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

Miguel Rosas Ruiz Petitioner, v. KEVIN RAYCRAFT, in his official capacity as 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 U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, Respondents.	Case No. Hon. **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. This petition arises from the U.S. government's new policy—which contradicts both the plain language of the Immigration and Nationality Act (INA) and decades of agency practice—of erroneously interpreting the INA to mandate detention without the possibility of bond for noncitizens who entered the United States without inspection, even if they have been residing here for years.

2. This policy has led to the unlawful detention of countless noncitizens nationwide. Dozens of habeas corpus petitions for their release have been filed in jurisdictions across the country, including many in the Eastern District of Michigan. Virtually every merits decision in those cases has found for the petitioners, either granting them a bond hearing or ordering their immediate release.

3. Petitioner Miguel Rosas Ruiz has been unlawfully detained without the possibility of bond in furtherance of this policy. Petitioner came to the United States 25 years ago and has lived here ever since.

4. Petitioner, who has no criminal record, was taken into immigration custody after three ICE vehicles violently intercepted his vehicle, causing a collision into Petitioner's vehicle while he was on his way to work. Respondents placed Petitioner in civil immigration removal proceedings, alleging that he had entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

5. Petitioner is currently in the physical custody of Respondents at North Lake Detention Facility which falls under the purview of the Detroit Field Office of Immigration and Customs Enforcement (ICE), which has responsibility for immigration detention centers in Michigan and Ohio.

6. Petitioner

7. Under 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond, Petitioner is entitled to a bond determination. That statute expressly applies to people who, like Petitioner, are residing in the United States but are charged as inadmissible for having initially entered the United States without inspection. In accordance with 8 U.S.C. § 1226(a), the Department of Homeland Security (DHS) and Executive Office of Immigration Review (EOIR) have for decades provided bond determinations and bond hearings to people like Petitioner who have been living in the United States but allegedly entered without inspection.

8. However, pursuant to a new governmental policy announced on July 8, 2025,[1] Petitioner is now being unlawfully detained without bond. The new policy instructs all ICE employees to no longer apply 8 U.S.C. § 1226(a) to people charged with being inadmissible under § 1182(a)(6)(A)(i)—i.e., those who initially entered

[1] ICE Memo: Interim Guidance Regarding Detention Authority for Applicants for Admission (Jul. 8, 2025), https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission [https://perma.cc/8SP7-TDDD].

the United States without inspection. Instead, under the new policy, ICE employees are to subject people like Petitioner to mandatory detention without bond under § 1225(b)(2)(A)—a provision that has historically been applied only to recent arrivals at the U.S. border—no matter how long they have resided in the United States.

9. Detaining Petitioner without bond is plainly contrary to the statutory framework of the INA and contrary to both agency regulations and decades of consistent agency practice applying § 1226(a) to people like Petitioner. It also violates Petitioner's right to due process by depriving him of his liberty without any consideration of whether such a deprivation is warranted.

10. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately released from custody unless Petitioner is provided with a bond hearing where the government proves by clear and convincing evidence that Petitioner is a flight risk or a danger to the community, pursuant to § 1226(a) within seven days.

11. Petitioner is not challenging any discretionary denial of bond; he is challenging the legal determination that he is not eligible for bond under § 1226(a) in the first place.

JURISDICTION

12. Petitioner Miguel Rosas Ruiz is in the physical custody of Respondents. Petitioner is detained at the North Lake Detention Facility in Baldwin, Michigan.

13. This Court has jurisdiction under 28 U.S.C. § 2241 (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.

VENUE

15. Venue is proper in the Western District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is detained in an immigration detention facility at the direction of, and is in the immediate custody of, Respondent Kevin Raycraft. *See Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

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 and relevant facts occurred in the Eastern District.

REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court must grant the petition for a 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).

PARTIES

19. Petitioner, Miguel Rosas Ruiz, is a citizen of Mexico who has resided in the United States since May 2001. He has been in immigration detention since March 10, 2026, and is currently detained at North Lake Detention Facility. After taking custody of Petitioner, ICE did not set bond. Petitioner is not seeking a bond because his Immigration attorney advised it would be futile to do so given the current policies.

20. Respondent Kevin Raycraft is the Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Director Raycraft 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 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 Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

23. 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 are component agencies. She is sued in her official capacity.

24. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

FACTS

25. Petitioner Miguel Rosas Ruiz has resided in the United States since at least May 2001 and lives in Ypsilanti, MI. Petitioner is 50 years old.

26. Petitioner is the father of four U.S. Citizen children, ages 24, 22, 19 and 12. Petitioner is a resident of Ypsilanti Michigan, In 2003, he established a painting and carpentry business, which enabled him to support his two older children through

college. He continues to financially support his second-youngest daughter, who is currently enrolled in college, as well as his youngest son, who is in middle school. Further, Mr. Rosas Ruiz is a member of [redacted] in Ann Arbor, MI where he participates of Sunday service, and each of his children have been baptised and celebrated their first communion.

27. In January 2025, Petitioner was diagnosed with obstructive sleep apnea, a serious medical condition requiring nightly use of a CPAP machine. Despite this diagnosis, Respondents have failed to provide this necessary treatment during his detention. As a result, Petitioner is afraid to fall asleep due to the heightened risk of stroke and cardiac arrhythmia associated with untreated sleep apnea.

28. On March 10, 2026 Petitioner left his home in Ypsilanti, MI, he was driving near Carpenter Road with another individual as a passanger. Suddenly, three ICE vehicles intercepted him, one of them recklessly crossing his vehicle in front of Petitioner's causing a collision. Despite Petitioner's advance age, no medical care was offered or provided as a result of this collision. Petitioner and the vehicle's passenger were both apprehended. ICE Petitioner is now detained at North Lake Detention Facility.

29. DHS placed Petitioner in removal proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with

being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

30. Following the initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue detaining Petitioner without providing an opportunity to post bond or be released under other conditions.

31. Petitioner's immigration counsel advised that seeking a bond hearing would be futile, as judges at the Detroit Immigration Court are currently deeming people who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

32. Petitioner is clearly neither a flight risk nor a danger to the community, as demonstrated by the following:

- Petitioner has no criminal record
- Petitioner has lived in the United States since age 25, and for the majority of his adult life. Establishing his family in the city of Ypsilanti, where he lives with his wife and younger children.
- Petitioner is working with an immigration attorney and has strong claims for immigration relief.

33. Without relief from this court, Petitioner faces the prospect of months—or even years—in immigration custody, separated from family and community, and without proper access to medical care to treat his obstructive sleep apnea.

LEGAL FRAMEWORK

A. Unlawful Detention Without Possibility of Bond

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

35. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens who are in removal proceedings. *See* 8 U.S.C. § 1229a. *See also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings"). Under § 1226(a), individuals who are taken into immigration custody pending a decision on whether they are to be removed can be detained but are generally entitled to seek release on bond.[2] The bond may be set by ICE itself as part of an initial custody determination, *see* 8 C.F.R. § 1236.1(c)(8), and/or the individual may seek a bond hearing in immigration court at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Section 1226(a) is the statute that, for decades, has been applied to people like Petitioner who have been living in the United States and are charged with inadmissibility under § 1182(a)(6)(A)(i).

36. Second, the INA provides for mandatory detention of certain recently arrived noncitizens, namely those subject to expedited removal under 8 U.S.C. §

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[2] Section § 1226 contains an exception for noncitizens who have been arrested, charged with, or convicted of certain crimes, who are subject to mandatory detention without bond. 8 U.S.C. § 1226(c). That exception does not apply to Petitioner here.

1225(b)(1), and other recent arrivals seeking admission under § 1225(b)(2). *See Jennings*, 583 U.S. at 287, 289 (explaining that § 1225(b)(2)'s mandatory detention scheme applies "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the United States."). Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Petitioner.

37. Third, the INA also provides for detention of noncitizens who have already been ordered removed, *see* 8 U.S.C. § 1231. Section 1231 is not relevant here.

38. This case challenges Respondents' erroneous decision that Petitioner is subject to mandatory detention without bond under §1225(b)(2), rather than being bond-eligible under § 1226(a).

39. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 582–583, 585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

40. Following the 1996 enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not 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. 10,312, 10,323 (Mar. 6, 1997) (explaining that "[d]espite being applicants for admission, [noncitizens] 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.").

41. Thus, in the three decades that followed, people who entered without inspection and were subsequently placed in removal proceedings received bond hearings if ICE chose to detain them, 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 IJ 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 § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

42. However, on July 8, 2025, ICE, "in coordination with" the Department of Justice, suddenly announced a new governmental policy that rejected the well-established understanding of the statutory framework and reversed decades of agency practice.

43. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection are subject to mandatory detention without bond

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 for decades or since infancy.

44. In decision after decision, federal courts—both nationwide and here in the Eastern District of Michigan—have rejected Respondents' sudden reinterpretation of the statutory scheme, and have instead held that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *See, e.g., Gomes v. Hyde*, No. 25-CV-11571, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2084238 (D. Mass. July 24, 2025); Order, *Bautista v. Santacruz Jr.*, No. 25-CV-1873 (C.D. Cal. July 28, 2025), Dkt. 14; *Rosado v. Figueroa*, No. 25-CV-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, --- F. Supp. 3d ---, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); Order, *Gonzalez v. Noem*, No. 25-CV-2054 (C.D. Cal. Aug. 13, 2025), Dkt. 12; *Dos Santos v. Noem*, No. 25-CV-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, --- F. Supp. 3d ---, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 25-CV-01789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); Order, *Aguilar Vazquez v. Bondi*, No. 25-CV-3162 (D. Minn. Aug. 19, 2025), Dkt. 17; *Romero v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 Civ. 6373, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*,

No. 25-CV-06248, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 25-CV-02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); Order, *Ruben Benitez v. Noem*, No. 25-CV-2190 (C.D. Cal. Aug. 26, 2025), Dkt. 11; *Kostak v. Trump*, No. 25-CV-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, --- F. Supp. 3d ---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Diaz Diaz v. Mattivelo*, No. 25-CV-12226, 2025 WL 2457610 (D. Mass. Aug. 27, 2025); *Francisco T. v. Bondi*, --- F. Supp. 3d ---, 2025 WL 2629839 (D. Minn. Aug. 29, 2025); *Lopez-Campos v. Raycraft*, --- F. Supp. 3d ---, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); Order, *Jimenez Garcia v. Kaiser*, No. 25-CV-06916 (N.D. Cal. Aug. 29, 2025), Dkt. 22; *Garcia v. Noem*, No. 25-CV-02180, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Hernandez Nieves v. Kaiser*, No. 25-CV-06921, 2025 WL 2533110 (N.D. Cal., Sept. 3, 2025); *Doe v. Moniz*, --- F. Supp. 3d ---, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); Order, *Encarnacion v. Moniz*, No. 25-CV-12237 (D. Mass. Sept. 5, 2025), Dkt. 16; *Jimenez v. FCI Berlin, Warden*, --- F. Supp. 3d ---, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Mosqueda v. Noem*, No. 25-CV-02304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Hinestroza v. Kaiser*, No. 25-CV-07559, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Sampiao v. Hyde*, --- F. Supp. 3d ---, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Guzman v. Andrews*, No. 25-CV-01015, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Lopez Santos v.*

Noem, No. 25-CV-01193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Salcedo Aceros v. Kaiser*, No. 25-CV-5624, 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); Order, *Lamidi v. FCI Berlin, Warden*, No. 25-CV-297 (D.N.H. Sept. 15, 2025), Dkt. 14; *Garcia Cortes, v. Noem*, No. 25-CV-02677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Pablo Sequen v. Kaiser*, --- F. Supp. 3d ---, 2025 WL 2650637 (N.D. Cal. Sept. 16, 2025); *Maldonado Vazquez v. Feeley*, No. 25-CV-01542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Velasquez Salazar v. Dedos*, No. 25-CV-00835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Hasan v. Crawford*, --- F. Supp. 3d --- , 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Yumbillo v. Stamper*, No. 25-CV-00479, 2025 WL 2688160 (D. Me. Sept. 19, 2025); *Beltran Barrera v. Tindall*, No. 25-CV-541, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Chogllo Chafla v. Scott*, No. 25-CV-00437, 2025 WL 2688541 (D. Me. Sept. 21, 2025); *Singh v. Lewis*, No. 25-CV-96, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Giron Reyes v. Lyons*, --- F. Supp. 3d ---, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Brito Barrajas v. Noem*, No. 25-CV-00322, 2025 WL 2717650 (S.D. Iowa Sept. 23, 2025); *Lepe v. Andrews*, --- F. Supp. 3d ---, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Lopez v. Hardin*, No. 25-CV-830, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025); *Roa v. Albarran*, No. 25-CV-07802, 2025 WL 2732923 (N.D. Cal. Sept. 25, 2025); *Rivera Zumba v. Bondi*, No. 25-CV-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Valencia Zapata v. Kaiser*, --- F. Supp. 3d ---, 2025 WL 2741654 (N.D. Cal. Sept.

26, 2025); *Alves da Silva v. U.S. Immigr. & Customs Enf't*, No. 25-CV-284, 2025 WL 2778083 (D.N.H. Sept. 29, 2025); *Chang Barrios v. Shepley*, No. 25-CV-00406, 2025 WL 2772579 (D. Me. Sept. 29, 2025); *Inlago Tocagon v. Moniz*, --- F. Supp. 3d ---, 2025 WL 2778023 (D. Mass. Sept. 29, 2025); *J.U. v. Maldonado*, No. 25-CV-04836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Romero-Nolasco v. McDonald*, --- F. Supp. 3d ---, 2025 WL 2778036 (D. Mass. Sept. 29, 2025); *Quispe v. Crawford*, No. 25-CV-1471, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025); *Chiliquinga Yumbillo v. Stamper*, No. 25-CV-00479, 2025 WL 2783642 (D. Me. Sept. 30, 2025); Order, *Morales v. Plymouth Cnty. Corr. Facility*, No. 25-CV-12602 (D. Mass. Sept. 30, 2025), Dkt. 15; *Quispe-Ardiles v. Noem*, No. 25-CV-01382, 2025 WL 2783800 (E.D. Va. Sept. 30, 2025); *Rodriguez v. Bostock*, --- F. Supp. 3d ---, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025); *D.S. v. Bondi*, No. 25-CV-3682, 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Ayala Casun v. Hyde*, No. 25-CV-427, 2025 WL 2806769 (D.R.I. Oct. 2, 2025); *Chanaguano Caiza v. Scott*, No. 25-CV-00500, 2025 WL 2806416 (D. Me. Oct. 2, 2025); *Guzman Alfaro v. Wamsley*, No. 25-CV-01706, 2025 WL 2822113 (W.D. Wash. Oct. 2, 2025); *Rocha v. Hyde*, No. 25-CV-12584, 2025 WL 2807692 (D. Mass. Oct. 2, 2025); *Alvarenga Matute v. Wofford*, No. 25-CV-01206, 2025 WL 2817795 (E.D. Cal. Oct. 3, 2025); *Escobar v. Hyde*, No. 25-CV-12620, 2025 WL 2823324 (D. Mass. Oct. 3, 2025); *Cordero Pelico v. Kaiser*, No. 25-CV-07286, 2025 WL 2822876 (N.D. Cal. Oct. 3, 2025);

Echevarria v. Bondi, No. 25-CV-03252, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); *Guerrero Orellana v. Moniz*, --- F. Supp. 3d ---, 2025 WL 2809996 (D. Mass. Oct. 3, 2025); *Artiga v. Genalo*, No. 25-CV-5208, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025); *Hyppolite v. Noem*, No. 25-CV-4304, 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025).[3]

45. This list is undoubtedly incomplete. As the media has reported, the government's new no-bond policy has "led to dozens of recent rulings from gobsmacked judges who say the administration has violated the law and due process rights …. The pile up of decisions is growing daily." Kyle Cheney and Myah Ward, *Trump's New Detention Policy Targets Millions Of Immigrants. Judges Keep Saying It's Illegal*, Politico (Sept. 20, 2025, at 4:00 PM ET), https://www.politico.com/news/2025/09/20/ice-detention-immigration-policy-00573850.

46. In recent months, the Eastern District of Michigan has repeatedly rejected Respondents' interpretation of the INA and granted writs of habeas corpus to detained noncitizens to whom Respondents denied a bond hearing. On August 29, 2025, Judge Brandy McMillion granted a writ of habeas corpus to an identically

[3] *But see Chavez v. Noem*, No. 25-CV-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (denying request for *ex parte* temporary restraining order on grounds that the petitioners' motion did not raise "serious questions going to the merits."); *Vargas Lopez v. Trump*, No. 25-CV-526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) (denying habeas petition primarily due to "the mistakes in the Petition, including the failure of Vargas Lopez to attach certain referenced exhibits.").

situated petitioner, concluding that "There can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a noncitizen who has resided in this country for . . . years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border." *Lopez-Campos*, --- F.Supp.3d. ---, 2025 WL 2496379, at *8. And on September 9, 2025, Judge Robert White issued the same relief to another identically situated petitioner, reasoning that "the legislative history and agency guidance . . . in conjunction with the statutory interpretation" clearly entitles the petitioner to a bond hearing under § 1226(a). *Pizarro Reyes*, No. 25-cv-12546, 2025 WL 2609425, at *8. More recent decisions holding the same include: *Contreras-Cervantes v. Raycraft*, No. 25-cv-13073, 2025 WL 2952796 (E.D. Mich. Oct. 17, 2025); *Diaz-Sandoval v. Raycraft*, No. 25-cv-12987 (E.D. Mich. Oct. 17, 2025); *Pacheco Mayen v. Raycraft*, 25-cv-13056 (E.D. Mich. Oct. 17, 2025); *Contreras-Lomeli v. Raycraft*, No. 25-cv-129826 (E.D. Mich. Oct. 21, 2025); *Casio-Mejia v. Raycraft*, 25-cv-13032 (E.D. Mich. Oct. 21, 2025); *Santos Franco v. Raycraft*, 25-cv-13199 (E.D. Mich. Oct. 21, 2015).

47. On September 5, 2025, the BIA issued a precedential decision that rejected the overwhelming consensus of the federal courts. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision held that all noncitizens who

entered the United States without admission or parole are ineligible for bond hearings before an IJ.

48. The *Yajure Hurtado* decision—like the government policy it seeks to uphold—defies the INA. As Judge Robert White wrote—after noting that federal district courts are not bound by agency interpretations of statutes—the BIA's reasoning is unpersuasive and "at odds with every District Court that has been confronted with the same question of statutory interpretation." *Pizarro Reyes*, 2025 WL 2609425, at *7. *See also Sampiao*, 2025 WL 2607924, at *8 n.11 (noting court's disagreement with BIA's analysis in *Yajure Hurtado*); *Beltran Barrera*, No. 25-CV-541, 2025 WL 2690565, at *5 (same); *Chogllo Chafla*, No. 25-CV-00437, 2025 WL 2688541, at *7-8 (same).

49. As court after court has explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

50. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

51. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. §

1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez*, 779 F. Supp. 3d at 1256-57 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

52. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

53. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). *See Jennings*, 583 U.S. at 287 (explaining that this mandatory detention 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 admissible.").

54. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people who have already entered and were long residing in the United States at the time they were apprehended by immigration authorities and detained.

Because § 1226(a), not § 1225(b), is the applicable statute, Petitioner's detention without eligibility for bond is unlawful.

55. Petitioner seeks relief from this Court because any months-long appeal to the BIA of an IJ's decision denying bond would be futile. A new request for a bond hearing is likewise futile. First, the agency's position is clear: both IJs and future panels of the BIA must follow the *Yajure Hurtado* decision. Further, the new governmental policy was issued "in coordination with DOJ," which oversees the immigration courts, including the BIA—up to and including the ability of the Attorney General to modify or overrule decisions of the BIA, *see* 8 C.F.R. § 1003.1(h). It is therefore unsurprising that the BIA has (erroneously) held that persons like Petitioner are subject to mandatory detention under § 1225(b)(2)(A), rather than being bond-eligible under § 1226(a). Moreover, in the numerous identical habeas corpus petitions that have been filed nationwide, EOIR and the Attorney General are often respondents and have consistently affirmed via briefing and oral argument that individuals like Petitioner are applicants for admission and subject to detention under § 1225(b)(2)(A). *See, e.g.,* Resp. to Pet., *Lopez Campos v. Raycraft*, No. 25-CV-12546 (E.D. Mich. Aug. 9, 2025), Dkt. 9; Resp. to Pet., *Pizarro Reyes v. Raycraft*, No. 25-CV-12546 (E.D. Mich. Aug. 27, 2025), Dkt. 4.

56. Second, by the time the BIA could even issue an appeal—a process that typically takes at least six months, *Rodriguez*, 779 F. Supp. 3d at 1245, and in many

cases roughly a year, *id.*—the harm of Petitioner's unlawful detention will be impossible to remediate. Nor will the downstream effects of continued detention be remediable: Petitioner's family and community will be left without a caretaker and contributor for months.

57. Third, neither IJs nor the BIA have the authority to decide constitutional claims. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006). Here, Petitioner claims not only that Respondents are unlawfully detaining his without bond hearings under an inapplicable statute, but also that such detention violates Petitioner's constitutional right to due process if the government seeks to deprive his of his liberty.

B. Due Process Right to Reasonably Safe Non-Punitive Civil Detention

58. The Fifth Amendment Due Process Clause prohibits punishment of people in civil custody. *Bell v. Wolfish*, 441 U.S. 520, 535 n.16(1979)

59. Immigration detainees are protected by the Fifth Amendment's Due Process Clause, which "applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." Zadvydas v. Davis, 533 U.S. 678 (2001)

60. The Supreme Court has recognized that the government "has an obligation to provide medical care for those whom it is punishing by incarceration." *Estelle v. Gamble*, 429 U.S. 97 (1976)

61. To establish a constitutional violation for inadequate medical care, detainees must satisfy both objective and subjective components under the deliberate indifference framework established in *Estelle v. Gamble.* _Estelle v. Gamble, 429 U.S. 97 (1976)

62. The objective component requires demonstrating "*serious medical needs,*" while the subjective component demands showing that detention officials acted with "*deliberate indifference*" to that substantial risk of serious harm. *Farmer v. Brennan*, 511 U.S. 825 (1994) This standard requires proof that officials were aware of facts from which they could infer a substantial risk of serious harm and consciously disregarded it; such knowledge can be proven directly or inferred from the obviousness of the risk. *Villegas v. Metropolitan Government of Nashville*, 709 F.3d 563 (2013)

63. In *Malam v. Aducci*, the Eastern District of Michigan granted relief in cases involving immigration detainees with serious medical conditions during the COVID-19 pandemic. Relying on the Eighth Circuit reasoning on *Butler v. Fletcher* that in cases of civil detention, the Court found that the *deliberate indifference* test applies. *See* 665 F.3d 340 (8th Cir. 2006).

64. "[W]hen the State by the affirmative exercise of its power so restrains an individual's liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs—e.g., food, clothing, shelter, medical

care, and reasonable safety—it transgresses the substantive limits on state action set by the Eighth Amendment and the Due Process Clause.["] *Malam v. Adducci*, 459 F.Supp.3d 867, 881 (E.D.Mich., 2020)

65. "[D]eliberate indifference requires a showing of an objective substantial risk of serious harm and a subjective culpable mental state." *Villegas v. Metro. Gov't*, 709 F.3d 563, 568 (6th Cir. 2013) (citing *Harrison v. Ash*, 539 F.3d 510, 518 (6th Cir. 2008).

66. "[T]he objective component of a deliberate indifference claim is satisfied by showing that "absent reasonable precautions, an inmate is exposed to a substantial risk of serious harm." *Richko v. Wayne Cty.*, 819 F.3d 907, 915 (6th Cir. 2016) (citing *Amick v. Ohio Dep't of Rehab. & Corr.*, 521 F. App'x. 354, 361 (6th Cir. 2013)

67. Petitioner has been diagnosed with severe obstructive sleep apnea ("OSA") and requires nightly use of a CPAP machine while sleeping. See Exh. A. Respondents have failed to provide this necessary medical equipment. The consequences of untreated OSA are well documented in the medical literature and include an increased risk of serious health complications, such as hypertension, heart disease, stroke, and cardiac arrhythmias, as well as chronic oxygen deprivation, excessive daytime fatigue, and cognitive impairment. Without access to a CPAP machine, Petitioner faces a substantial risk of ongoing harm and

potentially life-threatening complications. *See* https://www.hopkinsmedicine.org/health/conditions-and-diseases/obstructive-sleep-apnea?utm_source=chatgpt.com; *See* also https://sleep.hms.harvard.edu/education-training/public-education/sleep-and-health-education-program/sleep-health-education-34

68. On Wednesday March 18th Petitioner's counsel advise Respondents of Petitioner's condition and requested immediate release or appropriate medical care. Respondents' counsel acknowledged the email. However no measures have been taken to provide Petitioner his necessary medical equipment.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

70. Respondents are unlawfully detaining Petitioner without bond pursuant to the mandatory detention provision at 8 U.S.C. § 1225(b)(2).

71. Section 1225(b)(2) does not apply to Petitioner, who previously entered the country and has long been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents.

72. Instead, Petitioner should be subject to the detention provisions of § 1226(a) and are therefore entitled to a custody determination by ICE, and if custody is continued, to a custody redetermination (i.e., a bond hearing) by an immigration judge.

73. Respondents' application of 8 U.S.C. § 1225(b)(2) to Petitioner results in Petitioner's unlawful detention without the opportunity for a bond hearing and violates the INA.

COUNT II

Violation of Due Process

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

75. 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 (2001).

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

77. The government's detention of Petitioner without an opportunity for a custody determination or bond hearing to decide whether he is a flight risk or danger violates Petitioner's right to due process.

COUNT III

Violation of Fifth Amendment Right to Due Process (Failure to Provide Medical Care)

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 Fifth Amendment of the United States Constitution guarantees immigrant detainees the right to be provided with adequate medical care. The government violates that guarantee when it does not provide Petitioner with a medical necessary equipment, i.e. CPAP machine.

80. Respondents are aware of Petitioner's medical condition and have not taken any precautions or measures to ensure Petitioner receives this necessary medical care.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Enjoin Respondents from transferring Petitioner from the jurisdiction of this District pending these proceedings;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C.

e. Issue a writ of habeas corpus granting Petitioner's immediate release because his continue detention without necessary medical care violates the Due Process Clause;

f. In the alternative, Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner, unless they provide him with a bond hearing before a neutral Immigration Judge where the government bears the burden to prove by clear and convincing evidence that Petitioner is a flight or danger risk;

g. Declare that 8 U.S.C. § 1226(a)—and not 8 U.S.C. § 1225(b)(2)(A) — is the appropriate statutory provision that governs Petitioner's detention and eligibility for bond because Petitioner is not a recent arrival "seeking admission" to the United States, and instead was already residing in the United States when apprehended and charged as inadmissible for having allegedly entered the United States without inspection;

h. Award Petitioner 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

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

Dated: March 20, 2026

Respectfully submitted,

/s/ Maria Eugenia Daniel
Maria Eugenia Daniel
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248-924-3176

Counsel for Petitioner

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge.

Dated: March 20, 2026

Respectfully submitted,

/s/ Maria Eugenia Daniel
Maria Eugenia Daniel
CARRERA LAW OFFICES PLLC

Counsel for Petitioner