UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

EDWIN JEOVANNY CATALAN CATALAN,

Petitioner-Plaintiff,

v.

KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security;

TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;

KENNETH GENALO, in his official capacity as Field Office Director of Enforcement and Removal Operations of the New York Office of U.S. Immigration and Customs Enforcement;

PAMELA BONDI, in her official capacity as U.S. Attorney General;

RAUL MALDONADO, Jr., in his official capacity as Warden of the Metropolitan Detention Center;

Defendant-Respondents

Civil Action No. _____

ORAL ARGUMENT REQUESTED

EXPEDITED HEARING REQUESTED

PETITION FOR A WRIT OF HABEAS CORPUS

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INTRODUCTION

1. The U.S. Department of Homeland Security ("DHS"), through Immigration and Customs Enforcement ("ICE"), has been and is detaining Petitioner Edward Catalan Catalan ("Mr. Catalan Catalan" or "Petitioner") at the Metropolitan Detention Center ("MDC"), a federal incarceration facility located within this District, in violation of his statutory and constitutional rights. This Petition seeks Mr. Catalan Catalan's immediate release from detention.

2. Mr. Catalan Catalan is a 35-year-old native of El Salvador who has lived in the United States for almost five years after fleeing El Salvador. Ex. A – Declaration of Sean Larner, Esq. at ¶ 4. He is the sole provider for his family, including two young sons, [redacted] *Id.* at ¶ 5. They have had no steady income source during his incarceration and can no longer afford basic necessities. *Id.*

3. On June 28, 2025, Mr. Catalan Catalan was detained by ICE agents while on his way to work, without an explanation of why he was being arrested. *Id.* at ¶¶ 6–7. To this day, he has not been provided with an explanation, written or verbal. First, he was detained in Nassau County jail before being transferred to 26 Federal Plaza, then to Port Isabel, Texas, and then back to 26 Federal Plaza. *Id.* at ¶¶ 10–11. Ultimately, Mr. Catalan Catalan was transferred to the MDC on or around August 12, 2025. Ex. F – Notice to EOIR: Alien Address at Metropolitan Detention Center. He remains there today. Ex. A – Declaration of Sean Larner, Esq. at ¶ 11.

4. On November 25, 2025, Mr. Catalan Catalan's Application for Asylum, Withholding of Removal, and Protection Under the Convention Against Torture was granted in part and denied in part. *See* Ex. D – Immigration Judge Order Granting Application for Asylum in Part. Specifically, he was denied asylum, but removal was deferred under the Convention Against Torture. *Id.* Both the Government and Mr. Catalan Catalan have appealed the decision. *See* Ex. G – Petitioner's Notice of Appeal. He has been detained pending the appeal.

5. Mr. Catalan Catalan's continued detention is unlawful for two overarching reasons.

6. First, ICE's continued detention of Mr. Catalan Catalan without an individualized determination of his flight risk or potential dangerousness violates the plain language of the Immigration and Nationality Act ("INA"). As a noncitizen physically present in the United States, Mr. Catalan Catalan's detention can only be governed by 8 U.S.C. § 1226 (hereinafter "Section 1226"). Critically, Section 1226(a) permits the discretionary detention of only noncitizens present in the country who receive an individualized determination of their potential for posing a flight risk or danger to the community. Because Mr. Catalan Catalan has not received such determination, his continued detention is unlawful. He must be afforded a prompt bond hearing and an individualized custody determination by a neutral decisionmaker pursuant to Section 1226(a), or he must be released immediately.

7. ICE maintains that anyone who entered the country without inspection is subject to 8 U.S.C. § 1225 (hereinafter "Section 1225"), which requires detention without the possibility of bond, rather than Section 1226. This view was affirmed by the Board of Immigration Appeals ("BIA") in *Matter of Yajure Hurtado* 29 I. & N. Dec. 216 (BIA 2025). However, that decision was recently vacated in *Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS_BFM, 2026 U.S. Dist. LEXIS 34057 (C.D. Cal. Feb. 18, 2026) ("*Maldonado Bautista IV*"), although that vacatur is subject to a temporary administrative stay while the government appeals. *Maldonado Bautista v. DHS*, No. 26-cv-1044 (9th Cir. 2026). Moreover, ICE's position has no basis in law or fact, and numerous district courts across the country have rejected the government's position.[1] Section 1225

[1] *See, e.g.*, *Hyppolite v. Noem*, 808 F. Supp. 3d 474, at *495 (E.D.N.Y. 2025) (granting habeas petition); *Artiga v. Genalo*, No. 25-cv-5208 (OEM), 2025 WL 2829434, at *4–9 (E.D.N.Y. Oct. 5, 2025) (granting habeas petition); *J.U. v. Maldonado*, 805 F. Supp. 3d 482, 489–498 (E.D.N.Y. 2025) (granting habeas petition); *Samb v. Joyce*, No. 25-cv-6373 (DEH), 2025 WL 2398831, at *3 (S.D.N.Y. Aug. 19, 2025) (granting habeas petition); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 483–492 (S.D.N.Y. 2025) (granting habeas petition); *B.D.V.S. v. Forestal*, No. 25-cv-1968, 2025 WL 2855743, at *2 (S.D. Ind. Oct. 8, 2025) (granting habeas petition); *Eliseo A.A. v. Olson*, No. 25-cv-3381

applies to noncitizens "seeking admission" to the United States while Section 1226 applies to noncitizens who are "already in the country." Mr. Catalan Catalan, who has resided in the United States for years, plainly falls in the latter category. In fact, DHS's own language reflects this as they classified Mr. Catalan Catalan as "an alien present in the United States who has not been admitted or paroled" as opposed to "an arriving alien." *See* Notice to Appear dated July 14, 2021, at 1, attached hereto as Ex. C.

(JWB/DJF), 2025 WL 2886729, at *2–4 (D. Minn. Oct. 8, 2025) (granting habeas petition); *Torres v. Wamsley*, 807 F.Supp.3d 1266, 1268–74 (W.D. Wash. 025) (granting preliminary injunction); *Ledesma Gonzalez v. Bostock*, 808 F. Supp. 3d 1189, 1204 (W.D. Wash. 2025) (granting habeas petition); *Cordero Pelico v. Kaiser*, No. 25-cv-07286 (EMC), 2025 WL 2822876, at *7–15 (N.D. Cal. Oct. 3, 2025) (granting preliminary injunction); *Echevarria v. Bondi*, No. 25-cv-3252 (ESW), 2025 WL 2821282, at *4–10 (D. Ariz. Oct. 3, 2025) (granting preliminary injunction); *Elias Escobar v. Hyde*, No. 25-cv-12620-IT, 2025 WL 2823324, at *2–3 (D. Mass. Oct. 3, 2025) (granting habeas petition); *Guerrero Orellana v. Moniz*, 802 F. Supp. 3d 297, 304–3149 (D. Mass. 2025) (granting preliminary injunction); *Casun v. Hyde*, No. 25-cv-427-JJM-AEM, 2025 WL 2806769, at *2 (D.R.I. Oct. 2, 2025) (granting habeas petition); *Belsai D.S. v. Bondi*, No. 25-cv-3682 (KMM/EMB), 2025 WL 2802947, at *5–7 (D. Minn. Oct. 1, 2025) (granting habeas petition); *Santiago Helbrum v. Williams*, No. 25-cv-00349-SHL-SBJ, 2025 WL 2840273, at *4–7 (S.D. Iowa Sept. 30, 2025) (granting habeas petition in part); *Quispe-Ardiles v. Noem*, No. 25-cv-01382-MSN-WEF, 2025 WL 2783800, at *4–7 (E.D. Va. Sept. 30, 2025) (granting habeas petition); *Alves da Silva v. U.S. Immigration and Customs Enforcement*, 805 F. Supp. 3d 417, 425 (D.N.H. 2025) (granting habeas petition); *Quispe v. Crawford*, No. 25-cv-1471-AJT-LRV, 2025 WL 2783799, at *4–6 (E.D. Va. Sept. 29, 2025) (granting habeas petition); *Zumba v. Bondi*, No. 25-cv-14626 (KSH), 2025 WL 2753496, at *4–9 (D.N.J. Sept. 26, 2025) (granting habeas petition); *Hernandez Lopez v. Hardin*, No. 25-cv-830-KCD-NPM, 2025 WL 2732717, at *2 (M.D. Fla. Sept. 25, 2025) (granting preliminary injunction); *Barrajas v. Noem*, No. 25-cv-00322-SHL-HCA, 2025 WL 2717650, at *3–5 (S.D. Iowa Sept. 23, 2025) (granting preliminary injunction); *Giron Reyes v. Lyons*, 801 F. Supp. 3d 797, 807 (N.D. Iowa Sept. 23, 2025) (granting preliminary injunction in part); *Guerrero Lepe v. Andrews*, 801 F. Supp. 3d 1104, 1119–120 (E.D. Cal. 2025) (granting preliminary injunction); *Roman v. Noem*, No. 25-cv-01684-RFB-EJY, 2025 WL 2710211, at *5–7 (D. Nev. Sept. 23, 2025) (granting preliminary injunction); *Choglo Chafla v. Scott*, 804 F. Supp. 3d 247, 264–65 (D. Me. 2025) (granting preliminary injunction); *Campos Leon v. Forestal*, No. 25-cv-01774-SEB-MJD, 2025 WL 2694763, at *2–3 (S.D. Ind. Sept. 22, 2025) (granting habeas petition); *Singh v. Lewis*, No. 25-cv-96-RGJ, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025) (granting habeas petition); *Barrera v. Tindall*, No. 25-cv-541-RGJ, 2025 WL 2690565, at *2–4 (W.D. Ky. Sept. 19, 2025) (granting habeas petition); *Hasan v. Crawford*, 800 F. Supp. 3d 641, 651–57 (E.D. Va. 2025) (granting habeas petition); *Maldonado Vazquez v. Feeley*, 805 F. Supp. 3d 1112, 1151 (D. Nev. Sept. 17, 2025) (granting preliminary injunction); *Velasquez Salazar v. Dedos*, 806 F. Supp. 3d 1231, 1246 (D.N.M. 2025) (granting habeas petition); *Garcia Cortes v. Noem*, No. 25-cv-02677-CNS, 2025 WL 2652880, at *2–3 (D. Colo. Sept. 16, 2025) (granting habeas petition in part); *Salcedo Aceros v. Kaiser*, No. 25-cv-06924 (EMC), 2025 WL 2637503, at *7–12 (N.D. Cal. Sept. 12, 2025) (granting preliminary injunction); *Hernandez Marcelo v. Trump*, 801 F. Supp. 3d 807, 825 (S.D. Iowa 2025) (granting preliminary injunction in part); *Cuevas Guzman v. Andrews*, No. 25-cv-01015-KES-SKO (HC), 2025 WL 2617256, at *3–5 (E.D. Cal. Sept. 9, 2025) (granting preliminary injunction); *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *4–8 (E.D. Mich. Sept. 9, 2025) (granting habeas petition); *Sampiao v. Hyde*, 799 F. Supp. 3d 14, 34a (D. Mass. 2025) (granting habeas petition); *Zaragoza Mosqueda v. Noem*, No. 25-cv-02304 CAS (BFM), 2025 WL 2591530, at *4–5 (C.D. Cal. Sept. 8, 2025) (granting preliminary injunction); *Doe v. Moniz*, 800 F. Supp. 3d 203, 217 (D. Mass. 2025) (granting habeas petition); *Hernandez Nieves v. Kaiser*, No. 25-cv-06921-LB, 2025 WL 2533110, at *4 (N.D. Cal. Sept. 3, 2025) (granting preliminary injunction).

8. Additionally, Mr. Catalan Catalan's continued detention violates his Fifth Amendment right to due process. ICE failed to conduct an individualized review in detaining Mr. Catalan Catalan, depriving him of any meaningful legal process.

9. Mr. Catalan Catalan has suffered irreparable harm from his unlawful detention as he is deprived of his freedom, his ability to provide for his indigent family, and his ability to be with his children who depend on him emotionally. Every day that Mr. Catalan Catalan remains detained, he suffers further and increasingly irreparable harm.

JURISDICTION & VENUE

10. "Federal courts have jurisdiction to review habeas petitions filed by immigration detainees who assert that they are 'in custody in violation of the Constitution or laws or treaties of the United States.'" *J.U.*, 805 F. Supp. 3d at 489 (quoting 28 U.S.C. § 2241(c)(3)).

11. Mr. Catalan Catalan was detained by Respondents on June 28, 2025. He is currently detained at MDC.

12. This Court has subject matter jurisdiction over this Petition pursuant to *U.S. Const. art. I*, § 9, cl. 2 (*habeas corpus*); 28 U.S.C. § 2241, *et seq.* (*habeas corpus*); 28 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. § 1651 (*All Writs Act*).

13. This Court has authority to grant declaratory and injunctive relief, 28 U.S.C. §§ 2201, 2202, and to issue and enforce the writ of habeas corpus, *U.S. Const. art. I*, § 9, cl. 2 and 28 U.S.C. § 1651.

14. Respondents have waived sovereign immunity for purposes of this suit. 5 U.S.C. §§ 702, 706.

15. Venue is proper in this District pursuant to 28 U.S.C. § 2241(d) (stating that "the application [for *habeas corpus*] may be filed in the district court for the district wherein such person is in custody"); 28 U.S.C. § 1391(b)(2) (stating that venue is proper in "a judicial district

in which a substantial part of the events or omissions giving rise to the claim occurred"). Venue is proper in this District because Mr. Catalan Catalan is presently detained within this District and because a substantial part of the events or omissions giving rise to the claim occurred and are occurring in this District.

16. To the extent Respondents may transfer Mr. Catalan Catalan outside this District, such transfer would be undertaken to defeat this Court's jurisdiction. The Court retains authority to enjoin any such transfer and to order Mr. Catalan Catalan's release. *See, e.g.*, *Perez y Perez v. Noem*, No. 25-cv-4828 (DEH), 2025 WL 1908284, at *2-3 (S.D.N.Y. June 13, 2025) (enjoining a habeas petitioner's transfer pending adjudication of his petition); *Guarchaj v. Genalo*, No. 26-cv-00889 (ER), 2026 WL 279831, at *1 (S.D.N.Y. Feb. 2, 2026) (ordering that habeas petitioner not be transferred); *D.W. v. Almodovar*, No. 1:26-00760, 2026 WL 235164, at *1-2 (S.D.N.Y. Jan. 29, 2026) (same); *J.U.*, 805 F. Supp. 3d at 498 (granting habeas petition and ordering release); *Hyppolite*, 808 F. Supp. 3d at 495 (granting habeas petition and citing court's earlier order to release petitioner).

17. A court hearing a petition for a writ of habeas corpus must issue the writ or an order to show cause to the Respondents "forthwith." 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require the Respondents to respond "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

PARTIES

18. Petitioner Edwin Jeovanny Catalan Catalan is a 35-year-old Salvadorean national who has lived in the United States for approximately five years. Ex. A – Declaration of Sean Larner, Esq. at ¶ 4. He was arrested and detained by ICE agents on June 28, 2025. *Id.* at ¶ 6–7. Mr. Catalan Catalan is presently detained at MDC in Brooklyn, New York, in this District. *Id.* at ¶ 11.

19. Respondent Kristi Noem is named in her official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a), she routinely transacts business in the Eastern District of New York, she supervises Respondents Lyons and Genalo, she is legally responsible for the pursuit of Mr. Catalan Catalan's detention and removal, and, as such, is a legal custodian of Mr. Catalan Catalan. Respondent Noem's office is located at the U.S. Department of Homeland Security, 500 12th Street SW, Washington, D.C. 20528.

20. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. In this capacity, Respondent Lyons is responsible for administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a), he routinely transacts business in the Eastern District of New York, he supervises Respondent Genalo, he is legally responsible for the pursuit of Mr. Catalan Catalan's detention and removal, and, as such, is a legal custodian of Mr. Catalan Catalan. Respondent Lyons's office is located at the U.S. Department of Homeland Security, 500 12th Street SW, Washington, D.C. 20528.

21. Respondent Kenneth Genalo is named in his official capacity as Field Office Director of Enforcement and Removal Operations of the New York Office of U.S. Immigration and Customs Enforcement. In this capacity, Respondent Genalo is responsible for the administration of immigration laws and execution of detention and removal determinations and, as such, is a legal custodian of Mr. Catalan Catalan. Respondent Genalo's office is located at 26 Federal Plaza, New York, NY 10278.

22. Respondent Pamela Bondi is named in her official capacity as the U.S. Attorney General. In this capacity, Attorney General Bondi is responsible for administration of the immigration laws as exercised by the Executive Office for Immigration Review, including immigration courts and the Board of Immigration Appeals, pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Eastern District of New York and is legally responsible for administering Mr. Catalan Catalan's removal and custody redetermination proceedings and the standards used in those proceedings. Respondent Bondi's office is located at the United States Department of Justice, 950 Pennsylvania Avenue, NW, Washington D.C. 20530.

23. Respondent Raul Maldonado, Jr. is named in his official capacity as Warden of the MDC, a federal incarceration facility located within this District where Mr. Catalan Catalan is currently detained. In his capacity as Warden, Respondent Maldonado oversees the administration and management of MDC, and, as such, is a legal custodian of Mr. Catalan Catalan. His business address is 80 29th St., Brooklyn, NY 11232.

FACTS AND PROCEDURAL BACKGROUND

I. Mr. Catalan Catalan was seeking asylum when ICE unlawfully arrested him and subjected him to a series of transfers in inhumane conditions

24. Mr. Catalan Catalan arrived with his wife and two sons in Hidalgo, Texas on or about June 12, 2021. Ex. C – Notice to Appear.

25. After flying to New York, Mr. Catalan Catalan was issued a Notice to Appear. Ex. C – Notice to Appear. He was designated as "an alien present in the United States who has not been admitted or paroled" and instructed to appear before an Immigration Judge at 26 Federal Plaza on August 31, 2021. *Id.* That was the first of several hearings, all of which Mr. Catalan Catalan attended.

26. Since arriving in the United States, Mr. Catalan Catalan has resided in Hempstead, New York. *See* Ex. B – Declaration of Erika Melendez de Catalan at ¶ 2. He has been married to his wife for 15 years. *Id.* at ¶ 4. They have two children together. *Id.* at ¶ 2.

27. Mr. Catalan Catalan and his family applied for asylum on January 29, 2024. While his asylum application was pending, Mr. Catalan Catalan worked a variety of jobs to support his family, including as a mechanic, gardener, janitor, and factory employee. Ex. A – Declaration of Sean Larner, Esq. at ¶ 5. He has demonstrated excellence in his work, earning a promotion at a pasta manufacturer from packaging goods to operating the tortellini machinery. *Id.*

28. Throughout this time, Mr. Catalan Catalan had one brush with the criminal justice system on May 28, 2025. Ex. E – Petitioner's Criminal History and Certificate of Disposition. This interaction stemmed from a domestic incident between him and his wife that has since been resolved. He ultimately pled guilty in absentia to a violation (which is lower than a misdemeanor): Second Degree harassment. *Id.* Notably, since his detention, his wife, and the complainant in that case, Erika Melendez de Catalan, testified that he is a "provider and protector" and that his family misses him "desperately." Ex. B – Declaration of Erika Melendez de Catalan at ¶¶ 6–7.

29. At 6:45AM on June 28, 2025, Mr. Catalan Catalan was arrested by swarming ICE agents. Ex. A – Declaration of Sean Larner, Esq. at ¶ 6. Four immigration vehicles intercepted Mr. Catalan Catalan as he was heading to work. *Id.* The agents were masked and wore vests that read "federal," however, they did not show him their badges, and no specific identification was visible during their interaction. *Id.*

30. Mr. Catalan Catalan asked what was happening. An agent told him that he was under arrest, but when he asked the next natural question – why? – he was told the reason for his arrest would be explained later. *Id.* at ¶ 7.

31. Mr. Catalan Catalan was never provided with a reason for his detention. *Id.* at ¶ 7. Even to this day, no one has told Mr. Catalan Catalan why he was arrested, let alone why he has been detained for almost nine months. *Id.* He also has not been provided with any paperwork explaining the reasons for or nature of his detention, such as a Notice of Custody Determination (Form I-286).

32. Mr. Catalan Catalan was transferred multiple times, all around the country, while he was incarcerated:

(a) He was taken to the Nassau County Correctional Center on Long Island on June 28, 2025. Ex. A – Declaration of Sean Larner, Esq. at ¶ 10. He was kept there for three days with no access to showers or any other means of cleaning himself. *Id.* Following that, he was taken to 26 Federal Plaza where he remained for four days. *Id.*

(b) On July 4, 2025, at 5:45 a.m., he was put on a bus and taken to the airport. *Id.* He waited at the airport all day. *Id.* It was very hot and he was only given water and food once. *Id.* He then got on a plane and arrived in Texas around 8 p.m. *Id.* Mr. Catalan Catalan was kept at Port Isabel detention center in Texas until August 7. *See* Ex. H – Notice to EOIR: Alien Address at Port Isabel Detention Center. He had appendicitis surgery the second day he arrived in Port Isabel. Ex. A – Declaration of Sean Larner, Esq. at ¶ 11.

(c) On August 7, 2025, Mr. Catalan Catalan was taken to the airport in the early morning. *Id.* Again, it was very hot, and he was provided with the bare minimum amount of food and water. *Id.* He stayed at the airport until the afternoon, when he was flown to Ohio. *Id.* He stayed the night in a local jail. *Id.* On August 8, he was transported back to 26 Federal Plaza and kept there until August 12, when

he was transferred once again to MDC, where he remains in custody. *See* Ex. F – Notice to EOIR: Alien Address at Metropolitan Detention Center.

III. ICE has detained Mr. Catalan Catalan for nearly nine months, despite his failing health and a judge granting him immigration relief

33. While incarcerated, Mr. Catalan Catalan has been afflicted with several serious medical conditions that have been exacerbated by the inhumane conditions of confinement. On July 4, the day he was transferred from New York to Texas, he had acute appendicitis and, despite his piercing cries of pain and pleas for help, he was kept chained up and put in a transport vehicle. Ex. A – Declaration of Sean Larner, Esq. at ¶ 17. He was forced to endure a bumpy ride for hours while dealing with excruciating, stabbing pain. The officers told him they thought he was faking his condition. After several hours, he was brought to a doctor, where they conducted a check-up and only then realized he was suffering from acute appendicitis. *Id.* He was taken to a hospital promptly thereafter. After the surgery, he was given milk with magnesium and nothing more. He was not provided with any written instructions about post-surgical care, and his living conditions at the facilities remained the same. *Id.*

34. Mr. Catalan Catalan also requires pain medication for a spinal injury sustained on the jobsite. *Id.* at ¶ 18. He has requested Cofal, an over-the-counter analgesic, from MDC numerous times but is invariably denied access to that or any other pain medications. *Id.*

35. The cell conditions Mr. Catalan Catalan was subject to were inhumane and cruel. When asked about his conditions, he was not even aware of which facility he was currently detained at. *Id.* at ¶ 11. Counsel had to explain to him that he was detained at the Metropolitan Detention Center, otherwise known by the acronym, "MDC." He estimated that his cell at MDC was roughly four strides in from front to back, and three strides in width. *Id.* at ¶ 8. Crucially, he is sharing this cramped space with another inmate. The space is so tight that when one person

walks around to stretch his legs, the other person has to curl up to make space. *Id.* at ¶ 8. There was a water fountain at one point, but it broke down five months ago. *Id.* Guards do not offer drinking water. *Id.* Thus, he is forced to drink warm water from the sink to survive—it is not clear if this sink water is supposed to be consumed like drinking water from a tap. *Id.*

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36. The food makes him sick, giving him gastritis and other ailments. *Id.* at ¶ 8. There is limited medical care, so he is scared to get sick. He has seen other undocumented detainees writhing on the floor, sick and ignored by guards, and knew he did not want to be in that position. After he got sick a few times from eating, he stopped. *Id.* He mostly sustains himself by eating apples, drinking warm sink water, and eating the occasional instant soup. *Id.* Sometimes, he will eat a bit of chicken if the food looks safe to eat. He has lost close to 40 pounds in his nine months of detention. *Id.*

37. Mr. Catalan Catalan further noted that MDC is not an immigration detention facility: it is a jail for hardened criminals. *Id.* at ¶ 9. There are occasional fights, which lead to lockdowns. *Id.* During his time here, he has been subject to three lockdowns, each lasting for roughly three days. *Id.* During lockdowns, he is fully locked inside his cell with no access to the outside, showers, or yard time. *Id.*

38. Since being detained at MDC, Mr. Catalan Catalan has developed migraines, likely due to the acute and chronic stress. *Id.* at ¶ 12. It has been ongoing for about four months now. *Id.* When it hits him, he feels pain from light or the slightest noises. *Id.* He can do nothing but stay in the cell all day and suffer through it, because getting a calm and dark space is not feasible in MDC. *Id.*

39. In addition to his physical ailments, Mr. Catalan Catalan suffers from traumatic mental and psychological stress following his arrest. He constantly worries about his children and wife; their dire financial situation and his inability to provide for them and to comfort them. *Id.* at ¶ 12. He broke down in tears when asked about the hardship his children are in.

40. Throughout these struggles, Mr. Catalan Catalan continued to pursue his asylum case. On November 25, 2025, Immigration Judge Ehrens denied his asylum application, but granted deferral of removal under the Convention Against Torture. *See* Ex. D – Immigration Judge Order Granting Application for Asylum in Part. Mr. Catalan Catalan and ICE have both appealed. *See* Ex. G – Petitioner's Notice of Appeal. Despite being granted relief, Mr. Catalan Catalan remains detained.

IV. Mr. Catalan Catalan's family is struggling to survive due to his prolonged detention.

41. Mr. Catalan Catalan is the only source of financial and emotional support for his family. Ex. A – Declaration of Sean Larner, Esq. at ¶ 15. They have suffered significant hardship because of his detention. *Id.* He is the sole breadwinner. *Id.* However, while incarcerated, Mr. Catalan Catalan can play the role of neither provider nor protector. He is filled with anxiety thinking about how his family manages without him and is unable to sleep many nights. *Id.*

42. The few times Mr. Catalan Catalan has been able to speak to his wife regarding his immigration case and the well-being of their children, she has told him that she has no money left to support the family – pay bills, buy food or clothes, and pay rent. *Id.* Mrs. Melendez de Catalan can buy only basic food items with the limited money she has, such as eggs, rice and beans. *Id.* They can no longer afford milk. *Id.* The kids do not yet fully understand the poverty struggle but have been feeling the impact every day. To have food to eat at night, they save the hot lunch they get from school to eat at home later. *Id.* Mr. Catalan Catalan has felt hopeless while festering in federal custody, unable to help.

43. To Mr. Catalan Catalan, the most important thing in the world are his sons, [redacted] and [redacted]. They are his "everything." *Id.* at ¶ 13. Prior to being detained, he was very close to his sons, providing them with nutritious food and taking them out to Burger King's or McDonald every other weekend as a treat. They are close and spend quality time together often. *Id.*

44. His sons have suffered profound trauma due to the months of separation from their father and the uncertainty accompanying his immigration status. [redacted] frequently wakes up in the middle of the night, crying out loud for his dad. *Id.* at ¶ 14. When they speak on the phone, it is difficult for him to say goodbye—he is inevitably reduced to tears. *Id.*

45. The effects on his older son have been far worse. [redacted] used to be an accomplished student. He regularly brought home "Student of the Month" awards. *Id.* at ¶ 14. But since his father was incarcerated, his performance declined precipitously. *Id.* In fact, his performance has gotten so bad that his teachers requested a conference with his mother to discuss it. *Id.* Specifically, he gets distracted in class when he used to be laser-focused on the subject matter. When someone asks him what he is thinking about, he says his dad. *Id.* He prays for his father to return every day. *Id.* He cries whenever something reminds him of his father, which happens multiple times a day. *Id.* He has also been unable to eat and lost a noticeable amount of weight as a result, reflecting his visceral mental anguish. *Id.*

46. [redacted] said to Mr. Catalan Catalan that he would wait for him, that he would always be there waiting for his father to come back to the family and that he loves him with all his heart. *Id.* at ¶ 14. These words shattered Mr. Catalan Catalan's heart. He felt that he abandoned his children and put them through hardships that they did not deserve. But these words are also his motivation to persist.

LEGAL FRAMEWORK

I. Mr. Catalan Catalan's Detention is Unlawful

47. Mr. Catalan Catalan may succeed on the merits by showing that either his statutory or constitutional rights have been violated. *See e.g.*, J.U., 805 F. Supp. 3d at 498 (ruling that, in a similar case, petitioner's detention was illegal based on both theories); *Savane v. Francis*, 801 F. Supp. 3d 483, 490–95 (S.D.N.Y. 2025) (ruling that, in a similar case, irrespective of the applicable detention provision, petitioner's right to due process had been violated); *Guartazaca Sumba v. Crowley*, No. 25-cv-13034, 2025 WL 3126512, at *5 (N.D. Ill. Nov. 9, 2025) (ruling that, in a similar case, petitioner's statutory rights had been violated and the due process argument need not be considered).

48. Here, both Mr. Catalan Catalan's statutory and constitutional rights have been violated.

A. Mr. Catalan Catalan's Detention is Unlawful Under the INA

49. The INA authorizes civil immigration detention under two separate provisions, 8 U.S.C. § 1225 and 1226. *See Jennings v. Rodriguez*, 583 U.S. 281, 287–89 (2018).

50. Section 1225(b) requires mandatory detention of certain noncitizens who are "seeking admission" to this country. 8 U.S.C. § 1225(b)(2)(A) ("[I]f 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 ") (emphasis added); *Jennings*, 583 U.S. at 289 (stating that 8 U.S.C. § 1225 applies to "aliens seeking admission into the country") . The only exception to detention under this section is temporary parole under 8 U.S.C. § 1182(d)(5)(A) for humanitarian reasons or public benefit.

51. By contrast, Section 1226(a), provides discretionary authority to the government to detain noncitizens who are already in the country only after an individualized bond hearing to determine the individual's potential for posing a flight risk or danger to the community. 8 U.S.C. § 1226(a) ("[A]n alien may be arrested and detained pending a decision on whether the alien is to

be removed . . . .") (emphasis added); *Jennings*, 583 U.S. at 289 (stating that Section 1226 "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings") (emphasis added).

52. ICE has not provided any explanation for Mr. Catalan Catalan's detention. Given this, we can only surmise that ICE is detaining him pursuant to Section 1225. This position is baseless. Mr. Catalan Catalan lived in the United States for almost five years before his arrest. "As noted, § 1226 applies to aliens already present in the United States." *Jennings*, 583 U.S. at 303. Because he was unquestionably "already present in the United States"—and has been for years— Mr. Catalan Catalan's detention can be pursuant only to Section 1226. This is further evidenced by DHS's own language within Mr. Catalan Catalan's Notice to Appear. *See* Ex. C – Notice to Appear. There, DHS designated him as "an alien *present in the United States* who has not been admitted or paroled" as opposed to "an arriving alien." *Id.* (emphasis added). Therefore, DHS's own classification of Mr. Catalan Catalan admits that he is a noncitizen who is "already present in the United States."

53. ICE contests this conclusion, reinterpreting the settled understanding of the INA based on a July 8, 2025 internal agency memorandum, which was subsequently endorsed by the BIA in *Matter of Yajure Hurtado* 29 I. & N. Dec. 216 (BIA 2025). *See*, *ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission* Am. Immigr. Laws Ass'n (July 8, 2025), https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (screen captures of ICE Memo announcing interim guidance).

54. ICE's new interpretation of the statutory scheme is contrary to longstanding binding precedent. *See J.U.*, 805 F. Supp. 3d at 496 (holding that "Respondent's interpretation of the

statutory scheme does not square with more than a century of Supreme Court's holdings interpreting the relationship between §§ 1225(b) and 1226(a)"). As far back as 1958, the Supreme Court held that "our immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality." *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958). "In the latter instance the Court has recognized additional rights and privileges not extended to those in the former category who are merely on the threshold of initial entry." *Id.* (citations omitted). "The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "[O]nce an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.*

55. In *Jennings*, the Supreme Court reaffirmed this principle, stating that Section 1225(b) governs "aliens seeking admission into the country" whereas Section 1226(a) governs "aliens already in the country." 583 U.S. at 289; *see also J.U.*, 805 F. Supp. 3d at 496. In light of this history, this Court should treat this newfound "assertion of a 'previously unheralded power' to detain non-citizens present in the United States under Section 1225(b)(2)(A) with 'a measure of skepticism.'" *Martinez v. Hyde*, 792 F. Supp. 3d 211, 222 (D. Mass. 2025) (quoting *W. Virginia v. Env't Prot. Agency*, 597 U.S. 697, 748 (2022)).

56. *Matter of Yajure Hurtado* is not just inconsistent with prior interpretations of the law but it further represents a radical departure from decades of practice and understanding of Section 1225. Accordingly, it is particularly unpersuasive in light of the immigration courts' consistent prior statements and actions to the contrary. *See Matter of Yajure Hurtado*, 29 I. & N.

Dec. at 225 n.6 ("We acknowledge that for years Immigration Judges have conducted [§ 1226(a)] bond hearings for aliens who entered the United States without inspection."); *Martinez v. Hyde*, 792 F. Supp. 3d at 222 (discussing prior BIA decisions "clearly holding that the detention of a non-citizen arrested within the United States is governed under section 1226, rather than section 1225"); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1248 (W.D. Wash. 2025) (same).

57. In the months since Respondents began to broadly invoke section 1225(b)(2)(A) to justify mandatory detention of noncitizens who already reside within the United States, an even greater number of district courts have rejected that illogical interpretation of the INA. *See Barco Mercado v. Francis*, No. 25-cv-6582 (LAK), 2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025) ("[T]he administration's new position . . . has been challenged in at least 362 cases in federal district courts. The challengers have prevailed, either on a preliminary or final basis, in 350 of those cases decided by over 160 different judges sitting in about fifty different courts spread across the United States."); *Y- C- v. Genalo*, No. 25-cv-06558 (NCM), 2025 WL 3653496, at *2 (E.D.N.Y. Dec. 17, 2025) ("Within the Eastern District of New York, at least six judges have considered the issue in the last three months and have unanimously rejected the government's interpretation.") (collecting cases); *see also supra* n.1 (listing cases).

58. Moreover, the BIA's decision in *Yajure Hurtado* was vacated under the APA in *Maldonado Bautista IV*. 2026 US Dist. LEXIS 34057, at *34. Although that vacatur has been temporarily stayed pending the government's appeal, it is still a further indication of just how radical a departure *Yajure Hurtado* is from precedent.

59. Even setting aside the numerous decisions rejecting their argument, "Respondents' position violates the canon of statutory interpretation that 'every clause and word of a statute should have meaning.'" *Hyppolite*, 808 F. Supp. 3d at 486. Section 1225(b)(2)(A) states that, "in

the case of an alien who is an *applicant for admission*, 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 a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A) (emphasis added). "If the mandatory detention provision in § 1225(b)(2) applied to *all* noncitizens who are 'applicants for admission,' then there would be no need for Congress to have separately referenced a sub-category of persons 'seeking admission' in the specific section that relates to mandatory detention." *Hyppolite*, 808 F. Supp. 3d at 486. Adopting Respondents' position would thus require the Court to "elide[] or avoid[] section 1225(b)(2)(A)'s 'seeking admission' language . . . , treating it as mere surplusage of the 'applicant' requirement." *Id.* (citation omitted) (collecting cases holding same).

60. Interpreting the statute's words "in their context and with a view to their place in the overall statutory scheme," as courts are required to do, further undermines Respondents' position. *See King v. Burwell*, 576 U.S. 473, 486 (2015) (citation omitted); *see also Graham Cnty. Soil & Water Conservation Dist. v. U.S. ex rel. Wilson*, 559 U.S. 280, 290 (2010) (stating that the court's duty is to "construe statutes, not isolated provisions") (citation omitted). "In considering § 1225(b)(2)(A) within its statutory context, it was clearly intended to apply to noncitizens who are presently seeking to enter the United States, and not those . . . who have lived in the country for almost three years." *Hyppolite,* 808 F. Supp. 3d at 487. Section 1225(b)(2)(A) is subject to subparagraphs (B) and (C), which set out specific detention exceptions and rules for "crewm[e]n", "stowaway[s]", and aliens "arriving" on land. This statutory construction makes it clear that "seeking admission" in Section 1225 "is meant to refer to those who are presenting themselves at the border, or who were recently apprehended just after entering"—not those like Mr. Catalan Catalan who have been present for years. *Hyppolite*, 808 F. Supp. 3d at 487.

61. Furthermore, it is a basic canon of statutory interpretation that a statute should be construed as to give effect to all its provisions and that no part will be superfluous. *Corley v. United States*, 556 U.S. 303, 314 (2009). If an interpretation of one provision "would render another provision superfluous[,]" courts presume that interpretation is incorrect. *Bilski v. Kappos*, 561 U.S. 593, 607–08 (2010). This presumption is "strongest when an interpretation would render superfluous another part of the same statutory scheme." *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2013). Under ICE's newfound theory, nearly all noncitizens in the United States not previously admitted or who entered without inspection are suddenly subject to mandatory detention pursuant to Section 1225(b). But if that were correct, then it would render superfluous numerous provisions of the same statutory scheme, including Sections 1226(c)(1)(A), (D), and (E).

62. Section 1226(c)(1)(A) provides that the "Attorney General shall take into custody any alien who-- is inadmissible by reason of having committed any offense covered in section 1182(a)(2) of this title," such as crimes of moral turpitude and offenses relating to controlled substances. 8 U.S.C. § 1226(c)(1)(A). "[T]his mandatory detention under § 1226(c) would be unnecessary if all persons who have not been admitted into the United States were already subject to § 1225(b)'s mandatory detention provisions." *Hasan*, 800 F. Supp. 3d at 656; *J.U.*, 805 F. Supp. 3d at 496 (same).

63. Section 1226(c)(1)(D) provides that the "Attorney General shall take into custody any alien who is inadmissible under section 1182(a)(3)(B) of this title or deportable under section 1227(a)(4)(B) of this title," which include aliens engaged in terrorist activities. Again, "this mandatory detention under Section 1226(c) would be unnecessary if all persons who have not been

admitted into the United States were already subject to Section 1225(b)'s mandatory detention provisions." *Hasan*, 800 F. Supp. 3d at 656; *J.U.*, 805 F. Supp. 3d at 496 (same).

64. Section 1226(c)(1)(E)—added by amendment just last year via the enactment of the Laken Riley Act—makes certain noncitizens subject to mandatory detention if (1) they are inadmissible under certain provisions in 8 U.S.C. § 1182, and (2) they are charged with, arrested for, convicted of, or admit to having committed certain crimes. 8 U.S.C. § 1226(c)(1)(E). "When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect." *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995), *abrogation recognized on other grounds*, *Riley v. Bondi*, 606 U.S. 259 (2025). Yet, "if § 1225(b)(2) already mandated detention of any alien who has not been admitted, regardless of how long they have been here, then adding [the provisions of the Laken Riley Act] to the statutory scheme was pointless." *Hyppolite*, 808 F. Supp. 3d at 487 (quoting *Lopez-Campos v. Raycraft*, 797 F. Supp. 3d 771, 783-84 (E.D. Mich. 2025)). ICE's theory that Section 1225(b) applies to practically every noncitizen who entered without inspection and was then arrested while residing in the United States, regardless of whether they committed any crime, would make Section 1226(c)(1)(E)'s criminal conduct requirement entirely superfluous. *Id.*; *Gomes v. Hyde*, 804 F. Supp. 3d 265, 268-69(D. Mass. 2025).

65. In sum, Mr. Catalan Catalan, who has lived in the United States for approximately four years and was not "seeking admission" at the time of his arrest, is plainly being detained pursuant to Section 1226(a), which entitles him to a bond hearing. If Respondents' argument is that Mr. Catalan Catalan is being detained pursuant to Section 1225(b)(2)(A), this is inconsistent with the plain language of the statute, settled case law, and EOIR's own prior interpretations of the law. Respondents' continued detention of Mr. Catalan Catalan violates the INA and is therefore unlawful.

66. ICE's novel interpretation of the INA is contrary to binding precedent, numerous other cases considering this same argument, and basic principles of statutory interpretation. This Court should join the overwhelming majority of district courts and reject ICE's argument.

B. Mr. Catalan Catalan's Detention Violates His Procedural Due Process Rights

67. Mr. Catalan Catalan is detained in violation of his procedural due process rights under the Fifth Amendment.

68. The Due Process Clause of the Fifth Amendment to the United States Constitution provides that "[n]o person shall be . . . deprived of life, liberty, or property without due process of law." U.S. Const. amend. V.

69. In determining whether an individual's procedural due process rights have been violated, courts weigh three factors: "(1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews v. Eldridge*, 424 U.S. 319, 321 (1976).

70. Here, the *Mathews* test strongly supports Mr. Catalan Catalan's claim to a procedural due process violation. *See*, e.g., *Hyppolite*, 808 F. Supp. 3d at 483–494 (finding procedural due process violation in similar circumstances where the petitioner was detained without a pre-deprivation bond hearing); *J.U.*, 805 F. Supp. 3d at 489–498 (same); *Lopez Benitez*, 795 F. Supp. 3d at 491–496 (same); *Artiga*, 2025 WL 2829434, at *8–9 (same); *Savane*, 801 F. Supp. 3d at 490–95 (same); *Samb*, 2025 WL 2398831, at *3–4 (same).

71. Under the first *Mathews* factor, the private interest of Mr. Catalan Catalan's that is being affected is of fundamental importance: "The interest in being free from physical detention,"

which is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see United States v. Salerno*, 481 U.S. 739, 755 (1987) ("In our society liberty is the norm, and detention . . . is the carefully limited exception."); *Zadvydas*, 533 U.S.at 690 (explaining that an individual's interest in being free from detention "lies at the heart of the liberty that [the Due Process] Clause protects").

72. To deprive a noncitizen of that core liberty interest, the government must make an individualized determination of their risk of flight and danger to the community. *See, e.g.*, *Velesaca v. Decker*, 458 F. Supp. 3d 224, 235 (S.D.N.Y. 2020); *Lopez Benitez*, 795 F. Supp. 3d at 493; *Kelly v. Almodovar*, No. 25-cv-6448 (AT), 2025 WL 2381591, at *3 (S.D.N.Y. Aug. 15, 2025); *Rosado v. Figueroa*, No. 25-cv-02157 (CDB), 2025 WL 2337099, at *14 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1034–35 (N.D. Cal. 2025).

73. However, in this case, Mr. Catalan Catalan "was detained without any pre-detention individualized determination as to whether he posed a flight risk or any risk of dangerousness[.]" *Hyppolite*, 808 F. Supp. 3d at 491. In fact, he was arrested on his way to work without ever being told the reason for his arrest. *See* Ex A – Declaration of Sean Larner, Esq. at ¶ 6. He was never given any paperwork regarding his arrest, such as a Notice of Custody Determination. *Id.* Still to this day, he has not been provided with a reason for his prolonged detention. *Id.*

74. Nor is there any indication "that there was any material change in circumstances that triggered [Mr. Catalan Catalan's] sudden arrest and detention" on June 28, 2025. *Hyppolite*, 808 F. Supp. 3d at 491. As discussed above, there has been no indication of the reason at all for Mr. Catalan Catalan's prolonged detention without bond; he was never provided with a reason verbally, nor was he provided with a Notice of Custody Determination.

75. Under the second *Mathews* factor, the risk of erroneous deprivation is manifest: ICE's actions suggest that Mr. Catalan Catalan is in fact illegally subjected to mandatory detention under Section 1225(b)(2). The law requires "an exercise of discretion prior to the decision to detain a noncitizen who is not subject to mandatory detention [] to prevent an erroneous deprivation of liberty." *Lopez Benitez*, 795 F. Supp. 3d at 495. As noted above, that individualized determination never happened: Mr. Catalan Catalan was simply arrested without explanation at 6:45 AM on his way to work. Furthermore, courts in this jurisdiction have routinely held that if a noncitizen does not receive individualized consideration pre-deprivation, his due process rights are irrevocably violated, and no amount of procedure provided post-detention can remedy that violation. *See, e.g.*, *Rodriguez-Acurio v. Almodovar*, No. 25-cv-6065 (NJC), 2025 WL 3314420, at *30 (E.D.N.Y. Nov. 28, 2025) ("Respondents' detention of [petitioner] with no notice or opportunity to be heard and no showing of changed circumstances violates her due process rights."); *J.U.*, 805 F. Supp. 3d at 498 ("Respondent's ongoing detention of Petitioner with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights."); *Hyppolite*, 808 F. Supp. 3d at 494 (ordering petitioner's immediate release and that he not be re-detained "without providing him notice and an opportunity to be heard at a pre-deprivation bond hearing before a neutral decisionmaker, at which the government will bear the burden of showing that his detention is authorized").

76. Mr. Catalan Catalan's personal circumstances further demonstrate the "extremely high" risk inherent to an erroneous deprivation here: he has a single violation where the complainant submitted a declaration stating he is not dangerous; he has resided in the United States for almost five years; and he is financially responsible and a caregiver for his sons and wife. *See, e.g.,* Ex. A – Declaration of Sean Larner, Esq.; Ex. B – Erika Melendez de Catalan Declaration.

77. As to the third *Mathews* factor, the foregoing considerations heavily outweigh any DHS interest in subjecting Mr. Catalan Catalan to continued detention, or the burden of any substitute procedures. "The government's interest in detaining people on a discretionary, case-by-case basis under Section 1226(a) includes 'ensuring the appearance of aliens at future immigration proceedings' and 'preventing danger to the community.'" *Hyppolite*, 808 F. Supp. 3d at 493 (quoting *Valdez v. Joyce*, 803 F. Supp. 3d 213, 218 (S.D.N.Y. 2025)). These interests are not a concern with regards to Mr. Catalan Catalan. He has lived in the United States for almost five years. During this time, he has obtained steady employment and provided for his family, including two children. He has one violation in which his wife, the complainant, said:

> "This single incident does not reflect the complete picture of who my husband is…He is not prone to aggression, let alone violence – it is the opposite of his character. Edwin has been in jail for almost a year and his family misses him desperately. He poses no threat or danger to the community. Rather his release would be a tremendous benefit." Ex. B – Declaration of Erika Melendez de Catalan at ¶¶ 6–7.

78. Additionally, those interests are likewise served by separate mandatory detention procedures applicable to certain categories of noncitizens, such as those who have committed certain crimes. *See* 8 U.S.C. § 1226(c).

79. Thus, the *Mathews* factors fully establish that Mr. Catalan Catalan's detention—without any individualized hearing or procedural safeguards—violates his procedural due process rights under the Fifth Amendment.

80. Even assuming *arguendo* that Section 1225 is the appropriate detention statute for Mr. Catalan Catalan, courts nationwide have held that an unreasonably long detention without a bond hearing violates due process. See *Hamideh Sadeqi v. Larose*, 2025 U.S. Dist. LEXIS 222822 (S.D. Cali., November 12, 2025), citing *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772 (S.D. Cal. 2020) ("[T]he Court joins the majority of courts across the country in concluding that an unreasonably prolonged detention under 8 U.S.C. § 1225(b) without an individualized bond

hearing violates due process;") *Juarez v. Choate*, 2024 U.S. Dist. LEXIS 41534, 2024 WL 1012912, at *6 (D. Colo. Mar. 8, 2024) (holding that regardless of the legal authority under which the aliens are detained, there is "little substantial distinction between the liberty interest of noncitizens detained . . . the same important interest is at stake – freedom from prolonged detention;" *see also Rodriguez-Figueroa v. Barr*, 442 F. Supp. 3d 549, 554 (W.D.N.Y., February 28, 2020) (holding that although the petitioner was detained under the authority of Section 1225(b) instead of Section 1226(a), he still deserves the protection of due process through "an individualized bond hearing at which the Government bears the burden of proving by clear and convincing evidence that he poses either a risk of flight or a danger to the community" after finding that the *Matthews* factors weigh in the petitioner's favor.) Ultimately, when the overall circumstances of the detention have progressed to unreasonableness, the respondents have violated Mr. Catalan Catalan's due process rights by continuing to detain him. Section 1225 is not a weapon to indefinitely incarcerate civil detainees.

II. The Most Appropriate Response to Unlawful Executive Detention Is Immediate Release

81. "The typical remedy for [unlawful executive] detention is, of course, release." *Munaf v. Green*, 553 U.S. 674, 693 (2008).

82. Courts considering the detention of noncitizens under similar circumstances have concluded that "a bond determination by a DHS officer or an immigration judge would not remedy the core constitutional violation" given that such "detention was unlawful from its inception because ICE detained her under the wrong statute and without any notice or opportunity to be heard, much less the procedures required under Section 1226(a)." *Rodriguez-Acurio*, 2025 WL 3314420, at *31. Accordingly, "'disposing of the matter as law and justice require necessitates

[petitioner's] release from detention and relief guarding against her re-detention in violation of this Court's determinations that she is not subject to mandatory detention under Section 1225(b)." *Id.* at *32 (quoting 28 U.S.C. § 2243); *see also O.F.B. v. Maldonado*, No. 25-cv-6336 (HG), 2025 WL 3277677, at *8 (E.D.N.Y. Nov. 25, 2025) ("The government's ongoing detention of the petitioner, in the face of this complete failure of process, entitles him to immediate release."); *Ye v. Maldonado*, No. 25-cv-6417, 2025 WL 3521298, at *9 (E.D.N.Y. Dec. 8, 2025) (same).

83. Further, a bond hearing is not the appropriate remedy when there was no individualized custody determination in the first instance: Mr. Catalan Catalan must be released. Under § 1226(a) and its implementing regulations, the purpose of the bond hearing is a "custody *re*-determination—a hearing held by an immigration judge after ICE makes its initial decision to detain. But there was no 'initial decision' as ICE's detention of Petitioner did not comport with the implementing regulations and §1226(a); thus, a bond hearing for a post-deprivation review is wholly inadequate to remedy that unlawful detention." *J.U.*, 805 F. Supp. 3d at 490 (emphasis added); see also *Hyppolite*, 808 F. Supp. 3d at fn. 11 (collecting cases).

84. Mr. Catalan Catalan is therefore entitled to immediate release from Respondents' unlawful detention.

III. Administrative Exhaustion Should Be Excused

85. Courts in this Circuit excuse administrative exhaustion and grant habeas petitions for relief from custody when "(1) available remedies provide no genuine opportunity for adequate relief; (2) irreparable injury may occur without immediate judicial relief; (3) administrative appeal would be futile; and (4) in certain instances a plaintiff has raised a substantial constitutional question." *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003), as amended (July 24, 2003). A petitioner need not demonstrate all four factors for a court to excuse administrative exhaustion.

Lopez Benitez, 795 F. Supp. 3d at 496-97 (excusing administrative exhaustion and granting habeas relief where petitioner demonstrated factors (1) and (4)).

86. Considering the lack of administrative remedies, the serious nature of the constitutional violations and the ongoing irreparable injury, this Court should find that Mr. Catalan Catalan is excused from administrative exhaustion. Indeed, courts have excused the exhaustion requirement in cases like Mr. Catalan Catalan's. *See, e.g., Artiga*, 2025 WL 2829434, at *3–4; J.U., 805 F. Supp. 3d at 489; *Lopez Benitez*, 795 F. Supp. 3d at 497.

A. Mr. Catalan Catalan has no genuine opportunity for adequate relief

87. First, Mr. Catalan Catalan brings a constitutional claim against the government, and immigration courts have "no authority to address Petitioner's constitutional challenge[.]" *Quintanilla v. Decker*, No. 21-cv-417, 2021 WL 707062, at *2 (S.D.N.Y. Feb. 22, 2021) (excusing exhaustion for noncitizen habeas petitioner challenging immigration detention and awarding habeas relief); *Lopez Benitez*, 795 F. Supp. 3d at 497 (stating that a constitutional challenge to immigration detention "cannot properly be adjudicated administratively") (citing *Valdez v. Joyce*, No. 25-cv-4627 (GBD), 2025 WL 1707737, at *1, n.1 (S.D.N.Y. June 18, 2025)). Ultimately, administrative courts such as the BIA do not present a "genuine opportunity for adequate relief" on a constitutional claim for a violation of the Fifth Amendment. *See Araujo-Cortes*, 35 F. Supp. 3d 533, 538–39 (S.D.N.Y. 2014) (excusing administrative exhaustion for a habeas petitioner because the BIA "does not have jurisdiction to adjudicate constitutional issues"); *Maldonado Vazquez v. Feeley*, 805 F. Supp. 3d 1112, 1136 (D. Nev. 2025) (excusing administrative exhaustion where "[p]etitioner's constitutional challenge to his detention is necessarily beyond the scope of the BIA's review"). A bond hearing is not the appropriate forum for remedying a constitutional transgression.

88. Second, "Congress has not taken the power to authoritatively interpret a statute from the courts and given it to an agency." *Hyppolite*, 808 F. Supp. 3d at 489 (quoting *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 402 (2024)) (citation modified); *J.U.*, 805 F. Supp. 3d at 494; *Rivera Zumba v. Bondi*, 2025 WL 2753496, at *9. Rather, federal district courts have rejected ICE's and the BIA's interpretation of INA Sections 235(b) and 236(a). *See supra* n.5 & n.7. As is evident from this very case: there is no "genuine opportunity" for ICE detainees to receive administrative relief when *Matter of Yajure Hurtado* is binding on immigration courts. *See, e.g., Maldonado Vazquez*, 805 F. Supp. 3d at 1136; *Alvarez Puga v. Assistant Field Off. Dir.*, No. 25-cv-24535, 2025 WL 2938369, at *2 (S.D. Fla. Oct. 15, 2025).

B. Mr. Catalan Catalan has suffered and will continue to suffer irreparable injury absent immediate judicial relief

89. Mr. Catalan Catalan's unlawful detention constitutes irreparable harm which will be wrongfully prolonged absent judicial intervention.

90. "[A]s a general matter, there is a presumption of irreparable harm when there is an alleged deprivation of constitutional rights." *Donohue v. Mangano*, 886 F. Supp. 2d 126, 150 (E.D.N.Y. 2012). Where plaintiffs "allege deprivation of a constitutional right, no separate showing of irreparable harm is necessary." *Statharos v. New York City Taxi and Limousine, Comm'n*, 198 F.3d 317, 322 (2d Cir. 1999); *Barbecho v. Decker*, No. 20-cv-2821 (AJN), 2020 WL 1876328, at *6 (S.D.N.Y. Apr. 15, 2020) ("[T]he alleged violation of a constitutional right . . . triggers a finding of irreparable harm.") (quoting *Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996)). Mr. Catalan Catalan clearly satisfies this requirement: the deprivation of Mr. Catalan Catalan's freedom violates his due process rights under the Fifth Amendment of the Constitution.

91. Furthermore, in the time that Mr. Catalan Catalan has been detained, he has been away from his wife and young sons, for whom he is the primary financial supporter. Ex A –

Declaration of Sean Larner, Esq. at ¶ 5. The harsh conditions of his detention have taken an observably detrimental toll on his mental, physical, and emotional health; caused feelings of intense distress, anxiety, and hopelessness; impacted his ability to eat and sleep, to think clearly and remember details; and all were compounded by ongoing urgent and largely unattended medical issues, such as the emergency appendix removal he repeatedly requested in Port Isabel and his recent development of searing migraine headaches. *Id.* at ¶ 12. This bolsters even further his showing of irreparable harm. *See Barbecho*, 2020 WL 1876328, at *6 ("[I]irreparable harm exists where, as here, petitioners 'face imminent risk to their health, safety, and lives.'") (quoting *Henrietta D. v. Giuliani*, 119 F. Supp. 2d 181, 214 (E.D.N.Y. 2000), *aff'd sub nom. Henrietta D. v. Bloomberg*, 331 F.3d 261 (2d Cir. 2003)).

C. Further administrative appeal would be futile

92. Requiring Mr. Catalan Catalan to pursue further administrative recourse would be futile as there is no mechanism to seek administrative review of ICE's constitutional violations. *See J.U.*, 805 F. Supp. 3d at 489–490; *Maldonado Vazquez*, 805 F. Supp. 3d at 1136.

93. Furthermore, as to ICE's presumed position that Mr. Catalan Catalan is subject to mandatory detention pursuant to *INA* Section 235(b), rather than bond-eligible discretionary detention pursuant to Section 236(a), the futility of an administrative appeal is readily apparent for the same reason that there is no genuine opportunity for adequate relief: the BIA has already incorrectly sustained ICE's position in *Yajure Hurtado* that detainees in Mr. Catalan Catalan's position are mandatorily detained and ineligible for custody redetermination.

94. Indeed, district courts have consistently found that pursuing administrative exhaustion would be futile for detainees who ICE asserts are mandatorily detained—even *before* the BIA has decided an appeal by ICE—given that such appeals have been rendered a "foregone conclusion" by *Matter of Yajure Hurtado*. *Maldonado Vazquez*, 805 F. Supp. 3d at 1135; *see also,*

e.g., *Sanchez Alvarez v. Noem*, No. 25-cv-1090, 2025 WL 2942648, at *3 (W.D. Mich. Oct. 17, 2025); *Alvarez Puga*, 2025 WL 2938369, at *2; *Sanchez Ballestros v. Noem*, No. 25-cv-594-RGJ, 2025 WL 2880831, at *3 (W.D. Ky. Oct. 9, 2025).

95. For these reasons, any further attempt at administrative recourse would be futile.

D. Mr. Catalan Catalan's detention raises substantial constitutional questions

96. Finally, Mr. Catalan Catalan contends that his detention violates his procedural due process rights. This is a substantial constitutional question that "neither an immigration judge nor the BIA is positioned to properly adjudicate." *J.U.*, 805 F. Supp. 3d at 490; *see also Lopez Benitez*, 795 F. Supp. 3d at 497; *Artiga*, 2025 WL 2829434, at *4 ("Petitioner has raised a constitutional question and the only cure to his allegedly unlawful detention is the vacatur of detention—that is, the release of Petitioner from ICE custody."); *Maldonado Vazquez*, 805 F. Supp. 3d at 1135. The urgent and important questions presented in this Petition require prompt review by this Court.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT

8 U.S.C. §§ 1225(b)(2) and 1226(a)

97. Petitioner realleges and incorporates by reference each and every allegation contained above.

98. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who entered without inspection.

99. Petitioner is detained under § 1226(a), as reflected by DHS's own documents, binding law, and longstanding historical practice; yet DHS contends, and the BIA held, Petitioner is subject to mandatory detention under § 1225(b)(2).

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

COUNT TWO

VIOLATION OF PROCEDURAL DUE PROCESS

U.S. Const. amend. V

101. Petitioner realleges and incorporates by reference each and every allegation contained above.

102. 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 [Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

103. In assessing whether a person has been deprived of the right to procedural due process, courts weigh the factors from *Mathews v. Eldridge*: "(1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. at 321.

104. Here, the *Mathews* test strongly supports that Mr. Catalan Catalan's detention violates his procedural due process rights.

105. The *Mathews* test likewise supports that the automatic stay codified at 8 C.F.R. § 1003.19(i)(2)—pursuant to which Mr. Catalan Catalan was detained for over two months, and which ICE may seek to re-invoke—violates Mr. Catalan Catalan's procedural due process rights.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Catalan Catalan respectfully requests that this Court:

1. Exercise jurisdiction over this matter;

2. Declare that Mr. Catalan Catalan's detention is pursuant to *INA* § 236(a);

3. Declare that Mr. Catalan Catalan is not an alien "seeking admission" subject to mandatory detention under *INA* § 235(b)(2);

4. Declare that Mr. Catalan Catalan's detention is and has been unlawful, in that it violates the *INA* and the Due Process Clause of the Fifth Amendment;

5. Issue a Writ of Habeas Corpus ordering Mr. Catalan Catalan's immediate release from the custody of Respondents;

6. Enjoin Respondents from further detaining Mr. Catalan Catalan;

7. Enjoin Respondents from moving Mr. Catalan Catalan outside the jurisdiction of this Court and United States pending its adjudication of this petition;

8. Enjoin Respondents from moving Mr. Catalan Catalan outside the United States pending its adjudication of this petition and full and fair adjudication of his immigration case, including any potential appeal;

9. Order that Mr. Catalan Catalan will be allowed a full opportunity to apply for all forms of relief for which he is eligible, including any appeals;

10. Order that Respondents pay Mr. Catalan Catalan costs and reasonable attorneys' fees; and

11. Order such other relief as this Court may deem just and proper.

Date: March 20, 2026

Respectfully Submitted,
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