Cir. 2020); *Faure v. Decker*, No. 15-CV-5128, 2015 WL 6143801, at *3 (S.D.N.Y. Oct. 19, 2015) (ordering release or a bond hearing where there was "no evidence" that the habeas petitioner "poses a danger to the public or would flee during the pendency of the removal proceedings"). Neither purpose is served by Petitioner's detention.

85. The Department of Homeland Security, through ICE, has already exercised its discretion and affirmatively determined that Petitioner does not pose a danger to the community and does not present a risk of flight. ICE reached that conclusion in 2015 when it released Petitioner without any monetary bond after an interior arrest, fully aware of his manner of entry and immigration history. That release constituted an individualized custody determination that detention was unnecessary to serve the regulatory

purposes of immigration enforcement.

86. Reopening proceedings, standing alone, does not justify renewed detention where ICE has already determined that custody is unnecessary. Absent new facts establishing danger or flight risk, ICE's re-detention constitutes an arbitrary reversal of its own prior determination.

87. Petitioner is not a flight risk. The government already determined so when it decided to release him on his own recognizance. *See* 8 C.F.R. § 212.5(b); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) ("Release reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk."). Since his release, Petitioner has followed all the procedures and requirements of the immigration system, including attending his immigration hearings, and seeking lawful permanent residence through his U.S. citizen spouse. In that time, he has also deepened his ties to the United States, integrating into his community in the Columbus, Ohio area, raising two children, and holding a full-time job. Nor is Petitioner a threat to the community. The government knows this. Petitioner has no criminal history, and he has never been arrested in the United States.

88. The government is not detaining Petitioner to serve its legitimate interests in protecting against danger or flight risk. Instead, the government is detaining Petitioner, along with countless others swept up in raids. But "while [DHS] might want to enforce this country's immigration laws efficiently, it cannot do

that at the expense of fairness and due process." *Ceesay v. Kurzdorfer*, No. 25-CV-267, 2025 WL 1284720, at *1 (W.D.N.Y. May 2, 2025). Because the basis of Petitioner's detention bears no "reasonable relation" to the government's interests in preventing flight and danger, *Jackson v. Indiana*, 406 U.S. 715, 738 (1972), the Court should order his release.

89. In the alternative, the Court should order a bond hearing to ensure Petitioner's detention bears a reasonable relation to the government's interests. In *Padilla v. U.S. Immigr. & Customs Enf't*, a district court found that a class of detained asylum-seekers had sufficiently alleged that their detention without bond hearings violated their substantive due process rights. 704 F. Supp. 3d 1163, 1172-73 (W.D. Wash. 2023). The court found that the government could not point to public safety concerns or flight risks that might justify mandatory detention of the plaintiffs. *Id.* at 1173. Like the plaintiffs in *Padilla*, Petitioner's detention cannot be justified by a legitimate government interest.

90. Petitioner's re-detention has lost any legitimate regulatory purpose and has become arbitrary and punitive in violation of substantive due process.

91. Accordingly, Petitioner's detention 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 detention by clear and convincing evidence.

COUNT VI
Violation of the Fifth Amendment to the United States Constitution (Procedural Due Process)

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

93. The Fifth Amendment provides that no person shall "be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. Freedom from physical restraint lies "at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

94. This protection extends to all persons within the United States, including noncitizens, regardless of their status or manner of entry. *Id.* at 693.

95. 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).

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

97. The application of § 1225(b)(2) to a long-term resident apprehended in the

interior bears no rational 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).

98. Procedurally, the government's 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.

99. 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.").

100. Petitioner has been gravely prejudiced by this misapplication of law and by the government's refusal to afford a bond redetermination hearing. His renewed detention—despite strong family ties, community support, and an unblemished record—serves no lawful purpose and offends the fundamental guarantees of due process.

101. 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 VII
Violation of the Fourth Amendment to the United States Constitution
(Unreasonable Search and Seizure)

102. It is unreasonable under the Fourth Amendment to rearrest a person who has been released from custody based on the same charge that supported a prior arrest. The Fourth Amendment protects the right of the people to be secure in their persons against unreasonable seizures. U.S. Const. Amend. IV. "It is axiomatic that seizures have purposes. When those purposes are spent, further seizure is unreasonable." *Williams v. Dart*, 967 F.3d 625, 634 (7th Cir. 2020). Any seizure must be supported by probable cause. When the purpose of a seizure is accomplished, "[f]urther seizure requires a court order or new cause" as "the original probable cause determination is no justification." *Id.*; *see also Arizona v. Johnson*, 555 U.S. 323, 333 (2009) (stating that a lawful roadside seizure is supported by probable cause for the duration of the stop and terminates when the police no longer need to control the scene).

103. This requirement that further seizure requires a court order or new probable cause "guards against precipitate rearrest." *Carlson v. Landon*, 342 U.S. 524, 546 (1952). "Arrest ensures that a suspect appears to answer charges and does not continue a crime, and it safeguards evidence and enables officers to conduct an in-custody investigation." *Virginia v. Moore*, 553 U.S. 164, 173 (2008). When an arrestee is released on bond, the purpose of their prior arrest has been accomplished. *Williams*, 967 F.3d at 635; *Carlson*, 342 U.S. at 546 ("[T]he rule in criminal cases is that a warrant once executed is exhausted"). As a result, any probable cause justifying the prior arrest is extinguished, and they cannot be rearrested absent changed circumstances. *See Carlson*, 342 U.S. at 546–47; *U.S. v. Holmes*, 452 F.2d 249, 260–61 (7th Cir. 1971); *U.S. v. Swims Under*, 990 F.2d 1265 (9th Cir. 1993).

104. This inability to justify arrest based on a prior arrest's probable cause is equally true in immigration proceedings. The Board of Immigration Appeals ("BIA") and DHS have long required a showing of changed circumstances to alter prior bond and release determinations. Again and again, courts have recognized noncitizens, including asylum seekers like Petitioner, cannot be rearrested unless the government proffers evidence of changed circumstances to justify their rearrest. *See Lopez*, 2018 WL 2932726, at *14 (S.D.N.Y. June 12, 2018) ("Such administrative warrants raise serious due process and Fourth Amendment questions when used in this way."); *Martinez v.*

McAleenan, 385 F. Supp. 3d 349, 367 (S.D.N.Y. June 14, 2019) (citation omitted); *Saravia*, 280 F. Supp. 3d at 1196 (citation omitted) ("Absent some compelling justification, the repeated seizure of a person on the same probable cause cannot, by any standard, be regarded as reasonable under the Fourth Amendment.").

105. Here, Petitioner was arrested by ICE agents, charged as removable, and released on his own recognizance after they determined he did not present a flight risk or danger. He was rearrested and his proceedings were re-calendared with the Immigration Court. When he was rearrested, his arrest was effectuated pursuant to the same charge of removability without any evidence that changed circumstances justified revocation of his previous release. No probable cause justifies his rearrest. He should be released from detention, and Respondents should be enjoined from seeking his detention absent a changed circumstances hearing.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully prays that this Court enter judgment in his favor and grant the following relief:

1. *Issue the Writ.* Grant a writ of habeas corpus under 28 U.S.C. § 2241 and order Petitioner's immediate release from immigration custody.
2. *Declaratory Relief (Statutory/Regulatory).* Declare that the Government's application of 8 U.S.C. § 1225(b)(2) to Petitioner—an interior arrest long

after entry and release from initial ICE custody—violates the INA and is contrary to 8 U.S.C. § 1226(a) and the implementing regulations, including 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

3. *Declaratory Relief (Local Precedent).* Consistent with prior rulings in this District, declare that Petitioner, as an individual apprehended in the interior of the United States, is not an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

4. *Declaratory Relief (APA).* Declare that Respondents' policy and practice of categorically detaining interior arrestees under § 1225(b)(2), and thereby stripping immigration judges of bond jurisdiction, is arbitrary, capricious, and ultra vires in violation of 5 U.S.C. § 706(2).

5. *Declaratory Relief (Constitutional).* Declare that Petitioner's continued re-detention without changed circumstances nor an individualized bond hearing violates the Fourth and Fifth Amendment (substantive and procedural due process).

6. *Bond-Hearing Alternative.* In the alternative to immediate release, order a prompt, individualized custody hearing before a neutral immigration judge within 14 days, conducted under the following minimum constitutional safeguards: The Government bears the burden of proof by clear and convincing evidence to justify continued detention as necessary to ensure appearance or protect the community; The IJ must consider the least restrictive alternatives to detention, including conditional parole,

supervision, and electronic monitoring; Any monetary bond must account for Petitioner's ability to pay, and be set at the least amount necessary to ensure appearance; The IJ must issue a reasoned, written decision.

7. *Anti-Transfer / Status-Quo Orders.* Pending final resolution, enjoin transfer of Petitioner outside this District (absent Court permission) and maintain the status quo necessary to effectuate the Court's orders.

8. *Stay of Removal (as needed).* To preserve this Court's jurisdiction and avoid irreparable harm, stay Petitioner's removal until completion of these proceedings and any ordered bond hearing.

9. *Production of Records.* Order Respondents to produce forthwith Petitioner's A-file and custody records (including any custody determinations, Form I-286, and any documents relied upon to deny bond jurisdiction), and to file a status report confirming compliance with the Court's orders.

10. *Retention of Jurisdiction.* Retain jurisdiction to enforce, modify, and monitor compliance with the Court's orders, including any bond-hearing directives.

11. *Fees and Costs.* Award costs and any other relief the Court deems just and proper; without waiver, reserve Petitioner's right to seek fees under applicable law.

By: */s/ Alexandra Reed-Lopez*
Alexandra Reed-Lopez
IL ARDC 6306808
CUNNINGHAM LOPEZ LLP
120 W. Madison St, Ste 611
Chicago, IL 60602
(312) 419-9611

arl@cunninghamlopez.com

CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2026 *Petitioner's Petition for Writ of Habeas Corpus and Complaint for Emergency Injunctive Relief* 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/ Alexandra Reed-Lopez
Alexandra Reed-Lopez