UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

LUIS MANUEL RODRIGUEZ-RODRIGUEZ

Petitioner,

v.

KEVIN RAYCRAFT, Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement;

KRISTI NOEM, Secretary, U.S. Department of Homeland Security;

PAMELA BONDI, Attorney General, U.S. Department of Justice;

TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement;

FREDRICK STEVENS, Sheriff, Seneca County Sheriff's Office;

Respondents.

Case No. 3:26-cv-667

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Luis Manuel Rodriguez-Rodriguez, (hereinafter "Petitioner") seeks a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 to remedy his unlawful arrest and detention by the Department of Homeland Security ("DHS") in violation of the Immigration and Nationality Act ("INA"), the Due Process Clause of the Fifth Amendment to the U.S. Constitution and the Equal Protection Clause of the Fourteenth Amendment.

2. 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.

3. Petitioner, Luis Manuel Rodriguez-Rodrigu, has been unlawfully detained, and is in the physical custody of Respondents at the Seneca County Jail. He was taken into custody after local law enforcement contacted immigration authorities following a routine traffic stop. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

4. Petitioner entered the U.S. on or around November 26, 2022. He was apprehended by Custom and Border Patrol ("CBP"), released on Parole under § 1182(d)(5)(A), and later placed in Section § 240 Removal Proceedings.

5. This habeas challenges Respondents' authority to re-detain Petitioner without a lawful statutory basis and without constitutionally adequate justification or process.

6. Based on this allegation in Petitioner's removal proceeding, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an "applicant for admission" who is "seeking admission" before an "examining immigration officer," under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention.

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.

8. 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

9. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on

conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

10. 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.

11. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

12. Petitioner challenges the legality of his present confinement, as Respondents re-arrested and detained Petitioner without any valid, individualized justification, without alleging that Petitioner violated any condition of release, is a danger, is a flight risk, or otherwise changed in any material way since Respondents previous determination that he could safely remain at liberty.

2. Accordingly, because Respondents have deprived Petitioner of liberty without any specific basis and without meaningful process, the detention violates Due Process. Petitioner seeks a writ of habeas corpus where EOIR is not honoring bond hearings and denying bonds on arbitrary grounds.

3. No adequate substitute process exists; hence, immediate release is warranted to remedy the ongoing unlawful restraint, or at a minimum, provide a bond hearing under § 1226(a), at which the government bears the burden of proof.

JURISDICTION

13. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Seneca County Jail in Romulus, Ohio.

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

15. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. Demore v. Kim, 538 U.S. 510, 516–17 (2003); Jennings v. Rodriguez, 138 S. Ct. 830, 839–41 (2018); Nielsen v. Preap, 139 S. Ct. 954, 961–63 (2019); Sopo v. U.S. Attorney Gen., 825 F.3d 1199, 1209-12 (11th Cir. 2016).

16. 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

17. Venue is proper in the Northern District of Ohio 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).

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

Northern District of Ohio, Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

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

20. 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

21. Petitioner Luis Manuel Rodriguez-Rodrigu is a citizen of Dominican Republic who has been in immigration detention since March 1, 2026. He has resided in the United States since 2022.

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

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

24. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

25. 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.

26. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of the United States Immigration and Customs Enforcement. ICE is the agency within DHS that is specifically responsible for managing all aspects of the immigration enforcement process, including immigration detention. ICE is responsible for apprehension, incarceration, and removal of noncitizens from the United States, and as such Acting Director Lyons is Petitioner's custodian.

27. Respondent Fredrick Stevens is the Sheriff of Seneca County and employed by the Seneca County Sheriff's Office. He has immediate physical custody of Petitioner. He is sued in his official capacity.

STATEMENT OF FACTS

28. Petitioner has resided in the United States since 2022, and lived in Detroit, Michigan, with his U.S. Citizen Wife and their U.S. Citizen children, immediately prior to detention. Petitioner is 35-years-old.

29. Mr. Rodriguez-Rodriguez has resided in the U.S. for over 3 years, and built a life for him and his immediate family. He has a U.S. Citizen wife and two minor children, and has resided with them in Detroit, Michigan. His children are 1 year-old and two-years-old. He is the breadwinner of the household, has deep and significant ties to his local community beyond his immediate family. A marriage visa Petition was filed on his behalf and remains pending with the United States Citizenship and Immigration Services (USCIS).

30. On or about November 26, 2022, Petitioner came to or near the port of entry. Upon entry, he was apprehended by immigration authorities, detained briefly at the border, and then released on Parole **(See Exhibit – A).**

31. Over one year following Petitioner's border encounter, on or about November 20 2023, DHS served Petitioner with Form I-200, Warrant for Arrest, Pursuant to § 1226(a), and a Notice to Appear dated November 20, 2023, placing him in Removal Proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229(a). ICE has charged Petitioner with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection, alleging Petitioner is a "*…an alien present in the United States who has not been admitted or paroled.*" **(See Exhibit – B)**

32. On March 1, 2026, Petitioner was arrested during a traffic stop. In arresting Petitioner, ICE agents failed to identify the basis for arresting him nor the reason to authorize detention. Petitioner is now detained at the Senecca County Jail.

33. Following his detention, DHS placed Petitioner in Removal Proceedings before the Cleveland Immigration Court. 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.

34. Petitioner was advised that seeking a bond hearing would be futile, as Immigration Judges at EOIR are currently deeming individuals who allegedly entered without inspection subject to mandatory detention under 8 U.S.C § 1225(b)(2), and are directed to deny bond hearings for lack of jurisdiction.

35. Petitioner was also advised that immigration judges have and continue to disregard the most recent issued Court's Order, vacating *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025), and continue to deny bond redeterminations for lack of jurisdiction.

36. Petitioner was also advised that Immigration Judges are currently denying bonds for none-citizens, like Petitioner, without a fair consideration of the evidence.

37. On information and belief, Petitioner has no criminal history.

38. Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

LEGAL FRAMEWORK

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

40. This case challenges Respondent's erroneous decisions that Petitioner is subject to mandatory detention without bond under § 1225(b)(2), rather than § 1226(a).

41. 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge (IJ) *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"). Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d). 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).While noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

42. 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).

43. The INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission under § 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.").

44. The INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b), which is not relevant here.

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

46. Following the enactment of the IIRIRA, 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).

47. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an 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)).

48. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

49. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are subject to mandatory detention provision 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 — like Petitioner, and even decades.

50. In a May 22, 2025, unpublished decision from the Board of Immigration Appeals (BIA), EOIR adopts this same position.[2] That decision holds that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bond hearings.

51. ICE and EOIR have adopted this position even though federal courts have rejected this exact conclusion. For example, after IJs in the Cleveland, Ohio immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, The U.S. District Court in Northern

[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.
[2] *Available at* https://nwirp.org/our-work/impact-litigation/assets/vazquez/59-1%20ex%20A%20decision.pdf.

District of Ohio found that 8 U.S.C. § § 1226(a) governs none-citizen detention, not § 1225(b). *Lopez v. Noem,* No. 3:26 CV128, 2025 WL 395202 (N.D. Ohio Feb. 12, 2026).

52. Federal courts have authority under 28 U.S.C. § 2241 to order the release of a non-citizen who is unlawfully detained. The Supreme Court has explained that habeas corpus is a means to secure release from unlawful detention; the writ historically provides relief when a petitioner is being held without lawful authority. *Dep't of Homeland Sec., v. Thuraissigiam,* 591 U.S. 103, 107 (2020).

53. In parallel, Federal courts—both nationwide and here in the Northern District of Ohio—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 Pizarro Reyes v. Raycraft,* 2025 WL 2609425 (E..D. Mich. Sept. 9, 2025) (disagreeing with BIA's analysis in *Yajure Hurtado*); *Sampiao v. Hyde,* 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (same); *Lopez-Campos v. Raycraft,* 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Martinez v. Hyde,* CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis,* No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Garcia Jimenez v. Kramer,* No. 4:25-cv-03162-JFB-RCC, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *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); *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] *Morales Chavez v Director*, No. 4:24-CV-02061, 2025 WL 2959617 (N.D.O.H, Oct. 20, 2025). *Gonzalez*

[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.").

Lopez v. Raycraft, 2025 WL 3280344 (N.D. Ohio Nov. 25, 2025). *Macias v. Raycraft*, 2025 WL 3525262 (N.D. Ohio Dec. 9, 2025).

54. 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).

55. In the issued order, The *Yajure Hurtado* decision was expressly vacated by the Court in *Lazaro Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873, 2025 WL 3289861. However, Immigration courts around the country continue to disregard the classwide order and deny bonds, in defiance of the Court's order in *Maldonado Bautista.*

56. 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.

57. DHS's and DOJ's interpretation defies the INA. As the *Rodriguez Vazquez* court explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

58. 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]."

59. The text of § 1226 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 Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

60. Evident from Respondents' own records — the Notice to Appear, and the Warrant for Arrest pursuant to 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.

61. "Applicants for admission may be temporarily released on parole for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A). The decision to grant parole is determined "on a case-by-case basis. *See* 8 U.S.C. § 1182(d)(5)(A). "When the purpose of the parole has been served, the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States." *Jennings*, 583 U.S. at 288.

62. Termination of Parole is governed by 8 C.F.R. § 212.5(e)(2)(i), which states that "parole shall be terminated upon written notice to the alien and he or she shall be restored to the status that he or she had at the time of parole." 8 C.F.R. § 212.5(e)(2)(i).

63. 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). Indeed, the Supreme Court has explained 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." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

64. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

65. 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 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, which was recently vacated by the Court, and pending the Stay, in *Lazaro Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873, 2025 WL 3289861.

66. 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).

67. 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 U.S. Citizen family and community will be left without caretaker, support, nor contribution.

68. 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 him of his liberty.

69. Section 1226(a) does not address the burden of proof and is silent on who bears the burden. *Hernandez-Lara v. Lyons*, 10 F.4th 19, 26 (1st Cir. 2021). Neither the Supreme Cout nor the Sixth Circuit has addressed the burden of proof in the context of Immigration detention. While Circuit Courts are split on the issue, Due Process applies to none-citizens. *See A. A. R. P. v. Trump*, 145 S. Ct. 364, 1367 (2025), and the government bears the burden of proof of demonstrating the Petitioner is a flight risk or danger to community.

70. District Courts in this Circuit have followed this flow of logic and sided with none-citizens in holding that the Government bears the burden of proof. *Soto-Medina* v. Lynch et al, No. 25-CV-01704 (S.D. Mich. Jan. 21, 2026)

EXHAUSTION

71. No statutory requirement of exhaustion applies to Petitioner's challenge to the lawfulness of his detention. *Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) ("There is no statutory requirement that a habeas petitioner exhaust her administrative remedies before challenging his immigration detention"); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *11 (W.D. Wash. Apr. 24, 2025) (citing *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 962 (N.D. Cal. 2019) ("this Court 'follows the vast majority of other cases which have waived exhaustion based on irreparable injury when an individual has been detained for months without a bond hearing, and where several additional months may pass before the BIA renders a decision on a pending appeal.'");

72. Petitioner briefly runs through the four primary circumstances when courts waive prudential exhaustion requirements—all of which strongly favor waiver here. First, courts consider whether "pursuit of administrative remedies would be a futile gesture." *Shearson*, 725 F.3d at 594.

73. Requiring Petitioner to wait for an immigration judge to deny a bond hearing or for the BIA to deny a bond appeal would be futile. Waiver based on futility is especially appropriate when the administrative agency "has predetermined the disputed issue" by having a "clearly stated position" that the petitioner is not eligible for the relief

sought. *Cooper v. Zych*, No. 09-CV-11620, 2009 WL 2711957, at *2 (E.D. Mich. Aug. 25, 2009). *See also McCarthy v. Madigan*, 503 U.S. 140, 148 (1992) (same). Because the BIA recently issued a precedential, binding decision holding that all noncitizens who entered without admission or parole are ineligible for § 1226(a) bond hearings, *see Yajure Hurtado*, 29 I&N Dec. 216, the BIA and IJ will undoubtedly deny Petitioner's bond request. Thus, seeking bond is futile because Respondents have "predetermined the disputed issue." *Cooper*, 2009 WL 2711957, at *2.

74. Courts waive prudential exhaustion requirements when the "legal question is fit for resolution and delay means hardship." *Shalala v. Illinois Council on Long Term Care*, 529 U.S. 1, 13 (2000) (cleaned up). On average, the BIA took over six months to decide bond appeals in 2024, with hundreds of cases taking a year or longer to resolve. *See Rodriguez*, 779 F. Supp. 3d at 1245 (2025). Here, the "delays inherent in the administrative process . . . would result in the very harm that the bond hearing was designed to prevent: prolonged detention without due process." *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 237 (W.D.N.Y. 2019) (cleaned up). Meanwhile, "the legal question" of which detention statute properly applies "is 'fit' for resolution." *Shalala*, 529 U.S. at 13. The legality of Petitioner's detention is a pure question of statutory interpretation and constitutional due process analysis. Thus, because the Court can decide these purely legal questions now, Petitioner "could be released within a few weeks as compared to the anticipated half-year wait through the BIA appeal route." *Pizarro Reyes*, 2025 WL 2609425, at *4.

75. Waiver is appropriate when a petitioner raises "non-frivolous" constitutional questions that cannot be adequately addressed through the administrative process. *Bangura v. Hansen*, 434 F.3d 487, 494 (6th Cir. 2006). Petitioner's due process arguments, *see* Section II, are far from frivolous. In fact, this Court has already ruled that the mandatory detention of an identical petitioner "is a violation of his due process rights." *Lopez-Campos*, 2025 WL 2496379, at *10. Since the "BIA lacks authority to review constitutional challenges," *Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006), "[n]either an immigration judge nor the Board of Immigration Appeals is positioned to properly adjudicate" Petitioner's due process claim. *Lopez Benitez*, 2025 WL 2371588, at *14.

76. Waiver of prudential exhaustion is appropriate because there is no need for IJs or the BIA to "make a factual record" or "apply [their] expertise." *McGee v. United States*, 402 U.S. 479, 484 (1971). There are no factual disputes, obviating any need for factual development. And the immigration courts have no expertise in matters of statutory interpretation, which is "the proper and peculiar province of the courts," *Loper Bright Enters.*, 603 U.S. at 385 (cleaned up), or in analyzing constitutional claims, which IJs wholly "lack[] authority to review," *Sterkaj*, 439 F.3d at 279. Thus, it would not impair agency functions for this Court to promptly address matters the agency is not equipped to handle in the first place.

77. The need for waiver is amplified in the context of a habeas corpus petition, which demands a "swift" remedy in the face of illegal detention. *Fay v. Noia*, 372 U.S. 391, 400 (1963). *See also* 28 U.S.C. § 2243. Requiring prior administrative exhaustion will serve only to prolong that illegal detention. Indeed, "[w]hen the liberty of a person is at stake,

every day that passes is a critical one," thus necessitating habeas petitions to "be met with a sense of urgency." *Lopez-Campos*, 2025 WL 2496379, at *5. Unsurprisingly, then, this Court regularly waives prudential exhaustion requirements in § 2241 habeas actions, including in recent actions identical to this one.[4] This Court should again exercise its discretion to do so here and proceed to the merits of this petition.

78. The pursuit of administrative remedies would be futile, and administrative review is not likely to change Respondents' interpretation of Section 1225(b)(2)(A). This Court has recently reached the same conclusion in *Jose Ruiz-Lara v Kevin Raycraft*, No. 1:26 CV499, 2026 (N.D. Ohio March 9, 2026) (Gaughan, P.) at *7 ('This Court cannot think of anything more clearly amounting to a "futile gesture" than requiring Petitioner to spend time appealing the immigration Court's decision to deny him a bond hearing to the very agency that passed down that unequivocal directive.")

79. Post-Habeas relief, Immigration Courts are consistently denying bond re-determination requests for verity of reasons, i.e. flight risk, lack of ties to community, speculative reliefs sought, and manner of entry. All of which have been extremely rare prior to the decision in *Lazaro Maldonado Bautista.* Factors like flight risk were typically addressed by setting an appropriate bond amount, and "[i]t was also extremely rare to see a bond denial based on flight risk where the alien had a fixed address, a job, a proposed application for relief, or family ties to the United States." (**See Exhibit C**)

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[4] *See, e.g., Lopez-Campos*, 2025 WL 2496379, at *5; *Pizarro Reyes*, 2025 WL 2609425, at *4; *Cooper*, 2009 WL 2711957, at *2; *Shweika v. DHS*, No. 09-CV-11781, 2015 WL 6541689, at *12 (E.D. Mich. Oct. 29, 2015); *Holloway v. Eichenlaub*, No. 08-CV-11347, 2009 WL 416325, at *1 (E.D. Mich. Feb. 18, 2009); *Williams v. Zych*, No. 09-CV-12173, 2010 WL 200847, at *1 (E.D. Mich. Jan. 15, 2010); *Cabrera v. Walton*, No. 10-CV-13654, 2010 WL 4974040, at *1 (E.D. Mich. Dec. 1, 2010).

80. Consistent with the recent trend of post-Habeas bond denials around the country, IJs take a dive into the merits of none-citizen's defensive claim from Removal, conclude that the relief sought is too speculative – a matter that is thoroughly litigated at the scheduled merits hearing, not the bond hearing, and utilize it as a tool to deny bonds (**See Exhibits D - E**).

81. The legitimate avenues to obtain a fair chance at bond has virtually dissolved with the current EOIR leadership directives. The Hearings are "fundamentally flawed or even pre-cooked," and the procedural safeguards are little-to-no-existence [5]. In such circumstances, where the Courts are not honoring bond hearings or if they are by way of habeas, they are denying bond on arbitrary grounds – and no adequate substitute process exists, immediate release is warranted to remedy the ongoing unlawful detention.

82. Requiring Petitioner to first seek administrative remedies, i.e. a bond hearing, from the very same administration detaining him would unequivocally be futile. The government's position on mandatory detention is clearly articulated in BIA

[5] *available at https://www.politico.com/news/2026/03/06/immigration-case-hearings-judges-00815660*

decisions: *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA Sept. 5, 2025), and *Matter of Q. Li*, 29 I&N Dec. 66, 69 (BIA 2025).

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

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

84. Petitioner was initially detained and released on parole. He is not an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

85. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), or § 1226(c).

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

87. Instead, Petitioner should be subject to the detention provisions of § 1226(a) and is therefore entitled to immediate release from custody. In the alternative, a custody determination by ICE, and if custody is continued, to a custody redetermination (i.e. a bond hearing) by an Immigration Judge.

COUNT II
Violation of Due Process

88. Petitioner repeats, re-alleges, and incorporates by reference each-and-every

allegation in the preceding paragraphs as if fully set forth herein.

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

90. Due Process requires that detention "bear [a] reasonable relation to the purpose for which the individual [was] committed." Zadvydas, 533 U.S. at 690 (citing Jackson v. Indiana, 406 U.S. 715, 738 (1972)).

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

92. The government's detention of Petitioner, without immediate release, or, at minimum, a prompt bond hearing at which the government bears the burden of proof, violates his Due Process.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue an Order to Show Cause ("OSC") ordering respondents to state the true case of Petitioner's detention within three days of the Court's issuance of the OSC;

c. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner from custody, or in the alternative, issue an order that

Respondents set a bond hearing within 7 days before an immigration judge pursuant to § 1226(a), at which the government will bear the burden to demonstrate dangerousness or flight risk of Petitioner;

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

e. Declare Petitioner's detention to be unlawful;

f. Order Petitioner's immediate release without restraints beyond those that existed before his unlawful detention;

g. declare that 8 U.S.C. § 1226(a)— governs Petitioner's detention 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 attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

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

Dated: March 20, 2026.

/s/ Joseph Mamari
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