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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In the Matter of: Mendoza-Maldonado, Jhony Ernesto Petitioner, v. North Lake Processing Center, Field Office Director, Michigan, Immigration and Customs Enforcement in his official capacity; KRISTI NOEM, Secretary, U.S. Department of Homeland Security, in her official capacity; PAMELA BONDI, U.S. Attorney General, in her official capacity; TODD M. LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; KIMBERLY BALL, Warden of North Lake Processing Center in Baldwin, Michigan in her official capacity; Respondents.	Case No. [redacted] **Immigration Judge:** TBD **Next Hearing Date:** TBD

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Mendoza-Maldonado, Jhony Ernesto Case No. [redacted]

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I. INTRODUCTION

1. Petitioner, Jhony Ernesto Mendoza-Maldonado, is in the physical custody of Respondents at the North Lake Processing Center at 1805 32nd St, Baldwin, MI 49304. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) of the Department of Justice (DOJ) have erroneously concluded Petitioner is subject to mandatory detention under U.S.C. § 1225(b)(2).

2. Petitioner is a native and citizen of Ecuador who has resided in the United States for three years. He fled Ecuador after [redacted] Petitioner entered the United States on February 17, 2023, and immediately presented himself to U.S. authorities to seek protection. On March 10, 2023, Petitioner underwent a Credible Fear Interview conducted by DHS Asylum Officer David Halpern, with the assistance of a Spanish interpreter. Petitioner provided a detailed and consistent account of the harm he suffered, the threats against his life, and police inaction in his community. Officer Halpern issued a positive credible fear determination, finding a significant possibility that Petitioner could establish eligibility for protection under the Convention Against Torture based on past harm and the lack of state protection. *Ex. 7*. DHS subsequently issued a Notice to Appear, placing Petitioner in removal proceedings under INA § 240 and charging him as inadmissible under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I). *Ex. 1*.

3. On March 14, 2023, DHS granted him parole and released him from custody. *Ex. 2*. Since then, Petitioner has applied for asylum and CAT protection, has complied with all ICE check-ins, and has consistently demonstrated his intent to appear at all future hearings. Despite having no criminal history, outstanding warrants, or prior arrests, Immigration and Customs Enforcement ("ICE") detained Petitioner on October 22, 2025, while he was pumping gas in Chicago. He was taken into custody.

4. Petitioner was placed in removal proceedings, where he is charged with, *inter alia*, having entered the United States without inspection under 8 U.S.C. § 1182(a)(6)(A)(i) and 212(a)(7)(A)(i)(I). He is now represented by pro bono counsel in his removal proceedings. Petitioner is eligible for relief and has applied for asylum and withholding of removal.

5. Following his detention, Petitioner obtained pro bono representation from Glen Nicholas Raj, Esq., of Western Illinois Dreamers (WID), a nonprofit organization that provides free legal services to low-income immigrants in Illinois. Petitioner is eligible for relief and has applied for asylum and withholding of removal. Counsel has since submitted his applications with supporting evidence, including a witness list, a particular social group brief, and an appeal. *Ex. 8-12*.

6. On July 8, 2025, DHS issued a new policy instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under Section 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an "applicant for admission" under Section 1225(b)(2)(A) and therefore subject to mandatory detention.

7. On February 2, 2026, at Petitioner's individual merits hearing, the Immigration Judge granted DHS's motion to pretermit Petitioner's asylum application, finding the Form I-589 incomplete under *Matter of C-A-R-R-*, 29 I&N Dec. 13 (BIA 2025), and deemed the application abandoned. *Ex. 4*.

8. The Immigration Judge thereafter entered an order of removal. *Ex. 5*. Petitioner preserved his appeal and, on February 25, 2026, timely filed a brief with the Board of Immigration Appeals arguing that the Immigration Judge erred as a matter of law in three respects:

a. *First, that Petitioner's positive credible fear determination constituted a complete asylum application by operation of 8 C.F.R. § 1208.3(a)(2), rendering pretermission impermissible;*

b. *second, that the Form I-589 was not materially incomplete under Matter of Carr because it incorporated a sworn declaration providing the required factual narrative;*

c. *and third, that the summary pretermission without notice of any deficiency or an opportunity to cure violated Petitioner's Fifth Amendment right to a full and fair hearing.*

That appeal remains pending before the Board. Jhony remains detained. *Ex. 3*.

9. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act (INA). Section 1225(b)(2) does not apply to individuals like Petitioner, who entered the United States three years ago and who was apprehended hundreds of miles from any border or port of entry. Instead, such individuals are subject to discretionary detention under Section 1226(a), which 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.

10. Respondents' new legal interpretation is plainly contrary to the statutory text, statutory framework, Congressional intent, decades of agency practice, and decisions of federal courts across the nation, which apply Section 1226(a) to people like Petitioner. Further, Respondents' detention of Petitioner without a bond hearing to determine whether he is a flight risk or danger to others violates his right to due process.

11. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released, or in the alternative, that he be provided a prompt bond hearing under Section 1226(a).

II. JURISDICTION

12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the North Lake Processing Center at 1805 32nd St, Baldwin, MI 49304.

13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

14. 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.

III. VENUE

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

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

IV. REQUIREMENTS OF 28 U.S.C. § 2243

17. 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, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

18. 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).

V. PARTIES

19. Petitioner, Jhony Ernesto Mendoza Maldonado, is a citizen of Ecuador who has resided in the United States for approximately three years. He has been in immigration detention since October 22, 2025.

20. Respondent, ICE Field Office Director for the North Lake Processing Center in Michigan. As such, this ICE Field Office Director, is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

21. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

23. Respondent Todd Lyons is the Acting Director of ICE. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner. He is sued in his official capacity.

24. Respondent Kimberly Ball, Warden of North Lake Detention Facility, where Petitioner is currently detained, is an immediate custodian of Petitioner. She is sued in her official capacity.

VI. FACTUAL BACKGROUND

25. Petitioner is a 33-year-old national of Ecuador. He entered the United States without inspection on February 17, 2023, turning himself in to U.S. authorities to seek

protection and has since lived here and applied for asylum after a positive Credible Fear Interview. He lived in Chicago, Illinois prior to his detention.

26. Petitioner has lived in the United States for three years, during which he has built strong community ties, developed a supportive network of friends, and established his own business, Ciento Accessories, LLC. Despite his limited time in the country, he has demonstrated stability, responsibility, and deep community integration. Petitioner continues to pursue his asylum case through the proper legal channels, and the letters of support submitted on his behalf confirm that he is firmly rooted in the community and fully committed to appearing at all future hearings.

27. On October 22, 2025, Immigration and Customs Enforcement ("ICE") arrested Petitioner while he was pumping gas and subsequently placed him in the physical custody of Respondents at the North Lake Processing Center in Baldwin, MI. Petitioner was taken into custody during a random ICE "sweep" and without a Department of Homeland Security administrative Warrant for Arrest of Alien. DHS had previously issued a Notice to Appear on March 11, 2023, initiating removal proceedings under INA § 240 and charging Petitioner as inadmissible under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I).

28. Petitioner is now represented in his removal proceedings by pro bono counsel. Petitioner is eligible for and has applied for relief and has applied for asylum and withholding of removal. Following his detention, counsel submitted Petitioner's applications for relief along with supporting evidence, including a witness list, a particular social group brief, and an appeal. He also previously received a credible fear interview, which resulted in a positive determination by the asylum officer.

29. Pursuant to Respondents' new policy, discussed *infra*, Petitioner remains in mandatory detention. Absent relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community without ever receiving an individualized hearing justifying his detention in violation of the INA and Due Process.

VII. EXHAUSTION OF REMEDIES

30. No statutory requirement of administrative exhaustion applies to Petitioner's case. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), *superseded by statute on other grounds* as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).

31. In particular, DHS has taken the position that a noncitizen like Petitioner, who entered without inspection, is subject to mandatory detention under 8 U.S.C. § 1225, and the Executive Office for Immigration Review has affirmed that view. In a published decision, the Board of Immigration Appeals recently held that "Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission." *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under the BIA's interpretation, Petitioner is ineligible for bond as a noncitizen who entered the United States. Accordingly, there are no administrative remedies that he could exhaust before seeking habeas relief. *See Singh v. Lewis*, No. 4:25-CV-96-RGJ, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025) ("[t]he United States has made clear their position on Section 1225, and it is

being applied at all levels within the DHS. Therefore, it is unlikely that any administrative review would lead to the United States changing its position and precluding judicial review"); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025) ("Because exhaustion would be futile and unable to provide Lopez-Campos with the relief he requests in a timely manner, the Court waives administrative exhaustion and will address the merits of the habeas petition.").

32. Further, neither an immigration judge nor the Board of Immigration Appeals can rule on a petitioner's constitutional claims. *See Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (B.I.A. 2020) (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C--*, 20 I. & N. Dec. 529, 532 (B.I.A. 1992) ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations."); *see also* Gonzalez v. O'Connell, 355 F.3d 1010, 1017 (7th Cir. 2004) (noting that "the BIA has no jurisdiction to adjudicate constitutional issues").

VIII. LEGAL FRAMEWORK

1. Detention Authority and Respondent's Efforts to Expand Mandatory Detention

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

34. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens "already in the country." *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Section 1226(a) "sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of a[]

[noncitizen] 'pending a decision on whether the [noncitizen] is to be removed from the United States." *Id.* at 288 (quoting § 1226(a)). Individuals in Section 1226(a) detention are generally entitled to a bond hearing at the outset of their detention. *See* § 1226(a)(2); 8 C.F.R. §§ 1003.19(a), 1236.1(c)(8), (d)(1); *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1247 (W.D. Wash. 2025) ("those detained under Section 1226(a) are entitled to a bond hearing before an [immigration judge] at any time before entry of a final removal order.").

35. Section 1226(c) "carves out a statutory category" of noncitizens from Section 1226(a) for whom detention is mandatory, comprised of individuals who have committed certain "enumerated … criminal offenses [or] terrorist activities." *Jennings*, 583 U.S. at 289 (citing § 1226(c)(1)). Among the individuals carved out and subject to mandatory detention are certain categories of "inadmissible" noncitizens. § 1226(c)(1)(A), (D), (E). Reference to such inadmissible noncitizens makes clear that, by default, people who are applicants for admission but encountered in the interior are afforded a bond hearing under subsection 1226(a). Courts have recently confirmed this understanding of Section 1226. *See Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)) ("When Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies."); *see also, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *6 (D. Mass. July 7, 2025) ("inadmissibility on one of the three grounds specified in Section 1226(c)(1)(E)(i) is not by itself sufficient to except [a noncitizen] from Section 1226(a)'s discretionary detention framework").

36. Second, the INA provides for mandatory detention of certain categories of noncitizens "seeking entry into the United States" under 8 U.S.C. § 1225(b). *Jennings*, 583 U.S. at 297; *see* § 1225(b) ("Inspection of applicants for admission").

37. In *Jennings*, the Supreme Court explained that this mandatory scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is inadmissible." *Jennings*, 583 U.S. at 287 (emphasis added). Noncitizens subject to mandatory detention under Section 1225 may not be released except "for urgent humanitarian reasons or significant public benefit" under the parole authority provided by 8 U.S.C. § 1182(d)(5)(A). *See id.* at 300.

38. Section 1225 is split into two categories. Section 1225(b)(1) provides for mandatory detention of noncitizens charged with enumerated grounds of inadmissibility *and* placed in expedited removal proceedings. 8 U.S.C. § 1225(b)(1)(A)(i). Meanwhile, Section 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry. *See infra* 44-58.

39. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

40. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

41. Respondents have recently taken various steps seeking to expand their use of mandatory detention under Section 1225(b)(2) beyond its plain language.

42. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. *See* U.S. Immigration and Customs Enforcement, Interim Guidance Regarding Detention Authority for Applicants for Admission (July 8, 2025),

https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

43. The new policy claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225 and therefore are 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.

44. On September 5, 2025, the Board of Immigration Appeals (BIA) issued a published decision adopting this same position. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision holds that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bond hearings.

2. Respondent's Policy on Section 1225(b)(2) is Incorrect

45. Respondent's policy, that all undocumented noncitizens who entered without inspection are considered applicants for admission and subject to mandatory detention under Section 1225(b)(2)(A), is incorrect. Instead, the statutory text, the statutory framework, Congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation – including this one – limit Section 1225(b)(2)'s scope to recently arrived noncitizens seeking admission at a border or port of entry.

a. Statutory Text

46. The text of Section 1225, along with its placement in the overall detention scheme of the INA, make clear that the terms "applicant for admission" and "seeking admission" in

Section 1225(b)(2) do not include individuals who have entered without inspection and are apprehended when already inside the United States.

47. Section 1225 is titled: "Inspection by immigration officers; expedited removal of inadmissible *arriving aliens*; referral for hearing." (emphasis added). As courts have recognized, "[t]he added word of 'arriving' indicates that the statute governs 'arriving' noncitizens, not those present already." Beltran Barrera v. Tindall, No. 3:25-CV-541-RGJ, 2025 WL 2690565, at *4 (W.D. Ky. Sept. 19, 2025) (citing Pizarro Reyes v. Raycraft, No. 25-CV-12546, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025)). This limitation is particularly clear when compared to Section 1226's general title: "Apprehension and detention of aliens."

48. Further, Section 1225(b)(2)'s specific subheading, "Inspection of Other Aliens," subsection 1225(b)(2)(B)'s mention of "crewm[e]n" and "stowaway[s]," and subsection 1225(b)(2)(C)'s use of the active language "arriving," reinforce the limited scope of Section 1225(b)(2)'s applicability to those who have recently arrived at a border or port of entry.

49. Finally, the term "seeking" in "seeking admission" "implies action – something that is currently occurring, and in this instance, would most logically occur at the border upon inspection." *Lopez-Campos*, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025); *see also Beltran Barrera*, 2025 WL 2690565, at *4. Noncitizens who are present in the country for years are not "seeking admission." *Lopez-Campos*, at *6; *Beltran Barrera*, at *4.

b. Statutory Framework

50. The statutory framework further supports that Section 1225(b)(2) does not apply to noncitizens, like Petitioner, who have lived in the United States for years and who were apprehended while residing within the United States.

51. The INA's entire framework is premised on Section 1225 governing detention of "arriving [noncitizens]" while Section 1226 "applies to [noncitizens] already present in the United States." *Jennings*, 583 U.S. at 288, 301; *see also Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *8 (S.D.N.Y. Aug. 13, 2025) ("[T]he line historically drawn between sections 1225 and 1226, which makes sense of their text and the overall statutory scheme, is that section 1225 governs detention of non-citizens 'seeking admission into the country,' whereas section 1226 governs detention of non-citizens 'already in the country.'") (cleaned up) (citing *Jennings*, 583 U.S. at 288-89); Martinez v. Hyde, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) ("The idea that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission into the country,' is consonant with the core logic of our immigration system ") (cleaned up) (citing *Jennings*, 583 U.S. at 289).

52. A fundamental principle of statutory construction is that courts must interpret statutes to give meaning to all provisions and avoid reading out or rendering superfluous any single provision. *Corley v. United States*, 556 U.S. 303, 314 (2009) ("one of the most basic interpretive canons . . . [a] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant[.]") (cleaned up). The government's current reading of Section 1225(b)(2) violates this principle.

53. Section 1226(c) includes carve outs for certain categories of inadmissible noncitizens, who would otherwise fall under Section 1226(a), that are instead subject to mandatory detention. 8 U.S.C. § 1226(c)(1)(A), (D), (E). The inclusion of these carve outs in Section 1226(c) indicates that, contrary to Respondents' interpretation, there are noncitizens who have not been admitted and that are not governed by Section 1225's mandatory

detention scheme. Indeed, if the government's interpretation were correct, it would render these portions of Section 1226(c) superfluous since those same individuals would already be subject to mandatory detention under Section 1225(b)(2).

54. The recent amendment to Section 1226(c) confirms this statutory framework. Just this year, Congress passed the Laken Riley Act, which added additional categories of Section 1226(a) carve outs that are now subject to mandatory detention under Section 1226(c). Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c)(1)(E). Specifically, the Laken Riley Act mandates the detention of noncitizens who are inadmissible under §§ 1182(a)(6)(A) (noncitizens "present in the United States without being admitted or paroled"), 1182(a)(6)(C) (misrepresentation), or 1182(a)(7) (lacking valid documentation) and who have been arrested for, charged with, or convicted of certain crimes. *Id.* Again, if Section 1225(b)(2) were already meant to subject these groups of inadmissible noncitizens to mandatory detention, it would render this portion of the Laken Riley Act redundant. *See Beltran Barrera*, 2025 WL 2690565, at *4; *Lopez-Campos*, 2025 WL 2496379, at *8.

c. Congressional Intent and Longstanding Agency Practice

55. Congressional intent and longstanding historical practice underscore Petitioner's reading of the statute.

56. The current detention system has been in place since the passage 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.

57. Following the enactment of the IIRIRA, the Executive Office for Immigration Review drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under Section 1225 and that they were

instead detained under Section 1226(a) and eligible for bond determination. *See* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

58. In the decades that followed, most people who entered without inspection and were apprehended inside the United States were detained under Section 1226(a) and received bond hearings, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an immigration judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that Section 1226(a) simply "restates" the detention authority previously found at Section 1252(a)).

d. Recent Federal Court Decisions Confirming Petitioner's Position

59. Numerous federal courts have reached conclusions consistent with Petitioner's position. For example, after immigration judges in the Tacoma, Washington, stopped providing bond hearings for persons who entered the United States without inspection, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that Section 1226(a), not Section 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239. Other courts have reached the same conclusion, rejecting Respondent's erroneous interpretation of the INA both prior to and since ICE implemented its July 8, 2025, interim guidance. *See, e.g., Gomes v. Hyde*, 2025 WL 1869299, at *8; *Martinez*, 2025 WL 2084238; *Lopez Benitez*, 2025 WL 2371588; *Garcia Jimenez v. Kramer*, No. 4:25-cv-03162-JFB-RCC, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Aguilar Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL 2374411 (D. Minn. Aug. 15, 2025);

Arrazola-Gonzalez v Noem, 5:25-cv-01789-ODW-DFM, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Jacinto v. Trump, et al.*, 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 (D. Neb. August 19, 2025); *Leal-Hernandez v. Noem*, 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez-Campos*, 2025 WL 2496379; *Herrera Torralba v. Knight*, 2:25-cv-03166-RFB-DJA, 2025 WL 2581792 (D. Nev. Sept. 5, 2025).

60. The BIA's decision in *Yajure Hurtado* has not slowed the steady flow of decisions rejecting Respondents' position. *See, e.g., Singh v. Lewis*, 2025 WL 2699219, at *3 (disagreeing with BIA's analysis and according no deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024)); *Beltran Barrera*, 2025 WL 2690565, at *5 (same); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *6-8 (same); *Sampiao v. Hyde*, 2025 WL 2607924, at *8 n.11 (D. Mass. Sept. 9, 2025) (same); *Aceros v. Kaiser*, No. 25-CV-06924-EMC (EMC), 2025 WL 2637503, at *9 (N.D. Cal. Sept. 12, 2025) (same).

IX. PETITIONER'S DETENTION VIOLATES THE INA

61. Petitioner's detention is not authorized under Section 1225(b)(2).

62. As discussed above, mandatory detention under Section 1225(b)(2) applies only to recently arrived noncitizens seeking admission at a border or port of entry, not individuals who entered without inspection and were later detained inside the country.

63. Here, "there is nothing in the record to suggest that Jhony Ernesto Mendoza-Maldonado ever attempted to gain lawful entry." *Lopez-Campos*, 2025 WL 2496379, at *6. Petitioner entered without inspection, was given a Credible Fear Interview, which was deemed positive, was released on his own recognizance, and lived in the United States for two years prior to being detained. Such a post-hoc justification deserves no credit.

Beltran Barrera, 2025 WL 2690565, at *4; *Singh v. Lewis*, 2025 WL 2699219, at *5; *Lopez-Campos*, 2025 WL 2496379, at *7.] As such, Petitioner is not subject to mandatory detention under Section 1225(b)(2).

64. Petitioner's detention is not authorized under Section 1226(a), either. As discussed above, Section 1226(a)'s discretionary detention framework requires a bond hearing to make an individualized custody determination based on Petitioner's risk of flight or dangerousness. Here, Respondents have failed to provide such a hearing. Further, there is no information indicating that Petitioner is a flight risk or danger to the community.

65. Lacking any statutory basis for his detention, Respondent must release Petitioner or, in the alternative, promptly hold a bond hearing to determine whether he should remain in custody.

X. DUE PROCESS CLAUSE

66. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993). To determine whether civil detention violates a noncitizen's Fifth Amendment due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

67. Under *Mathews*, courts weigh the following three factors: 1) "the private interest that will be affected by the official action;" 2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and 3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. at 335.

a. Private Interest

68. As to the first *Mathews* factor, "[t]he interest in being free from physical detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 531 (2004). Petitioner has been detained for over 90 days from October 22, 2025, to January XXX, 2026, at the North Lake Processing Center in conditions that are indistinguishable from criminal incarceration. This detention prevents him from seeing his family, going to work to support himself and his family, and deprives him of any privacy and freedom of movement.

b. Risk of Erroneous Deprivation

69. As to the second *Mathews* factor, courts must "assess whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Gunaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), 2025 WL 1459154, at *8 (D. Minn. May 21, 2025). The current procedures cause an erroneous deprivation of Petitioner's liberty interest in remaining free from detention.

70. As discussed above, the statutory text, statutory framework, Congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation leave no doubt that Section 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry, not noncitizens who entered without inspection and were detained inside the country.

71. Here, Petitioner was not arriving at a border or port of entry when he was detained, nor was he ever seeking admission to the country. Instead, he entered without inspection, received a positive Credible Fear Interview, was released on his own

recognizance, and lived in the United States for two years prior to being detained. As such, Petitioner is not subject to mandatory detention under Section 1225(b)(2).

72. Therefore, it is clear that the government's current procedure, subjecting Petitioner to mandatory detention under Section 1225(b)(2), creates a substantial risk of erroneous deprivation of Petitioner's interest in being free from arbitrary confinement.

73. Additionally, there are reasonable alternatives available for Respondent to pursue. As discussed above, Section 1226(a) applies to noncitizens facing charges of inadmissibility, including noncitizens like Petitioner who entered without inspection and were later detained while residing inside the country. As such, proper application of the INA's detention scheme allows for the possibility of detaining Petitioner under Section 1226(a) but first requires a bond hearing to make an individualized determination of his risk of flight or dangerousness. Such a hearing has not happened. Without it, the risk of erroneous deprivation of Petitioner's freedom is high. *See Singh v. Lewis*, 2025 WL 2699219, at *9 ("the risk of erroneously depriving him of his freedom is high if the IJ fails to assess his risk of flight or dangerousness.").

c. Government Interest

74. As to the third *Mathews* factor, the government's interest in maintaining the current procedure is minimal here. The new interpretation of Section 1225(b)(2) – that people like Petitioner who have resided in the United States for years are now subject to mandatory detention – flies in the face of the statutory text, statutory framework, Congressional intent, almost three decades of prior practice, and the decisions of federal courts across the nation. Any government interest in public safety or ensuring that Petitioner attends future immigration proceedings would be satisfied through proper application of Section 1226(a),

which requires a bond determination hearing where an immigration judge will consider Petitioner's individualized facts and circumstances to determine whether he is a danger to the community or a flight risk.

II. CLAIMS FOR RELIEF

COUNT I: Violation of the INA

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

76. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being detained 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. But Respondents' actions here violate § 1226(a) too because, to date, Respondents have refused to consider Petitioner for bond without ever demonstrating that he is a flight risk or danger to others.

77. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II: Violation of Due Process

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

79. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

80. Petitioner has a fundamental interest in liberty and being free from official restraint.

81. Petitioner entered the country without inspection, received a positive Credible Fear Interview, was released on his own recognizance, and lived in the United States for two years prior to being detained. Such an individual may only be subject to discretionary detention under 8 U.S.C. § 1226, which provides for release on bond. Respondents now erroneously detain Petitioner under the mandatory provision in § 1225(b)(2).

82. Respondents' detention of Petitioner without a bond determination hearing to determine whether he is a flight risk or danger to others violates his right to due process. / Respondent's invocation of the automatic stay to continue detaining Petitioner without ever demonstrating that he is a flight risk or danger to others, and despite the immigration judge's individualized determination to the contrary, violates his right to due process.

III. PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 14 days;

c. Enjoin Respondents from moving Petitioner outside the jurisdiction of this Court pending adjudication of this petition;

d. Declare that Petitioner's continued detention violates the INA and the Due Process Clause of the Fifth Amendment;

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

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

Respectfully submitted,



Glen Nicholas Raj, Esq.
Pro Bono Attorney for Petitioner:
Jhony Ernesto Mendoza-Maldonado

Western Illinois Dreamers

Date: March 16, 2026

Mendoza-Maldonado, Jhony Ernesto Case No. [redacted]

VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I, Glen Nicholas Raj, declare under penalty of perjury that the facts set forth in the foregoing **PETITION FOR HABEAS CORPUS** are true and correct.

Executed this 16th day of March, 2026.

Respectfully submitted,

Glen Nicholas Raj, Esq.
Pro Bono Attorney for Petitioner:
Jhony Ernesto Mendoza-Maldonado

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