UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LUIS GUSTAVO PILATASIG CHUGCHILAN, Petitioner, v. 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, North Lake Correctional Facility; 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, Respondents.	Case No. 26-cv-883 **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Luis Gustavo Pilatasig Chugchilan ("Mr. Pilatasig Chugchilan" or "Petitioner"), a thirty-year-old single father with no criminal record, is detained at the North Lake Correctional Facility in Lake County, Michigan. The Department of Homeland Security ("DHS"), through its component agency Immigration and Customs Enforcement ("ICE"), and the other

Respondents have unlawfully detained Mr. Pilatasig Chugchilan since January 22, 2026, under the wrong statutory authority. For nearly two months, he has been separated from his seven-year-old child, who is currently in the care of neighbors.

2. Mr. Pilatasig Chugchilan and his child came to the United States from Ecuador in September 2023, seeking protection after [redacted]

3. Mr. Pilatasig Chugchilan and his child entered the United States without inspection through Arizona on approximately September 13, 2023, to seek asylum. Shortly thereafter, DHS apprehended him and his child and commenced immigration removal proceedings by issuing a Notice to Appear ("NTA"), charging them as inadmissible for having arrived in the United States without being admitted or paroled. On information and belief, immigration officials near the border then released Mr. Pilatasig Chugchilan and his child on their own recognizance, and father and child resettled in New York.

4. Mr. Pilatasig Chugchilan timely applied for asylum and appeared for his immigration court proceedings.

5. On January 22, 2026, Respondents suddenly detained Mr. Pilatasig Chugchilan while he was on his way to work. They continue to detain him under the theory that he is subject to mandatory detention under 8 U.S.C § 1225(b)—a novel rereading of the detention statutes that DHS advanced for the first time in

2025. Courts in this district and across the country have, for the most part, roundly rejected DHS's theory and have granted habeas petitions to petitioners similarly situated to Mr. Pilatasig Chugchilan. *See, e.g.*, *Singh v. Raycraft*, 2025 WL 3713719, at *6 n.3 (W.D. Mich. Dec. 23, 2025) (collecting cases).

6. Mr. Pilatasig Chugchilan's continued detention also violates his Fifth Amendment right to due process. ICE failed to conduct any individualized review in detaining him. Instead, they used a ruse to stop and arrest him. His abrupt separation from his child, without even the ability to make appropriate childcare arrangements, and his continued detention in prison-like conditions are subjecting him to ongoing harm, as well as causing harm and trauma to his young child.

7. The Court should order Mr. Pilatasig Chugchilan's immediate release, or in the alternative order a bond hearing where the government bears the burden to justify his continued detention. Mr. Pilatasig Chugchilan respectfully asks the Court to enjoin his transfer outside this district and to issue an order to show cause pursuant to 28 U.S.C. § 2243 to determine whether his continued detention violates the Immigration and Nationality Act ("INA") and the United States Constitution, and to consider his prayer for release or, in the alternative, for a bond hearing.

PARTIES

8. Petitioner Mr. Pilatasig Chugchilan is a citizen of Ecuador. He has lived with his young child in Queens, New York since September 2023. He has

been in immigration detention since January 22, 2026, and is currently in custody at the North Lake Correctional Facility. *See* **Exhibit A**, Online Detainee Locator Page (accessed Mar. 17, 2026).

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

10. Respondent Angela Dunbar is the warden of the North Lake Correctional Facility, where Petitioner is detained by ICE.

11. Respondent Kristi Noem is the Secretary of the DHS.[1] 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.

12. Respondent DHS is the federal agency with authority over the actions of ICE, including the detention and removal of noncitizens.

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[1] While Ms. Noem has reportedly been fired as Secretary of the DHS, she remains in that position until a replacement Secretary is confirmed by the Senate. *See* Reuters, *Trump Fires Kristi Noem as Homeland Secretary after Storm over Shootings, Spending* (Mar. 5, 2026), *available at* https://www.reuters.com/world/us/trump-taps-us-senator-mullin-replace-noem-dhs-chief-2026-03-05/ (last accessed Mar. 17, 2026).

13. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice ("DOJ"), of which the Executive Office for Immigration Review ("EOIR") and the immigration court system it operates, including the Board of Immigration Appeals ("BIA"), are component agencies. She is sued in her official capacity.

JURISDICTION AND VENUE

14. This action arises under the United States Constitution and the INA, 8 U.S.C. § 1101 *et seq*.

15. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Art. I § 9, cl. 2 of the United States Constitution (Suspension Clause). This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

16. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against certain of its agencies, and those agencies' officers are sued in their official capacities. *See* 5 U.S.C. § 702.

17. Venue is proper in this District because Petitioner is detained in this district at the North Lake Correctional Facility in Baldwin, Lake County, Michigan. 28 U.S.C. § 1391; *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004).

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

18. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith" why the writ should not be granted, 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.*

19. 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), *overruled on other grounds by Wainwright v. Sykes*, 433 U.S. 72, 87–88 (1977).

FACTUAL AND PROCEDURAL BACKGROUND

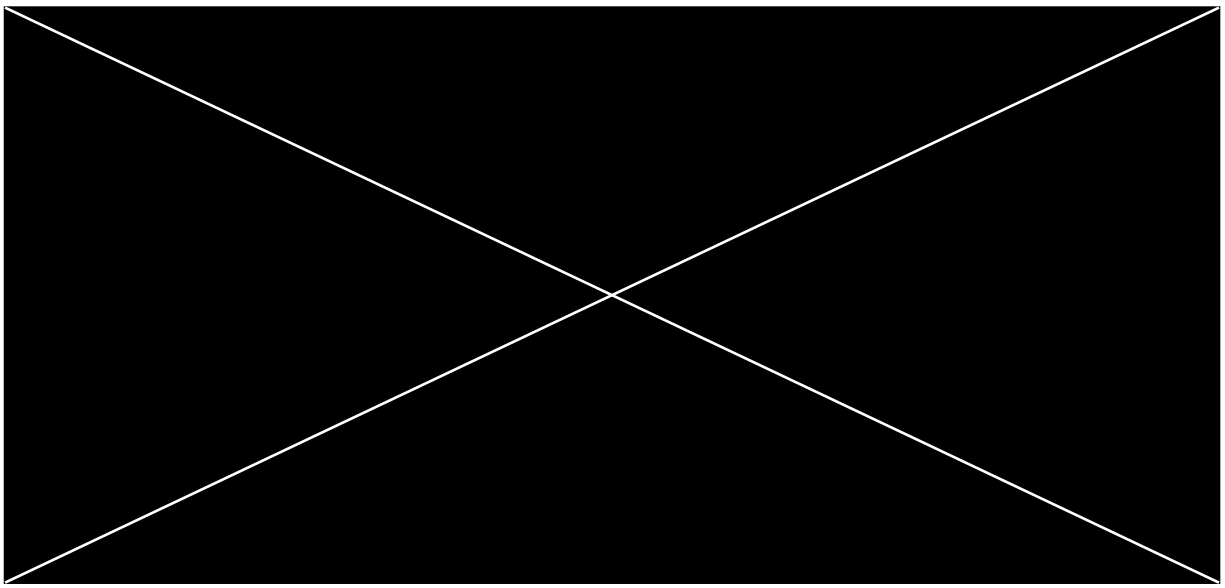
I. Mr. Pilatasig Chugchilan's Application for Asylum and Related Protections

20. Mr. Pilatasig Chugchilan and his child fled Ecuador in 2023 after he

[redacted]

Mr. Pilatasig Chugchilan fears that they will be in great danger, or even killed, if they return to Ecuador.

[redacted]



22. In September 2023, Mr. Pilatasig Chugchilan and his child fled Ecuador, seeking safety and protection in the United States. They entered the United States without inspection. Immigration officials shortly thereafter apprehended Mr. Pilatasig and his child and issued them an NTA. *See* **Exhibit B**, NTA. The officials then released Mr. Pilatasig Chugchilan and his child, who settled in Queens, New York, where Mr. Pilatasig Chugchilan began working in construction. His child enrolled in school and is currently in early elementary

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[2] *See* International Crisis Group, *Paradise Lost? Ecuador's Battle with Organised Crime* (Nov. 12, 2025), *available at* https://www.crisisgroup.org/rpt/latin-america-caribbean/ecuador/109-paradise-lost-ecuadors-battle-organised-crime (last accessed Mar. 17, 2026).

[3] *Id.*

[4] *Id.*

[5] *See* U.S. Embassy and Consulate in Ecuador, *Alert for U.S. Citizens: State of Emergency in Seven Provinces* (Sept. 16, 2025), *available at* https://ec.usembassy.gov/alert-for-u-s-citizens-state-of-emergency-in-seven-provinces/ (last accessed Mar. 17, 2026).

school. The mother of Mr. Pilatasig Chugchilan's child is not involved in their lives, and Mr. Pilatasig Chugchilan does not know her whereabouts.

23. The NTA, served by DHS on approximately September 15, 2023, charges Mr. Pilatasig Chugchilan as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for having arrived in the United States in Arizona on about September 13, 2023, without having then been admitted or paroled. *See* **Exhibit B**, NTA. The NTA initiated removal proceedings against Mr. Pilatasig Chugchilan and his child and instructed them to appear in immigration court on October 31, 2023. *See id.*

24. Mr. Pilatasig Chugchilan timely filed an application for asylum *pro se* in late 2023, listing his child as a derivative beneficiary. A community organization helped him prepare the application. Mr. Pilatasig Chugchilan himself and his child at their immigration court proceedings.

25. At a non-detained hearing on July 18, 2025, a New York immigration judge ("IJ") held a merits hearing on Mr. Pilatasig Chugchilan's applications for asylum and related relief of withholding of removal and protection under the Convention Against Torture. On information and belief, that hearing was advanced by several weeks with little notice to Mr. Pilatasig Chugchilan, limiting his ability to prepare. Mr. Pilatasig Chugchilan represented himself at the hearing. The IJ denied Mr. Pilatasig Chugchilan's and his child's application for asylum.

Notwithstanding his affirmative obligation under Second Circuit law to assist pro se asylum applicants like Mr. Pilatasig Chugchilan in "establish[ing] and develop[ing] the record," *Secaida-Rosales v. INS*, 331 F.3d 297, 306 (2d Cir. 2003), *superseded by statute on other grounds*, the IJ disposed of Mr. Pilatasig Chugchilan's testimony in a mere six sentences, describing only a very general outline of his experiences in Ecuador. Moreover, the IJ's decision barely engaged with any of the facts specific to his case.

26. On August 4, 2025, through then newly retained counsel,[6] Mr. Pilatasig Chugchilan timely filed an appeal with the BIA. Mr. Pilatasig Chugchilan's appeal is currently pending. *See* **Exhibit C**, Automated Case Information System Page (last accessed Mar. 17, 2026). The appeal will provide Mr. Pilatasig Chugchilan, now counseled, the opportunity to challenge the procedural and substantive defects in the IJ's decision. Mr. Pilatasig Chugchilan's removal order is not final unless and until the BIA enters an order affirming the IJ's decision. *See* 8 U.S.C. § 1101(a)(47)(B).

[6] Mr. Pilatasig Chugchilan retained private counsel, who assisted him in filing his appeal. He has since retained the Bronx Defenders to represent him in his pending appeal.

II. Mr. Pilatasig Chugchilan's Life in the United States and Detention

27. Since approximately September 2023, Mr. Pilatasig Chugchilan and his child have lived in New York. Mr. Pilatasig Chugchilan has worked in construction since about late 2023. He has been consistently and gainfully employed and has provided for his child. He has no criminal record.

28. Mr. Pilatasig Chugchilan does not have a relationship with his child's mother, and his child's mother has not played any meaningful role in their lives since their child was about three-and-a-half years old. Mr. Pilatasig Chugchilan is a single father and has been the sole caretaker of and provider for his child since approximately 2021 or 2022. He has a close and loving relationship with his child.

29. On the morning of January 22, 2026, shortly after 7:00 am, Mr. Pilatasig Chugchilan had just dropped off his child at school and was on the way to work. As he was walking down the street, four cars surrounded him. Officers came out of the cars and showed Mr. Pilatasig Chugchilan a black-and-white photo, asking him if he knew the person in the photo—a scheme that ICE has consistently used to target people for arrest.[7] Confused, Mr. Pilatasig Chugchilan answered that he did not. The officers then asked him questions about his legal status. He told them that he had a minor child who was counting on him for school pick-up, but

[7] The City, *Sidewalk Arrests Seize New Yorkers in ICE's Latest Surge* (Nov. 26, 2025), *available at* https://www.thecity.nyc/2025/11/26/ice-arrests-streets-sidewalks-detention-immigrants/ (last accessed Mar. 17, 2026).

the officers proceeded to handcuff him, detain him, and put him in one of the cars. The handcuffs they placed on him were so tight that they caused bruising and swelling of Mr. Pilatasig Chugchilan's wrists and hands. The officers later transferred him to a van filled with several other Latino men and drove the men to an ICE processing office.

30. Over the next two weeks, Mr. Pilatasig Chugchilan was transferred several times to at least four different detention facilities. Since early February 2026, he has been in custody at the North Lake Correctional Facility.

31. When at liberty and working, Mr. Pilatasig Chugchilan provided for his and his child's daily needs. Now that he is detained, Mr. Pilatasig Chugchilan cannot work and has lost income.

32. Respondents have not provided Mr. Pilatasig Chugchilan a bond hearing because they erroneously contend he is subject to mandatory detention under 8 U.S.C. § 1225.

EXHAUSTION

33. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges their detention. Rather, whether to require exhaustion is left to the Court's "sound judicial discretion." *Shearson v. Holder*, 725 F.3d 588, 593 (6th Cir. 2013). The Court of Appeals for the Sixth Circuit has not determined whether noncitizens challenging detention must first exhaust

administrative remedies as a prudential matter; nor has the Sixth Circuit formally articulated a standard for when to require prudential exhaustion. *Soto-Medina v. Lynch*, -- F. Supp. 3d --, 2026 WL 161002, at *3 (W.D. Mich. Jan. 21, 2026) (citing *Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771, 778 (E.D. Mich. 2025)).

34. Instead, courts in this Circuit apply a three-factor test. They may require prudential exhaustion when:

> (1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.

Soto-Medina, 2026 WL 161002, at *3 (citing *United States v. California Care Corp.*, 709 F.2d 1241, 1248 (9th Cir. 1983)).

35. None of these factors counsels in favor of requiring prudential exhaustion. As set forth in more detail below, Mr. Pilatasig Chugchilan raises two principal arguments—that DHS is unlawfully applying the wrong statute of detention to him to claim that he is subject to mandatory detention, and that his detention and continued imprisonment violate his substantive and procedural due process rights. Neither issue requires agency expertise, the first because it is a purely legal question of statutory interpretation, and the second because it is a constitutional challenge, which the agency cannot review. *See Soto-Medina v.*

Lynch, 2025 WL 3267761, at *4 (W.D. Mich. Nov. 24, 2025) (citing *Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006)).

36. Nor would administrative review preclude the need for judicial review. The BIA has already made clear its position that individuals like Petitioner are subject to mandatory detention under 8 U.S.C. § 1225(b)(2) and are ineligible for bond in a published decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). While that decision has since been vacated nationwide by a district court in the Central District of California, *Maldonado Bautista v. Santacruz*, 2026 WL 468284, at *10 (C.D. Cal. Feb. 18, 2026), the district court's decision has itself been administratively stayed by the Ninth Circuit Court of Appeals, *see In re: Lazaro Maldonado Bautista*, No. 26-1044, ECF No. 5.1 (9th Cir. March 6, 2026).

37. Moreover, even where prudential exhaustion applies, courts may choose to waive exhaustion, including when "pursuit of administrative remedies would be a futile gesture." *Shearson*, 725 F.3d at 594. IJs and the BIA are bound by *Yajure Hurtado*, 8 CFR § 1003.1(g)(1), and requiring exhaustion before the immigration court and the BIA would therefore be futile, as numerous courts within this district have found in similar cases. *See, e.g.*, *Madestras v. Raycraft*, 2026 WL 522956, at *3 (W.D. Mich. Feb. 25, 2026); *Pernia v. Raycraft*, 2026 WL 279323, at *3 (W.D. Mich. Feb. 3, 2026); *Arevalo v. Lynch*, 2025 WL 3522106, at

*3–4 (W.D. Mich. Dec. 9, 2025); *Delgado Vilchez v. Warden North Lake Correctional Facility*, 2026 WL 570449, at *3 (W.D. Mich. Mar. 2, 2026).

LEGAL BACKGROUND

I. Section 1226(a) Governs the Detention of People Like Mr. Pilatasig Chugchilan Who Are Detained in the United States and Have Not Previously Been Admitted

38. Several distinct provisions of the INA govern the detention of noncitizens. Section 1226(a) authorizes discretionary detention and entitles most noncitizens without final orders of removal to a hearing before an Immigration Judge to determine whether they should be released on bond. 8 U.S.C. § 1226(a); 8 CFR § 1236.1(d). Section 1226(c) provides an exception to the general discretionary detention statute and mandates detention without a bond hearing for noncitizens who are removable for certain criminal offenses, and, following an amendment to the statute in 2025, for noncitizens who are removable for certain immigration violations and are charged with, arrested for, convicted of, or admit having committed certain theft or other offenses. Section 1225(b) provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals "seeking admission" under (b)(2). Finally, section 1231 governs the detention of noncitizens subject to a final order of removal.

39. 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, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended last year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025). "Upon passing IIRIRA, Congress declared that the new Section 1226(a) 'restates the current provisions in the predecessor statute,'" which allowed noncitizens who entered without inspection to be released on bond. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (citing H.R. Rep. No. 104-469, pt. 1, at 229; H.R. Rep. No. 104-828, at 210).

40. Following the enactment of IIRIRA, EOIR promulgated 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) ("Despite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.").

41. Since the passage of IIRIRA, "the statutory framework governing detention has largely remained constant."[8] However, in January 2025, Congress passed the Laken Riley Act, as noted above. The Laken Riley Act expands the pool of people subject to mandatory detention by providing that noncitizens who are inadmissible for certain immigration violations (including those present in the United States without having been admitted or paroled) and who are charged with, convicted of, or who admit to committing certain crimes, are subject to mandatory detention. 8 U.S.C. § 1226(c)(1)(E).

42. For nearly thirty years, under the IIRIRA framework, most people who entered the United States without inspection and were thereafter arrested and placed in removal proceedings were subject to discretionary detention and were entitled to bond hearings before an immigration judge, unless they had certain criminal convictions. DHS consistently applied and defended this framework from 1996 until approximately July 2025. *Martinez v. Hyde*, 792 F. Supp. 3d 211, 217 & n.9 (D. Mass. 2025) (footnote quoting the Solicitor General's statement at Supreme Court oral argument that "DHS's long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended"); *see also Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018)

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[8] Library of Congress, *Immigration Detention: A Legal Overview* (Sep. 16, 2019), available at https://www.congress.gov/crs-product/R45915#_Ref17891326 (last accessed Mar. 17, 2026).

(explaining that discretionary detention under § 1226(a) is the "default rule" for most noncitizens in removal proceedings). Moreover, that framework was consistent with decades of prior practice, under which noncitizens who had entered the United States, even without inspection, were entitled to a custody hearing before an IJ or hearing officer. *See* 8 U.S.C. § 1252(a) (1994).[9]

43. Around the summer of 2025, both DHS/ICE and the DOJ abruptly changed their interpretation and application of the relevant detention statutes. On May 15, 2025, the BIA issued a decision holding that a noncitizen who entered without inspection and was apprehended and paroled near the border was subject to mandatory detention under § 1225(b)(2)(A) when her parole was terminated and she was re-detained. *Matter of Q. Li*, 29 I&N Dec. 66, 70 (BIA 2025).

44. On July 8, 2025, Acting ICE Director Todd Lyons issued an internal memorandum to ICE stating that DHS, along with DOJ, had "revisited its legal position on detention and release authorities" and concluded that section 1225 "is the applicable immigration detention authority for all applicants for admission"—a sweeping and drastic change that would subject potentially millions of people to mandatory detention. *Martinez*, 792 F. Supp. 3d at 218.

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[9] *See also* Library of Congress, *Immigration Detention: A Legal Overview*, *supra* note 8.

45. On September 5, 2025, the BIA issued its published decision in *Yajure Hurtado*, holding that noncitizens who are present in the United States without being admitted or paroled—like Mr. Pilatasig Chugchilan—are subject to mandatory detention, and that IJs lack jurisdiction to adjudicate bond requests for them. 29 I& N Dec. at 220.

46. IJs have consistently refused to hold bond hearings for noncitizens like Petitioner, despite numerous federal court decisions, including dozens in this district alone, finding the appropriate detention statute for noncitizens like Mr. Pilatasig Chugchilan to be § 1226(a).[10] *See, e.g.*, *Sanchez Alvarez v. Noem*, 807 F. Supp. 3d 777, 787–88 (W.D. Mich. 2025); *Puerto-Hernandez v. Lynch*, 808 F. Supp. 3d 802, 815–17 (W.D. Mich. 2025); *Garcia v. Noem*, 2025 WL 3017200, at *5 (W.D. Mich. Oct. 29, 2025) (collecting cases); *Pie v. Noem*, 2025 WL 3496156, at *4–*7 & n.4 (W.D. Mich. Dec. 5, 2025) (collecting cases); *but see Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 502 (5th Cir. 2026).

47. As these decisions lay out, the BIA's decision in *Yajure Hurtado* defies the text, structure, and legislative history of the INA, and constitutes a radical departure from decades of practice.

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[10] Politico, *Hundreds of Judges Reject Trump's Mandatory Detention Policy, with No End in Sight* (Jan. 5, 2026), *available at* https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494 (last accessed Mar. 17, 2026) (discussing nationwide trends of district court judges' rulings on the statutory question).

48. Section 1226(a) operates as the "default" detention statute applicable to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." *Jennings*, 583 U.S. at 288.

49. The text of § 1226 is broad, "referring to all other [noncitizens] not lawfully present but not arriving." *Rodriguez v. Noem*, -- F. Supp. 3d --, 2025 WL 3022212, at *5 (W.D. Mich. Oct. 29, 2025). Any other reading ignores the 2025 Laken Riley Act amendment to the statute and "render[s] Congress' recent actions entirely superfluous." *Id.* (citing *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001)). As noted above, Congress enacted subparagraph (c)(1)(E) in the Laken Riley Act last year to subject certain noncitizens who entered without inspection to mandatory detention. Subparagraph (c)(1)(E)'s reference to persons inadmissible under § 1182(a)(6)(A), i.e., inadmissible for entering without inspection, makes clear that, in general, such people are afforded a bond hearing under subsection 1226(a). If all people like Petitioner who are present in the United States without being admitted or paroled were already subject to mandatory detention, "then there would have been no need for Congress to amend the INA to provide for mandatory detention" of people who were present without admission or parole "and who were arrested, charged with, or committed certain crimes." *Rodriguez*, -- F. Supp. 3d --, 2025 WL 3022212 at *6.

50. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who very 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 Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025) (explaining that the context, title, and language of § 1225 "implies that Congress enacted [that statute] for a specific, limited purpose"). Indeed, in *Jennings*, the Supreme Court explained that mandatory detention under § 1225 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." 583 U.S. at 287.

51. Applying § 1226(a), rather than § 1225(b), to people detained in the interior who had previously entered without inspection is also consistent with the government's longstanding practice, which "can inform a court's determination of what the law is." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 386 (2024) (cleaned up). The BIA's new policy represents a "pivot from three decades of consistent statutory interpretation." *Pizarro Reyes*, 2025 WL 2609425, at *7.

52. Finally, as discussed below, the BIA's interpretation of § 1225(b)(2)(A) to mandate detention without a bond hearing for all noncitizens present in the United States without having been admitted or paroled presents serious constitutional concerns. To the degree that the statute remains ambiguous,

the Court should presume that Congress "did not intend the alternative which raises serious constitutional doubts" and reject that construction. *Clark v. Martinez*, 543 U.S. 371, 381–82 (2005). Therefore, § 1226(a), which permits bond hearings, not § 1225(b)(2)(A), which does not, governs the detention of people like Petitioner.

II. The BIA's Application of Mandatory Detention to Noncitizens Like Mr. Pilatasig Chugchilan Violates Substantive and Procedural Due Process

53. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) ("Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention."). This fundamental due process protection applies to all noncitizens within the United States, including both removable and inadmissible noncitizens. *See id.* at 693; *Plyler v. Doe*, 457 U.S. 202, 212 (1982); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896); *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025).

54. Absent adequate procedural protections, substantive due process requires a "special justification" that "outweighs the individual's constitutionally

protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690; *accord, e.g.*, *Herrera v. Knight*, 798 F. Supp. 3d 1184, 1203 (D. Nev. 2025) (describing the standard for a substantive due process violation); *Fernandez v. Lyons*, 2025 WL 2531539, at *4 (D. Neb. Sept. 3, 2025) (same). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Zadvydas*, 533 U.S. at 690–91; *see also Demore*, 538 U.S. at 528. Thus, to withstand constitutional scrutiny, the nature and duration of mandatory immigration detention must be reasonably related to these purposes.

55. In *Demore*, the Supreme Court upheld the constitutionality of § 1226(c) against a facial challenge, specifically citing evidence that had been before Congress about noncitizens with criminal convictions. 538 U.S. at 518–20. This reasoning does not apply, however, to noncitizens like Mr. Pilatasig Chugchilan with no criminal record whatsoever who have lived in the community without incident for years. The broad policy set forth in *Yajure Hurtado* is not reasonably related to the purposes of preventing danger to the community or mitigating flight risk, and it violates substantive due process.

56. Additionally, procedural due process protects noncitizens against deprivation of liberty without adequate procedural protections, including notice and the opportunity to be heard. *A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025); *Trump*

v. J.G.G., 604 U.S. at 673. The Sixth Circuit has held that the three-part balancing test in *Mathews v. Eldridge*, 424 U.S. 319 (1976) "applies in the context of immigration detention." *Bastidas v. Noem*, 2025 WL 3562638 at *7 (W.D. Mich. Dec. 12, 2025) (citing *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852-56 (6th Cir. 2020)). Under *Mathews*, courts must consider (1) "the private interest that will be affected by 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." *Bastidas*, 2025 WL 3562638 at *7 (quoting *Lopez-Campos*, 797 F. Supp. 3d at 785 and citing *Mathews*, 424 U.S. at 335). Here, the BIA's interpretation of the detention statutes to require detention of noncitizens who were not admitted deprives people of their liberty without any individualized process to determine whether such detention is necessary to prevent flight risk or danger to the community, and it violates due process.

57. First, the "importance and fundamental nature" of an individual's liberty interest is well established. *United States v. Salerno*, 481 U.S. 739, 750 (1987); *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (the "most elemental of liberty interests" is freedom from detention). Courts may also consider conditions of confinement, such as "whether a detainee is held in conditions indistinguishable from criminal incarceration." *Bastidas*, 2025 WL

3562638, at *7 (quoting *Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. 2025)); *see also Hernandez-Lara v. Lyons*, 10 F.4th 19, 28 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). Because of his detention, Mr. Pilatasig Chugchilan is subject to conditions similar to criminal incarceration. He has also lost income; lost contact with his friends and community; and most of all, has been separated from his young child for months.

58. Second, absent any individualized bond hearing, people like Mr. Pilatasig Chugchilan will be detained despite not being a danger to the community or a flight risk, because there is no mechanism to determine whether their detention is necessary. *See, e.g.*, *Günaydin v. Trump*, 784 F. Supp. 3d at 1188 (noting that lack of consideration of "individualized or particularized facts . . . increases the potential for erroneous deprivation of individuals' private rights"); *Bastidas*, 2025 WL 3562638, at *8.

59. Finally, the burden on the government of returning to the longstanding practice of holding bond hearings for people like Petitioner does not outweigh the liberty interest at stake. To the contrary, the government has an interest in "minimizing the enormous impact of incarceration in cases where it serves no purpose." *Velasco Lopez*, 978 F.3d at 854; *see also Hernandez-Lara*, 10 F.4th at 33 (noting that "limiting the use of detention to only those noncitizens who are dangerous or a flight risk may save the government, and therefore the public, from

expending substantial resources on needless detention"). The cost to the government and society of detaining people unnecessarily for long periods of time is greater than the cost of providing individualized hearings, and weighs in favor of additional procedural protections. *See Bastidas*, 2025 WL 3562638, at *8 (citing *Sampiao v. Hyde*, 799 F. Supp. 3d 14, 34 (D. Mass. 2025)).

III. Due Process Requires the Government Bear the Burden to Justify Detention

60. Due process further requires that the government bear the burden to show that its interest in detaining Petitioner outweighs his liberty interest and the cost to the public and to society by clear and convincing evidence. *See Soto-Medina*, 2026 WL 161002, at *5 & n.2 (noting that "the majority of courts [have found] that due process requires that the government bear the burden" of justifying detention under § 1226(a) and discussing caselaw from the First, Second, Ninth, Third, and Fourth Circuits), and at *11 (government bears the burden to show that petitioner's detention is warranted by clear and convincing evidence).

61. Thus, even if the government's arguments about the relevant statute of detention were correct, due process requires a hearing at which the government bears the burden of justifying Mr. Pilatasig Chugchilan's detention by clear and convincing evidence.

IV. Release is the Appropriate Remedy; in the Alternative, the Court May Hold a Bail Hearing

62. The "equitable and flexible nature of habeas relief" affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution. *Velasco Lopez*, 978 F.3d at 855; *see also Schlup v. Delo*, 513 U.S. 298, 319 (1995) ("[H]abeas corpus is, at its core, an equitable remedy").

63. Release is the customary remedy in habeas proceedings. *See* 28 U.S.C. § 2243 (the habeas court "shall . . . dispose of the matter as law and justice require"); *Preiser v. Rodriguez*, 411 U.S. 475, 484 ("the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody").

64. Release is the appropriate remedy for the constitutional violations here, including the lack of pre-deprivation notice or any individualized review before Mr. Pilatasig Chugchilan's arrest, which cannot be remedied by a post-deprivation hearing. *See, e.g.*, *Lara v. Ladwig*, 2026 WL 401204, at *10 (W.D. Tenn. Feb. 12, 2026) ("Because ICE purported to detain [petitioner] under § 1225(b)(2)(A), which includes no provision for a bond hearing, the Court will not now order a bond hearing under § 1226(a). Rather, immediate release is the appropriate remedy for [petitioner's] deprivation of liberty."); *Alfaro-Herrera v. Baltazar*, 2026 WL 91470, at *13 (D. Colo. Jan. 13, 2026) (given that petitioner

had been previously released by ICE and holding a bond hearing would prolong his unlawful detention, "[r]espondents' violation of Petitioner's rights are best remedied by ordering Petitioner's immediate release from immigration detention."); *Qasemi v. Francis*, 2025 WL 3654098, at *14 (S.D.N.Y. Dec. 17, 2025) (a bond hearing would not be an adequate remedy for the due process violations in petitioner's sudden arrest and detention); *Noyola v. Bondi*, -- F. Supp. 3d --, 2026 WL 607266, at *5 (W.D. Tex. Mar. 4, 2026) (same); *Bethancourth v. Tate*, -- F. Supp. 3d -- , 2026 WL 638482, at *5–*6 (S.D. Tex. Mar. 6, 2026); *Moctezuma v. Henkey*, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (given the government's repeated use of unlawful detention policies, causing petitioners to "sit in jail waiting for a judicial decision," the court would order immediate release rather than a bond hearing, which would implicate further delay).

65. In the alternative, the habeas court can hold its own custody hearing and determine whether ICE can prove by clear and convincing evidence that Mr. Pilatasig Chugchilan must remain in custody, or whether he may be released on recognizance, an appropriate bond in light of his ability to pay, or supervised release. This is a more efficient and effective remedy than ordering an immigration judge to conduct a hearing, which may lead to additional enforcement proceedings and delays before the unlawful detention in this case is remedied. *See L.G.M. v. LaRocco*, 788 F. Supp. 3d 401, 405–07 (E.D.N.Y. 2025) (ordering a bond hearing

held by the habeas court, as this would be more efficient than delegating the task to the agency and ensure proper constitutional oversight); *Flores-Powell v. Chadbourne*, 677 F. Supp. 2d 474–78 (D. Mass 2010) (granting petition and discussing at length habeas court's equitable power, which includes power to hold its own bail hearing); *see also Santos v. Lowe*, 2020 WL 4530728, at *4 (M.D. Pa. Aug. 6, 2020) (finding that habeas court-ordered bond hearing was not individualized and did not comport with due process, and granting motion to enforce to hold the court's own bond determination); *Ramirez v. Watkins*, 2010 WL 6269226, at *19–20 (S.D. Tex. Nov. 3, 2010), *rep. and rec not reached,* (S.D. Tex. Dec. 8, 2010) (dismissing case as moot) (recommending the habeas court conduct its own bail inquiry, as it would be more efficient, ensure supervision over any compliance issues, and avoid further proceedings).

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Release on Bond

66. Petitioner re-alleges and incorporates by reference the above paragraphs.

67. 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 grounds of inadmissibility. Specifically, it does not apply to Mr. Pilatasig Chugchilan, who has

been living in the United States since September 2023 prior to being to being apprehended and detained by respondents on January 22, 2026.

68. The fact that Mr. Pilatasig Chugchilan was previously apprehended near the border does not undermine this conclusion. In any event, that initial arrest "is not what is at issue in this case"; rather it is his 2026 arrest and detention. *See Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 491 (S.D.N.Y. 2025). Courts in this district have consistently determined that § 1226(a) applies to noncitizens, like Mr. Pilatasig Chugchilan, who have resided in the United States and were already in the United States when apprehended and arrested. *Singh v. Raycraft*, 2026 WL 491030, at *2 (W.D. Mich. Feb. 23, 2026) (collecting cases).

69. Mr. Pilatasig Chugchilan is detained under § 1226(a) and is eligible for release on bond. Respondents' unlawful application of § 1225(b)(2) to Petitioner violates the INA.

SECOND CLAIM FOR RELIEF

Violation of Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19 Unlawful Denial of Release on Bond

70. Petitioner re-alleges and incorporates by reference the above paragraphs.

71. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret

and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

72. The regulation at 8 C.F.R. § 1003.19 lays out bond procedures, and § 1003.19(h)(2) delineates categories of noncitizens who are subject to mandatory detention and not entitled to a bond hearing. The fact that noncitizens within the United States who are subject to inadmissibility grounds are not included on this list shows that the agencies did not intend them to be subject to mandatory detention. The BIA's interpretation thus violates the regulations and unlawfully denies Petitioner a bond hearing.

THIRD CLAIM FOR RELIEF

Violation of the Administrative Procedure Act Contrary to Law and Arbitrary and Capricious Agency Policy

73. Petitioner re-alleges and incorporates by reference the above paragraphs.

74. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

75. 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 grounds of inadmissibility. Specifically, it does not apply to Mr. Pilatasig Chugchilan, who has been living in the United States since September 2023 prior to being detained by respondents. Mr. Pilatasig Chugchilan is detained under § 1226(a) and is eligible for release on bond.

76. In taking a contrary position, the BIA has reversed decades of prior practice, despite the "plain language of the statutes, the overall structure, the intent of Congress, and over 30 years of agency action." *Lopez-Campos*, 797 F. Supp. 3d at 780. Respondents have failed to articulate reasoned explanations for their decisions, which represent changes in the agencies' policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.

77. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

FOURTH CLAIM FOR RELIEF

Violation of the Fifth Amendment Due Process Clause Substantive Due Process

78. Petitioner re-alleges and incorporates by reference the above paragraphs.

79. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. Substantive due process requires that immigration detention without a bond hearing be reasonably related to the goals of ensuring the appearance of noncitizens at future proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690.

80. The BIA's application of mandatory detention under § 1225(b)(2) is not reasonably related to those goals and thus violates substantive due process. Specifically, Mr. Pilatasig Chugchilan is a hardworking single father with no criminal record. Respondents seized him off the street just after he had dropped off his seven-year-old child and have kept him in prison-like conditions for nearly two months, during which time he has lost income and been separated from his child.

Moreover, Mr. Pilatasig Chugchilan timely filed for asylum, attended his immigration court proceedings, and is actively pursuing an appeal based on errors in the IJ's decision in his case. Respondents' decision to subject Mr. Pilatasig Chugchilan to mandatory detention bears no rational relation to their purported goals of community safety and ensuring that Mr. Pilatasig Chugchilan participates in his removal proceedings.

FIFTH CLAIM FOR RELIEF

Violation of the Fifth Amendment Due Process Clause Procedural Due Process

81. Petitioner re-alleges and incorporates by reference the above paragraphs.

82. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. "Freedom from imprisonment – from government custody, detention, or other form of physical restraint – lies at the heart of the liberty that the Clause protects." *Zadvydas*, 533 U.S. at 690.

83. Courts apply the *Mathews v. Eldridge* balancing test to determine what procedures the due process clause requires. Under that test, Petitioner has a fundamental interest in liberty and being free from official restraint. There is a great risk of unlawful deprivation of that interest and unnecessary detention

because the BIA's interpretation of the statute does not permit any individualized determination of whether detention during removal proceedings is necessary. At a hearing, Petitioner could show that his detention is not necessary because there is no evidence that he is a danger to the community, nor that there is a risk he will not attend and participate in any future proceedings. A hearing at which the government bears the burden of proof by clear and convincing evidence would protect the substantial liberty interest at stake. *Soto-Medina*, -- F. Supp. 3d --, 2026 WL 161002, at *11.

84. The final factor is the Government's interest. The government has no legitimate interest in detaining Petitioner when detention is not necessary to ensure appearance at future hearings or protect the community, and less restrictive measures like a reasonable bond would serve those purposes. *Hernandez-Lara*, 10 F.4th at 32-33; *Soto-Medina*, -- F. Supp. 3d --, 2026 WL 161002, at *9. Therefore, the government does not have an interest in detaining Petitioner without a bond hearing that outweighs his substantial liberty interest in such an individualized determination.

85. Respondents' detention of Petitioner without any hearing to determine whether that detention is necessary violates procedural due process.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Order the government to show cause forthwith why the Petition should not be granted;

c. Declare that Petitioner's continued detention violates the INA, the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the United States Constitution;

d. Issue a Writ of Habeas Corpus and order Petitioner's immediate release from custody;

e. In the alternative, hold a bail hearing at which Respondents have the burden to demonstrate dangerousness or flight risk by clear and convincing evidence;

f. In the alternative, order Respondents to provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within five days at which time the government will have the burden to demonstrate dangerousness or flight risk by clear and convincing evidence, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present;

g. Enjoin Respondents from transferring Petitioner outside of this District during these proceedings;

h. Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and

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

Dated: March 17, 2026

Respectfully submitted,

/s/ Edith Sangüeza
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Counsel for Petitioner

EXHIBITS

A: Online Detainee Locator Page

B: EOIR Automated Case Information System Page

C: Notice to Appear

VERIFICATION

I, Edith Sangüeza, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that, on information and belief, the factual statements in the foregoing Petition for Writ of Habeas Corpus are true and correct.

Dated: March 17, 2026

/s/ Edith Sangüeza
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