UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

RAFAEL CANALES CARIAS, Petitioner, vs. **KEVIN RAYCRAFT, in his official capacity as Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement;** **KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY;** **PAMELA BONDI, in her official capacity as Attorney General, U.S. Department of Justice** Respondents.	Case No.: _____ **PETITION FOR WRIT OF HABEAS CORPUS**

I. INTRODUCTION

This is Rafael Canales Carias's second petition for writ of habeas corpus. This Court previously granted habeas relief and ordered that Petitioner receive a constitutionally compliant bond hearing under 8 U.S.C. § 1226(a). The Government nominally complied by convening a bond hearing. But what occurred was not the meaningful process ordered by this Court. It was a preordained denial premised on shifting legal standards and institutional pressure that rendered the proceeding constitutionally defective.

The posture of this case is now defined by a governmental pivot. After Respondents' mandatory-detention theory failed in federal court, DHS and EOIR moved to a different

mechanism that reaches the same outcome. Instead of continuing to argue that Petitioner is ineligible for bond, the agency now effectively nullifies bond eligibility through sweeping, pretextual "flight risk" determinations unsubstantiated by custody factors or relevant case law. In practice, the Government's new approach produces the functional equivalent of mandatory detention: no release, notwithstanding extensive mitigating evidence and longstanding compliance.

Petitioner remains in the physical custody of Respondents at the North Lake Processing Center in Baldwin, Michigan. He has been detained since October 30, 2025, after appearing for a scheduled ICE check-in, consistent with years of compliance under Alternatives to Detention. His removal proceedings remain pending on appeal before the Board of Immigration Appeals, and his removal order is not administratively final.

Despite that record, the Immigration Judge denied bond for one stated reason alone: "flight risk," based exclusively on Petitioner having been ordered removed and having a pending appeal before the Board. The written order reflects a categorical rule rather than the individualized analysis required by *Matter of Guerra* and *Matter of Dobrotvorskii*, and it effectively treats a non-final order on appeal as dispositive of flight risk. That reasoning converts Petitioner's statutory right to appeal into an automatic basis for continued detention and renders the Court-ordered hearing an empty formality.

This second petition therefore challenges Petitioner's continued detention on three interlocking grounds. First, the agency has continued to detain Petitioner under an unlawful detention framework that misapplies the INA and the implementing bond regulations to long-term residents apprehended in the interior. Second, the "bond hearing" convened after the first habeas grant was constitutionally deficient because the Immigration Judge applied a

categorical, outcome-determinative flight-risk theory rather than conducting the individualized, evidence-based custody analysis required by law. Third, the Government's shifting justifications and pattern of categorical bond denials used to negate court-ordered habeas relief constitute arbitrary and capricious, ultra vires agency action reviewable and remediable under the Administrative Procedure Act.

Petitioner is charged, *inter alia*, with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for having entered the United States without admission or parole. That charge has served as the predicate for DHS's evolving detention position. In 2025, DHS issued nationwide guidance asserting that individuals charged under § 1182(a)(6)(A)(i) are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for immigration judge bond. EOIR reinforced that position in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), holding that immigration judges lack bond jurisdiction for such individuals. Numerous federal courts rejected that theory, and this Court granted habeas relief in Petitioner's first case.

Most recently, the Central District of California enforced the nationwide declaratory judgment in *Bautista v. Santacruz* and vacated *Matter of Yajure Hurtado* under the APA, confirming that continued reliance on that decision is unlawful and that the agency may not privilege a BIA interpretation over a federal court's binding declaration of law. *Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM, (C.D. Cal. Feb. 18, 2026)(Order Granting Motion to Enforce and Vacating *Yajure-Hurtado,* Dkt. 107). Yet in the wake of those rulings, the Government has chosen to adapt rather than comply. Remarkably, they have taken the questionable route of finding new ways to flout the law and achieve their desired result of indefinite detention, despite court orders for a custody determination consistent with the Constitution.

As Petitioner is confined in Michigan, only this Court can provide effective habeas relief directed at his immediate custodian. Declaratory relief issued elsewhere does not secure Petitioner's liberty, and it does not cure the constitutional defect in the bond determination that keeps him detained today. Petitioner therefore seeks a writ of habeas corpus ordering his immediate release, but does not seek yet another custody redetermination hearing. This Court has already ordered that relief once, and Respondents responded by convening a proceeding that nominally complied with the order while functionally nullifying it. The Immigration Judge denied bond on a categorical and pretextual theory of "flight risk" untethered to the statutory and regulatory framework and without meaningful consideration of the extensive individualized evidence presented. In doing so, Respondents effectively moved the goalposts and abandoned their previously rejected mandatory-detention theory only to achieve the same result through an artificial and unsupported rationale.

Under these circumstances, ordering another bond hearing would merely invite further circumvention and prolong Petitioner's unlawful detention. Because Respondents have demonstrated an unwillingness to provide the constitutionally meaningful custody determination previously ordered by this Court, the only effective remedy is the issuance of the writ and Petitioner's immediate release.

II. JURISDICTION

1. Petitioner is in the physical custody of Respondents. Petitioner is detained at the North Lake Processing Center 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. Where executive officials continue to detain an individual pursuant to a bond determination that is constitutionally deficient and legally erroneous, this Court retains the authority to enforce constitutional limits and to set aside unlawful agency action.
5. Although Petitioner received a custody redetermination hearing following the grant of his first habeas petition, the Immigration Judge denied bond on a categorical basis: solely because Petitioner had been ordered removed and had a pending appeal before the Board of Immigration Appeals.
6. The denial failed to meaningfully weigh the individualized evidence submitted, including Petitioner's tax compliance, steady employment, fixed residence, credible bond sponsor, longstanding compliance with ICE check-ins, and absence of any recent criminal history. The mere formality of a hearing does not cure a due process violation where the outcome is predetermined by an unlawful categorical rule.
7. Administrative exhaustion is satisfied or, alternatively, excused as futile. Following nationwide developments after *Bautista v. Santacruz*, immigration judges have repeatedly relied on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), to deny bond jurisdiction or to issue blanket denials premised on the existence of a removal order. Where the agency has adopted a uniform legal position that effectively forecloses meaningful relief, exhaustion is not required. Petitioner has already obtained habeas relief once; the subsequent categorical bond denial demonstrates that further administrative proceedings would not remedy the constitutional defect.

8. On February 18, 2026, the United States District Court for the Central District of California granted Petitioners' Motion to Enforce Judgment in *Bautista v. Santacruz* and expressly vacated *Matter of Yajure Hurtado* under the APA as contrary to law. *Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM, (C.D. Cal. Feb. 18, 2026)(Order Granting Motion to Enforce and Vacating *Yajure-Hurtado,* Dkt. 107). The *Bautista* court held that executive agencies may not privilege a BIA interpretation over a federal court's binding declaration of law and reaffirmed that vacatur restores the status quo and sets aside unlawful agency action. *Id.* The court further ordered classwide notice and emphasized that continued reliance on *Yajure Hurtado* was unlawful. *Id.*
9. Although this order has been stayed for all putative class members outside of the District Court's jurisdiction, the enforcement order confirms that the agency-wide practice of denying bond hearings or issuing categorical denials based on non-final removal orders constitutes noncompliance with federal court judgments and unlawful executive action. Petitioner's bond denial premised solely on the existence of an arbitrary finding of "flight risk," mirrors the very rationale repudiated and vacated in *Bautista*.
10. To the extent Petitioner is a member of the nationwide declaratory class certified in *Bautista*, that status does not divest this Court of habeas jurisdiction. The *Bautista* court issued declaratory and APA relief but cannot issue a writ of habeas corpus directed to Petitioner's immediate custodian in Michigan. Habeas relief must be sought in the district of confinement against the immediate custodian. See *Rumsfeld v. Padilla*, 542 U.S. 426 (2004). Accordingly, this Court retains exclusive authority to grant effective habeas relief as to Petitioner's ongoing detention.

11. Nor does any decision such as *Trump v. J.G.G.* deprive this Court of jurisdiction. Petitioner does not seek to enjoin removal proceedings on a classwide basis, but rather seeks individualized habeas relief from unlawful detention and, in the alternative, APA relief setting aside arbitrary and capricious agency action. Federal courts have long retained jurisdiction to review the legality of executive detention notwithstanding jurisdiction-stripping provisions, particularly where constitutional claims and Suspension Clause concerns are implicated.

12. As Petitioner remains detained pursuant to a bond determination that was legally erroneous, constitutionally inadequate, and consistent with a nationwide pattern of agency noncompliance that has now been repudiated and vacated under the APA in *Bautista*, this Court properly exercises jurisdiction to adjudicate this second petition for writ of habeas corpus and accompanying claims for declaratory and APA relief.

III. VENUE

13. 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.

14. 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 Baldwin, housed in the Western District of Michigan.

IV. REQUIREMENTS OF 28 U.S.C § 2243

15. 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.

16. 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.*

17. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

V. PARTIES

18. Petitioner Rafael Canales Carias is a citizen of Honduras who has been in immigration detention since October 30, 2025.

19. 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.

20. 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.

21. 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.

VI. STANDARD OF REVIEW AND APPLICABLE LAW

22. 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 where custody violates the Constitution or federal law. *Jennings v. Rodriguez*, 583 U.S. 521 (2018).

23. 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).

24. 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).

25. 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.

26. 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).

27. 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)).

28. 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.

29. 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).

30. 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)).

31. 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.

32. 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.

33. 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.

34. Since Respondents adopted their 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.

35. 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); *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Aguilar Maldonado v. Olson*, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025).

36. Even where statutory authority exists, prolonged civil detention without an individualized bond hearing violates the Fifth Amendment's Due Process Clause. See *Jennings*, 583 U.S. at 540–41; *Mathews v. Eldridge*, 424 U.S. 319 (1976). The Government must justify

continued detention as necessary to ensure appearance or public safety, and less restrictive alternatives must be considered.

37. While flight risk is a legitimate factor for an Immigration Judge to weigh, it is *not* a catchall for the Government to hide behind in a backdoor attempt to enact their unconstitutional agenda.

38. Under *Matter of Guerra*, a flight-risk determination in a custody redetermination under section 236(a) of the Act requires an individualized, discretionary assessment of whether the respondent is likely to abscond if released. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). The burden rests on the respondent to establish that he does not pose a danger to the community, threat to national security, or flight risk.

39. In evaluating flight risk, the Immigration Judge may consider a broad range of discretionary factors, including whether the respondent has a fixed address in the United States, the length of residence in the country, family ties that may support lawful permanence, employment history, prior record of court appearances, criminal history (including recency and seriousness), prior immigration violations, any attempts to flee or evade authorities, and the manner of entry into the United States. *Id.*

40. *Guerra* makes clear that the Immigration Judge has wide discretion to determine which factors are most probative and may assign greater weight to some factors over others, so long as the decision rests on a reasonable foundation and considers the totality of the circumstances rather than a categorical rule. *Id.*

41. The Board recently held in *Matter of Iurii Dobrotvorskii,* the flight-risk inquiry in a bond proceeding requires an individualized, evidence-based assessment of whether continued

detention is necessary to ensure the respondent's appearance at future hearings. *Matter of Iurii Dobrotvorskii*, 29 I&N Dec. 211 (BIA 2025).

42. In conducting that analysis, the Immigration Judge must weigh all relevant and probative evidence in the record against the established custody factors set forth in *Matter of Guerra*, including whether the respondent has a fixed address in the United States, the length of residence in the United States, family and community ties, the manner of entry, employment history, and the likelihood of relief.

43. *Dobrotvorskii* further clarifies that the existence of a valid, reliable, and credible sponsor is directly relevant to the fixed-address and community-ties factors, as sponsorship can materially mitigate flight risk when supported by competent documentation and assurances of compliance.

44. The analysis must be holistic rather than categorical, and must evaluate both adverse factors and mitigating evidence to determine whether, under the applicable burden of proof, detention is justified to ensure appearance.

45. In denying bond solely on the basis that Mr. Canales has a removal order pending appeal before the Board of Immigration Appeals, the Immigration Judge failed to apply the flight-risk framework articulated in *Dobrotvorskii*, which requires an individualized evaluation of all relevant and probative custody factors rather than reliance on a single procedural posture.

46. *Dobrotvorskii* emphasizes that the existence of a credible sponsor and fixed address directly mitigates flight risk. By disregarding this documentary record and denying bond categorically because the removal order is on appeal (even though such an order is not administratively final while BIA review is pending), the Immigration Judge did not

conduct the individualized, evidence-based flight-risk analysis required by Board precedent, but instead invented some sort of per se rule untethered to any governing case law.

VII. FACTUAL BACKGROUND

47. Petitioner Rafael Canales Carias has continuously resided in the United States since April 2018. (**Exhibit B).**

48. Petitioner entered the U.S. without permission at or near El Paso, Texas on or about April, 2018. After his unlawful entry, he was encountered by the U.S. Customs and Border Protection (CBP) officials.

49. CBP issued Petitioner a Notice to Appear charging him with inadmissibility under 8 U.S.C. § 1182(a)(6)(A)(i) for being present in the United States without admission or parole. (**Exhibit A**). He was not charged as an "arriving alien." Petitioner was placed in removal proceedings before the Annandale, Virginia Immigration Court pursuant to 8 U.S.C. § 1229a.

50. Crucially, there is no evidence that an 'examining immigration officer' determined that Petitioner was not clearly and beyond a doubt entitled to be admitted as required to trigger mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Instead, he was processed as an interior apprehension. At no time was Petitioner interviewed by DHS about his reasons for coming to the United States. He was not offered or given a credible fear interview. Expedited removal proceedings were not commenced by CBP.

51. Upon information and belief, Petitioner was released from CBP custody pursuant to the Alternatives to Detention program, which required regular check-ins with ICE. This release constituted a conditional release under 8 U.S.C. § 1226(a), further confirming that

the agency originally classified him as subject to that statute, not the mandatory detention provisions of § 1225(b)(2).

52. Petitioner filed his I-589 application for asylum and withholding of removal with the Immigration Court in approximately June 2019. On August 23, 2023, an Immigration Judge denied his application. Petitioner timely filed an appeal with the BIA on September 12, 2023. The appeal remains pending. **(Exhibit C).**

53. On October 30, 2025, Petitioner was arrested by immigration officers at his scheduled check-in with ICE. He was subsequently transferred to the North Lake Processing Center in Baldwin, Michigan, where he remains detained. DHS issued a custody determination continuing detention without release.

54. Since his entry into the U.S., Mr. Canales Carias has complied with all requirements prescribed by DHS. He applied for asylum and withholding removal in immigration court. He applied for and was granted an employment authorization document based on his pending asylum application. Importantly, Mr. Canales Carias faithfully attended all/every appointments and hearings with DHS and EOIR during the pendency of his case.

55. Petitioner's criminal history is limited and remote. He sustained a driving while intoxicated conviction in approximately 2009 in Prince William County, Virginia. There have been no subsequent arrests, convictions, or driving-related incidents in the more than fifteen years since that offense. Petitioner is not subject to mandatory criminal detention under 8 U.S.C. § 1226(c).

56. After this Court conditionally granted his first petition for writ of habeas corpus and ordered that he receive an individualized bond hearing, Petitioner appeared before

Immigration Judge Joseph Kassell for a custody redetermination hearing on January 22, 2026.

57. In advance of that hearing, Petitioner submitted a comprehensive bond package, including documentary and testimonial evidence demonstrating his strong community ties, long-term residence, employment history, tax compliance, and availability of a qualified bond sponsor. (**Exhibit D**).

58. The bond submission included, *inter alia*, Petitioner's federal Form 1040 tax returns for tax years 2021 through 2024, reflecting lawful employment and substantial income, including over $100,000 in earnings in tax year 2024 as head of household. It also included evidence of his employment with Asplundh Tree Expert, LLC, as reflected in the addendum to his Form I-589 and corroborating character letters from co-workers.

59. Petitioner further submitted proof of a fixed address in Springfield, Virginia, including a notarized affidavit from his daughter, Iveth Canales Macias, confirming that he would reside with her upon release, as well as a copy of her current lease. He also submitted the birth certificate of his minor daughter [redacted] Canales Macias, who is a derivative on his asylum application, and identification documentation for his adult daughter Iveth.

60. Additionally, Petitioner presented a written statement and supporting identification from a naturalized United States citizen bond sponsor, Milton Javier Paz Rodas, who attested that he would ensure Petitioner's compliance with all immigration obligations and assist counsel in maintaining communication with Petitioner in light of *Matter of Dobrotvorskii,* 29 I&N Dec. 211 (BIA 2025), which recognizes the relevance of a valid and credible sponsor in assessing flight risk.

61. At the bond hearing, DHS relied in part on a Form I-213 dated October 30, 2025 and attempted to argue that Petitioner posed a danger to the community based on the 2009 DWI conviction. The Immigration Judge was not persuaded that Petitioner posed a danger, expressly recognizing the absence of any subsequent criminal conduct and the evidence of rehabilitation. Danger to the community was not a basis for denial. (**Exhibit E**).

62. Notwithstanding the extensive documentary record and the Court-ordered nature of the hearing, the Immigration Judge denied bond solely on the ground that Petitioner presented a flight risk because he had been ordered removed and had a pending appeal before the Board of Immigration Appeals. The written bond order states: "Denied, because of flight risk. The respondent has already been ordered removed and has a pending appeal before the BIA." **(Exhibit E)**

63. The Immigration Judge acknowledged on the record that the bond package was well-documented. However, rather than evaluating the totality of the evidence, the denial rested exclusively on the existence of a removal order on appeal.

64. By treating the mere pendency of an appeal as dispositive evidence of flight risk, the agency effectively converted Petitioner's statutory right to appeal into a categorical ground for continued detention. The Immigration Judge did not consider whether a higher bond amount could reasonably mitigate any perceived risk, nor did he articulate any individualized factual findings demonstrating that Petitioner would fail to appear for future proceedings.

65. Furthermore, Petitioner's denial appears to be a calculated tactic by the Government as a way to nullify granted habeas petitions. The thin "flight risk" reasoning by Immigration

Judges has recently become widespread and is contrary to what Immigration Judges and attorneys have experienced as standard practice).

66. The affidavit from Judge Lawrence O. Burman further paints the picture that this is not a matter of an individual IJ's analysis and discretion, but a larger pattern of agency practice. (**Exhibit F**).

67. Judge Burman attests that in his decades on the bench, it was rare to deny bond solely on flight risk and that concerns about appearance were ordinarily addressed by setting an appropriate bond amount rather than denying release altogether. He further attests that since early 2025 there has been a notable rise in bond denials and institutional pressure affecting adjudicators. These observations are not speculative; they reflect the professional assessment of a jurist who served nearly three decades as an Immigration Judge.

68. The declarations from two practicing immigration attorneys, including the attorney who represented Mr. Canales Carias in his bond hearing, support this as well. The attorneys detail how it was uncommon to have bond outright denied when the factors outlined in *Guerra* were present, and yet in recent weeks have seen these denials seemingly appear out of nowhere. (**Exhibit G**).

69. Based on the recent and novel blanket denials, the thin if nonexistent ruling from the Immigration Judge on flight risk, and the pattern and practice of the Government to defy and attack the Judiciary, Petitioner's denial is one more way that the Government has attempted to flout this Court's rulings.

70. As a result, Petitioner has been constructively denied due process, despite the Government's disingenuous attempt at a "bond hearing." Petitioner remains in ICE

custody with no opportunity for a ***meaningful*** individualized bond hearing to assess his flight risk or dangerousness. He has been subjected to underhanded agency policies designed to keep him in detention at any cost. Absent relief from this Court, Petitioner faces the prospect of prolonged, potentially indefinite detention based solely on an erroneous interpretation of immigration law and regulations.

VIII. CLAIMS FOR RELIEF

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

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

72. 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.

73. 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 14. Because Petitioner entered without inspection 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.

74. 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.

75. 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.

76. Sections 1226(a) and 1231 are the statutes governing pre-final and post-final order detention, respectively. At all times relevant to this petition, Petitioner's removal order has been non-final because his appeal remains pending before the Board of Immigration Appeals. As such, § 1231 only applies after a removal order is final and after the 90-day removal period has commenced, and has never governed Petitioner's detention.

77. Section 1231(a)(1)(A) provides that the removal period begins on the date the order of removal becomes administratively final, and § 1231(a)(2) states generally that during the removal period, the Attorney General "shall detain" the alien. However, the removal period has not begun for Petitioner because the Board has not rendered a final decision. Section 1231 thus has no application to Petitioner's case and does not justify or mandate his continued detention without bond.

78. In contrast, § 1226(a) expressly covers the detention of a noncitizen "pending a decision on whether the alien is to be removed from the United States" and permits detention to be terminated (and release secured) under conditions the Attorney General may prescribe, including bond. The plain text of § 1226(a) authorizes individualized custody determinations and conditional release pending the completion of removal proceedings.

79. Respondents have treated Petitioner's detention as if mandatory, equating his status with a mandatory § 1225(b)(2) case and continuing detention effectively without meaningful bond eligibility. At his bond hearing, the Immigration Judge denied bond solely on the

basis that Petitioner has a removal order on appeal, without engaging in a proper § 1226(a) analysis of the evidence relevant to flight risk and dangerousness.

80. The mere pendency of an appeal does not render a removal order final for purposes of § 1231, and it therefore cannot be the basis for applying the mandatory detention authority of § 1231. A removal order that remains subject to administrative appeal is not final and does not trigger § 1231's removal period or its mandatory detention directive. Until finality, § 1231 does not displace § 1226(a).

81. Reading § 1225(b)(2)(A) and § 1231 to apply in circumstances such as Petitioner's would collapse the carefully calibrated statutory scheme of the INA and render § 1226(a) redundant. Such a result is inconsistent with the text, structure, and purpose of the Act. Application of § 1225(b)(2)(A) or § 1231 to Petitioner's pre-final order detention would convert discretionary custody into de facto mandatory detention and would unfairly strip Petitioner of the statutory right to bond.

82. After *Loper Bright Enterprises v. Raimondo*, agency interpretations lacking direct grounding in the statute are not entitled to Chevron deference. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024). Any reliance on *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), or similar interpretations to justify treating Petitioner as subject to § 1231 or to an expanded mandatory detention regime lacks persuasive force and cannot override the statute's plain text and structure.

83. By treating Petitioner's detention as effectively mandatory and diminishing his § 1226(a) bond rights, Respondents have exceeded their statutory authority under the INA and deprived Petitioner of his entitlement to an individualized custody determination.

84. Petitioner is therefore detained in violation of the Immigration and Nationality Act. He is entitled to classification and custody consideration under 8 U.S.C. § 1226(a), including a lawful, individualized bond determination consistent with the statute and applicable law.

COUNT II
Violation of the Bond Regulations

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

86. 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).

87. 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.

88. 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.

89. 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 Chogllo Chafla*

v. Scott, No. 2:25-cv-00437-SDN (D. Me. Sept. 21 2025) (finding *Yajure-Hurtado* inconsistent with the INA and 1997 regulations).

90. Moreover, the United States District Court for the Central District of California has vacated *Matter of Yajure-Hurtado* under the Administrative Procedure Act and reaffirmed that the agency may not disregard the statutory and regulatory framework governing detention. *Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM, (C.D. Cal. Feb. 18, 2026)(Order Granting Motion to Enforce and Vacating *Yajure-Hurtado,* Dkt. 107).

91. Despite that ruling, immigration judges have continued to issue bond denials based on categorical reasoning tied to the existence of a removal order rather than conducting the individualized analysis required by the regulations.

92. By denying Petitioner meaningful access to the bond procedures mandated by 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, Respondents have acted beyond their statutory and regulatory authority.

93. This departure from binding regulations constitutes agency action that is arbitrary, capricious, not in accordance with law, and in excess of statutory authority within the meaning of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A) and (C).

94. As a result of this unlawful agency action, Petitioner remains detained despite the regulatory framework that guarantees him a meaningful opportunity to seek release on bond.

95. 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)

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

97. 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).

98. 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.

99. 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).

100. These regulations, codified at 8 C.F.R. §§ 236.1, 1236.1, 1003.19, have never been amended through notice-and-comment rulemaking. Respondents' 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.

101. 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).

102. 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*.

103. 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).

104. The United States District Court for the Central District of California has vacated *Matter of Yajure-Hurtado* under the Administrative Procedure Act, concluding that the agency's interpretation conflicts with the statutory detention framework and must be set aside.

105. Despite that ruling, Respondents continue to apply the reasoning underlying *Yajure-Hurtado* in individual custody determinations, including Petitioner's case. Immigration judges have issued bond denials based not on individualized findings but on categorical assumptions tied to the existence of removal orders or the procedural posture of the case.

106. Petitioner's bond denial illustrates this practice. Despite extensive evidence demonstrating stable employment, tax compliance, strong family ties, a fixed residence, and a credible bond sponsor, the Immigration Judge denied bond solely because Petitioner had a removal order pending appeal before the Board of Immigration Appeals.

107. A removal order that remains on appeal is not administratively final and does not trigger the post-order detention framework of 8 U.S.C. § 1231. Treating such a procedural posture as dispositive evidence of flight risk effectively converts discretionary detention under § 1226(a) into mandatory detention without statutory authorization.

108. This pattern of categorical bond denials grounded in the existence of a non-final removal order rather than individualized analysis reflect a broader agency practice that circumvents the statutory and regulatory custody framework governing immigration detention.

109. Respondents' conduct is therefore arbitrary and capricious because it disregards relevant evidence, substitutes categorical reasoning for individualized adjudication, and fails to articulate a rational connection between the facts of Petitioner's case and the decision to continue detention.

110. Respondents' actions are also ultra vires because they rely on an interpretation of § 1225(b)(2) that exceeds the scope of authority granted by Congress and conflicts with binding regulations that have never been amended through lawful rulemaking.

111. This claim is not barred by decisions such as *Trump v. J.G.G.* because Petitioner does not seek to enjoin removal proceedings or obtain sweeping classwide relief. Rather, he challenges the legality of agency action that produced his ongoing detention and the unlawful policy underlying his bond denial.

112. Federal courts have long exercised jurisdiction to review detention-related claims where the challenge concerns the legality of custody rather than the validity of a removal order. Petitioner's APA claim therefore falls squarely within the Court's traditional authority to review unlawful executive detention and to set aside agency action that exceeds statutory limits.

113. By detaining Petitioner pursuant to an unlawful interpretation of the INA and contrary to controlling regulations, Respondents have acted not 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).

114. Petitioner therefore seeks a declaration that Respondents' application of § 1225(b)(2) to him is unlawful, and an order directing his immediate release.

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

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

116. 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.*"

117. 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).

118. 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.

119. 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.

120. Petitioner's case illustrates the practical consequences of this framework. Petitioner obtained habeas relief requiring that he receive a custody redetermination hearing. Yet the Immigration Judge denied bond based solely on the existence of a removal order pending appeal before the Board of Immigration Appeals, without engaging in a meaningful individualized assessment of flight risk.

121. The reasoning underlying that decision effectively transforms a non-final removal order into a categorical basis for continued detention, thereby eliminating the individualized custody determination contemplated by the INA and its regulations.

122. When immigration judges deny bond based on categorical reasoning rather than individualized adjudication, and when administrative review is unavailable to challenge such determinations, detainees are left without a meaningful mechanism to test the legality of their confinement.

123. 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.

124. 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."

125. 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.

126. 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.

127. 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.").

128. 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.

129. This continued detention pursuant to an erroneous interpretation of the INA, combined with the agency's practice of denying meaningful bond review, therefore implicates the core protections of the Suspension Clause.

130. 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.

131. 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.

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

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

133. 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.

134. 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).

135. 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.

136. 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).

137. When detention extends beyond the period reasonably necessary to achieve those purposes, or when it occurs without any individualized determination of necessity, it violates the substantive due process guarantee that government action not be arbitrary, excessive, or purposeless. *Demore v. Kim*, 538 U.S. 510, 528 (2003); *Zadvydas*, 533 U.S. at 690.

138. Petitioner has now been detained for a prolonged period, since approximately October 30, 2025, without a meaningful opportunity to seek release or to demonstrate that he poses no risk of flight or danger. There is no rational justification for treating him as a mandatory-detention case under 8 U.S.C. § 1225(b)(2), a provision intended for arriving aliens at ports of entry.

139. Petitioner does not fall within that category. He entered the United States in 2018 and was placed in removal proceedings under 8 U.S.C. § 1229a. His case remains pending on appeal before the Board of Immigration Appeals, and his removal order is not administratively final.

140. As a result, the statutory detention framework applicable to Petitioner is the discretionary detention provision of 8 U.S.C. § 1226(a), which authorizes release on bond or conditional parole following an individualized determination of flight risk and dangerousness.

141. Despite this statutory framework, Respondents have continued to detain Petitioner without providing a meaningful opportunity for release. Although an immigration judge conducted a custody redetermination hearing following the grant of Petitioner's first habeas petition, the Immigration Judge denied bond solely because Petitioner has a removal order pending appeal before the Board of Immigration Appeals.

142. That reasoning effectively converts a non-final removal order into a categorical basis for continued detention and eliminates the individualized inquiry that due process requires.

143. The denial of bond did not reflect a meaningful evaluation of Petitioner's individual circumstances. The record before the Immigration Court demonstrated that Petitioner had stable employment, documented tax compliance, strong family ties in the United States, a fixed residence with his daughter, and a verified bond sponsor willing to ensure his compliance with immigration proceedings.

144. The Immigration Judge also rejected the government's argument that Petitioner posed a danger to the community based on a single driving offense from 2009, recognizing that the absence of any subsequent criminal conduct demonstrated rehabilitation.

145. Notwithstanding these findings, the Immigration Judge denied bond based solely on the existence of a removal order pending appeal. Such categorical reasoning deprives the custody process of its intended purpose and results in continued detention without individualized justification.

146. Petitioner's detention has therefore lost any legitimate regulatory purpose. The government's stated interests in ensuring appearance at proceedings and protecting the community can be addressed through reasonable conditions of release, including bond and reporting requirements.

147. Continued detention under these circumstances imposes a severe restraint on liberty that is excessive in relation to the government's regulatory interests.

148. Federal courts across the country have recognized that prolonged immigration detention without a meaningful opportunity to obtain release raises serious constitutional concerns. In *Chogllo Chafla v. Scott*, No. 2:25-cv-00437-SDN (D. Me. Sept. 21, 2025), the court granted habeas relief to noncitizens detained under similar circumstances, concluding that detention without meaningful bond review "exceeds what due process tolerates."

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

150. Petitioner's detention bears the hallmarks of the constitutional violations recognized in those cases. He remains confined for months without a meaningful opportunity to demonstrate that continued detention is unnecessary, despite overwhelming evidence supporting release.

151. The Due Process Clause forbids the government from detaining a person indefinitely or arbitrarily without adequate justification. As the Supreme Court explained in *Zadvydas*, once detention no longer bears a reasonable relationship to the government's regulatory objectives, it becomes unconstitutional. 533 U.S. at 690.

152. Because Respondents continue to detain Petitioner without a meaningful individualized determination that such detention is necessary to achieve legitimate governmental purposes, Petitioner's confinement violates the substantive component of the Due Process Clause of the Fifth Amendment.

153. Petitioner therefore respectfully requests that this Court declare his continued detention unconstitutional and order his immediate release.

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

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

155. 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).

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

157. 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).

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

159. 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).

160. Petitioner does not fall within the category of individuals for whom § 1225(b)(2) was designed. That provision governs applicants for admission encountered during the inspection process, not individuals who entered the country years earlier, established residence and community ties, and were later placed in removal proceedings within the interior of the United States.

161. Petitioner entered the United States in 2018 and was placed in removal proceedings under 8 U.S.C. § 1229a. His case remains pending before the Board of Immigration Appeals, and his removal order is not administratively final.

162. Under the structure of the Immigration and Nationality Act, individuals in Petitioner's position are subject to discretionary detention under 8 U.S.C. § 1226(a), which permits release on bond following an individualized assessment of flight risk and dangerousness

163. By treating Petitioner as subject to mandatory detention and denying him a meaningful opportunity to obtain release, Respondents have imposed a deprivation of liberty that bears no rational relationship to the regulatory purposes of immigration detention.

164. Substantively, prolonged detention that continues for months without a genuine individualized determination ceases to serve a legitimate regulatory purpose and becomes excessive and punitive. The Supreme Court has made clear that civil detention must remain reasonably related to its regulatory objectives and cannot be used as a mechanism of punishment. See *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 528 (2003).

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

166. The risk of erroneous deprivation is substantial where detention occurs without a meaningful opportunity to challenge the government's assertion that continued confinement is necessary. Without a genuine custody determination evaluating individual circumstances, detainees are deprived of liberty based on categorical assumptions rather than evidence.

167. Petitioner's case demonstrates the danger of such a system. Although an immigration judge conducted a custody redetermination hearing following the grant of Petitioner's

first habeas petition, bond was denied solely because Petitioner had a removal order pending appeal before the Board of Immigration Appeals.

168. That reasoning effectively transforms the existence of a non-final removal order into a categorical basis for detention, eliminating the individualized inquiry that due process requires.

169. The evidence before the Immigration Court demonstrated that Petitioner had stable employment, documented tax compliance, a fixed residence with his daughter, strong family ties within the United States, and a credible bond sponsor willing to ensure his compliance with immigration proceedings.

170. The Immigration Judge also determined that Petitioner did not pose a danger to the community, rejecting the government's reliance on a single driving offense from 2009.

171. Despite these findings, bond was denied based solely on the procedural posture of Petitioner's case. Such categorical reasoning undermines the procedural protections required by the Due Process Clause.

172. Courts addressing similar detention practices have concluded that prolonged immigration detention without a meaningful opportunity for individualized review violates due process. See *Choglllo Chafla v. Scott*, No. 2:25-cv-00437-SDN, 2025 U.S. Dist. LEXIS 184909, at *333 (D. Me. Sept. 21, 2025) (holding that the *Mathews* factors required a custody hearing where detainees could challenge continued detention).

173. Petitioner has been gravely prejudiced by Respondents' misapplication of the detention statutes and their refusal to provide a constitutionally meaningful custody determination.

174. His continued confinement has now spanned months, despite his compliance with immigration proceedings and the absence of any evidence that he poses a flight risk or danger. It serves no lawful regulatory purpose and constitutes an arbitrary deprivation of liberty.

175. Respondents' actions therefore violate both the substantive and procedural guarantees of the Fifth Amendment's Due Process Clause.

176. Petitioner respectfully requests that this Court declare his continued mandatory detention unconstitutional and order his immediate release.

PRAYER FOR RELIEF

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

1. **Issue the Writ and Order Immediate Release.** Grant the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 and order Petitioner's immediate release from immigration custody, because Respondents have deliberately circumvented this Court's prior habeas order through a pretextual and categorical "flight risk" denial that deprives Petitioner of a meaningful custody determination and results in ongoing unlawful detention.
2. **Bond-Hearing Alternative**. In the alternative to immediate release, order a prompt, individualized custody hearing before a neutral immigration judge within 5 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.

3. **Declare the Detention Contrary to the INA and Regulatory Framework.** Declare that Respondents' continued detention of Petitioner under an unlawful detention framework (including any continued reliance on 8 U.S.C. § 1225(b)(2) and/or categorical treatment that nullifies Petitioner's entitlement to discretionary custody consideration under 8 U.S.C. § 1226(a)) is contrary to the Immigration and Nationality Act and its implementing regulations, including 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
4. **Declare Agency Action Unlawful Under the APA.** Declare that Respondents' policy, practice, and pattern of circumventing court-ordered habeas relief through categorical or preordained custody outcomes—such as the use of an expanded, unsupported theory of "flight risk" that substitutes a per se rule for individualized adjudication—is arbitrary, capricious, contrary to law, and in excess of statutory authority in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A) and (C), and set aside such agency action as applied to Petitioner.
5. **Declare Constitutional Violations.** Declare that Petitioner's continued detention under these circumstances violates the Fifth Amendment's substantive and procedural due process guarantees, and that to the extent Respondents' detention framework forecloses meaningful review of the legality of custody, it also violates the Suspension Clause, U.S. Const. art. I, § 9, cl. 2.
6. **Enforce *Bautista* Principles to the Extent Applicable.** Recognize that Petitioner is within the scope of the declaratory and APA relief recognized in *Bautista v. Santacruz*

and that Respondents may not lawfully rely on vacated or repudiated detention interpretations to maintain Petitioner's custody; and grant such relief as necessary to effectuate those principles in this District through individualized habeas relief directed to Petitioner's immediate custodian.

7. **Injunctive and Status-Quo Relief to Effectuate Release.** Pending final disposition and implementation of this Court's judgment, enjoin Respondents from transferring Petitioner outside this District absent prior notice to and authorization from this Court, and order Respondents to maintain the status quo necessary to ensure this Court's effective jurisdiction and the prompt execution of any release order.
8. **Stay of Removal as Necessary to Preserve Jurisdiction.** To preserve this Court's jurisdiction over Petitioner's custody and prevent irreparable harm, stay Petitioner's removal for the duration of these proceedings and through completion of any relief ordered by this Court.
9. **Production of Records and Compliance Reporting.** Order Respondents to produce forthwith Petitioner's A-file and custody records, including any Form I-286 or successor custody determinations, the record of the January 22, 2026 custody redetermination proceedings, and any documents relied upon to justify continued detention; and require Respondents to file a verified status report confirming compliance with this Court's order within a timeframe set by the Court.
10. **Retention of Jurisdiction.** Retain jurisdiction to enforce, supervise, and ensure compliance with this Court's judgment and any injunctive relief necessary to remedy Respondents' unlawful detention of Petitioner.

11. **Costs and Further Relief.** Award costs and grant such other and further relief as the Court deems just and proper; and, without waiver, reserve Petitioner's right to seek attorneys' fees under any applicable authority.

Respectfully submitted.

Dated: March 19, 2026

Respectfully submitted,

AVANTI LAW GROUP, PLLC

By: */s/ Robert Anthony Alvarez*
Robert Anthony Alvarez (P66954)
600 28th St. SW
Wyoming, MI 49509
(616) 257-6807
ralvarez@avantilaw.com
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2026, *Petitioner's Petition for Writ of Habeas Corpus* was filed with the Court Clerk via ECF system e-filing system which will give notice of such filing to all parties of record.

/s/ Robert Anthony Alvarez
Robert Anthony Alvarez