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U.S. District Court
District of Kansas
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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF KANSAS

KANSAS CITY DIVISION

MARLEN MADYMAROV,

Petitioner,

v.

JACOB WELSH, Warden, Chase County Detention Facility; CHRISTOPHER CHALLENGER, Field Office Director, Kansas City Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; TODD M. LYONS, Acting Director, Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the Department of Homeland Security; PAMELA JO BONDI, Attorney General of the United States, *in their official capacities,*

Respondents.

Case No.: 26-3059-JWL

Expedited Hearing Requested

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

Petitioner Marlen Madymarov (A[redacted]) ("Petitioner"), by and through undersigned counsel, hereby challenges his unlawful detention based on a legal fiction. Petitioner is not an individual seeking admission at the border today; he is an individual who was inspected and paroled into the United States on December 30, 2022, pursuant to INA § 212(d)(5), as part of the U.S. government's humanitarian parole program, with parole authorized through February 26,

2023. Yet, Respondents have detained him under 8 U.S.C. § 1225(b) as if he were an "arriving alien," ignoring his established residence in Des Plaines, Illinois, his active asylum proceedings before an Immigration Court, his pending Form I-589 Application for Asylum and Withholding of Removal, and his compliance with all terms of his parole and immigration obligations—including voluntarily appearing at an ICE check-in appointment on March 16, 2026, the very day he was detained.

INTRODUCTION

1. Petitioner Marlen Madymarov, a native and citizen of the Russian Federation of Kyrgyz ethnicity, born on [redacted] sought safety in the United States through lawful channels. On December 28, 2022, he presented himself for inspection at the U.S. southern border together with his wife, Nurkyz Sultanbekova [redacted], and their minor son, B[redacted]

2. Upon arrival, Petitioner and his family were inspected by U.S. Customs and Border Protection and lawfully paroled into the United States on December 30, 2022, under INA § 212(d)(5), with parole authorized for all family members through February 26, 2023.

3. Since his lawful entry, Petitioner has established significant ties to the United States. He and his family settled in Des Plaines, Illinois. On January 26, 2023, while still in valid parole status, Petitioner timely filed a Form I-589, Application for Asylum and Withholding of Removal with USCIS, naming his wife and minor child as derivative beneficiaries, seeking protection based on a well-founded fear of persecution and torture if returned to Russia. At no point during this period was a Notice to Appear

(NTA) issued, and he was not placed into removal proceedings upon entry; instead, he was issued only an ICE Form G-56/PD, Notice to Report.

4. In the years following his lawful entry, Petitioner took every available step to build a self-sufficient and law-abiding life in the United States. On September 1, 2025, USCIS approved his application for employment authorization, issuing him an Employment Authorization Document ("EAD"), Class C08, valid through August 31, 2030, reflecting his ongoing and compliant participation in the asylum process. Shortly thereafter, on June 24, 2025, Petitioner obtained a Non-Domiciled Commercial Driver's License ("CDL") issued by the State of Illinois, bearing license number [redacted] valid through January 15, 2027. Relying on this authorization, Petitioner secured lawful employment as a commercial truck driver, thereby supporting his family through his own labor. At the time of his arrest on March 16, 2026, Petitioner had been gainfully employed, was current on all immigration obligations, and had an active employment authorization—further demonstrating that he presented no risk of flight and posed no danger to the community.

5. Despite his full compliance with all legal requirements, while lawfully residing in the community in Des Plaines, Illinois, and while voluntarily attending a mandatory ICE check-in appointment on March 16, 2026, Petitioner—along with his wife and minor child—was detained by U.S. Immigration and Customs Enforcement ("ICE"). This arrest occurred in the interior of the United States, far from the border, while Petitioner was complying with his reporting obligations.

6. Following his arrest, Petitioner was transported across state lines and ultimately transferred to the Chase County Detention Facility in Cottonwood Falls, Kansas. He

remains detained without bond. His wife, Nurkyz Sultanbekova, and their minor son, Barsbek Madymarov, were released by ICE on the same date pursuant to an Order of Release on Recognizance. On the date of his arrest, Notices to Appear (NTAs) were issued for Petitioner and his family members. He has not been provided any individualized custody determination, and no presently scheduled hearing exists at which his custody or asylum claim may be adjudicated.

7. The basis for this continued detention is a misapplication of the statute. Although Petitioner was inspected and paroled into the United States over three years ago, timely filed his asylum application while still in valid parole status, established residence in the interior, and appeared at all required immigration proceedings, ICE is detaining him under 8 U.S.C. § 1225(b) as though he were still standing at the threshold of entry. By classifying a long-resident paroled noncitizen as an "applicant for admission," Respondents have categorically denied him the opportunity for a bond hearing. This detention does not stem from a border encounter; it stems from the arrest of an individual living and complying with immigration law in the United States while awaiting his scheduled day in court.

8. Respondents' invocation of 8 U.S.C. § 1225(b) rests on a fundamental legal error. That statute is textually and structurally limited to noncitizens seeking admission at the border or apprehended immediately upon entry. It does not grant DHS the authority to reach into the interior of the country and retroactively apply mandatory detention to an individual who was inspected, paroled, and released over three years earlier. By treating a long-time resident parolee as an "arriving alien" standing at the threshold of entry,

Respondents are relying on a legal fiction to deny Petitioner his statutory right to a bond hearing.

9. In *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the Board of Immigration Appeals held that Immigration Judges lack bond jurisdiction where DHS classifies a noncitizen's detention as arising under 8 U.S.C. § 1225(b). As applied in practice, *Matter of Q. Li* has resulted in Immigration Judges declining to exercise bond jurisdiction once DHS invokes § 1225(b), without adjudicating whether that detention provision properly governs circumstances of such interior arrests. As a result, Petitioner is foreclosed from any meaningful administrative forum to challenge the statutory basis of his detention.

10. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice of instead applying 8 U.S.C. § 1226(a), which allows for release on conditional parole or allows for an Immigration Judge to consider bond requests or make bond redeterminations.

11. Because Petitioner was paroled into the United States and was awaiting immigration court proceedings at the time of his arrest, his detention is governed, if at all, by 8 U.S.C. § 1226(a), which authorizes release on bond or conditional parole and requires an individualized custody determination. ICE's refusal to provide such process violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

12. Petitioner respectfully requests that this Court find his detention unlawful under 8 U.S.C. § 1225(b) and order his release, or, in the alternative, order that Petitioner be

released unless Respondents provide him with an immigration bond hearing under 8 U.S.C. § 1226(a) within seven days.

PARTIES

13. Petitioner Marlen Madymarov is a native and citizen of the Russian Federation, of Kyrgyz ethnicity, born on [redacted], in Karasuu (USSR). He resided with his wife and minor son at [redacted], prior to his detention. He was inspected and paroled into the United States on December 30, 2022, under INA § 212(d)(5), with parole authorized through February 26, 2023.

14. On January 26, 2023, while still in valid parole status, he timely filed a Form I-589, Application for Asylum and Withholding of Removal, naming his wife, Nurkyz Sultanbekova, and their minor son, B[redacted], as derivative beneficiaries. He is currently detained at the Chase County Detention Facility, 301 South Walnut Street, Cottonwood Falls, KS 66845.

15. Respondents are the federal officials responsible for Petitioner's custody and the enforcement of the immigration detention laws, including: Jacob Welsh, Warden of the Chase County Detention Facility; Christopher Challenger, Kansas City Field Office Director of the Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; Todd M. Lyons, Acting Director of U.S. Immigration and Customs Enforcement; Kristi Noem, Secretary of the Department of Homeland Security; and Pamela Jo Bondi, Attorney General of the United States.

JURISDICTION

16. This Court has jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, which authorizes federal courts to grant habeas relief to individuals who are "in custody in violation of the Constitution or laws or treaties of the United States."

17. Petitioner is currently detained within this District at the Chase County Detention Facility, 301 South Walnut Street, Cottonwood Falls, KS 66845, and therefore, jurisdiction is proper in this Court. *See Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) (a habeas petition must be filed in the district of confinement and name the immediate custodian).

18. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, 110 Stat. 1570. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition, and under 28 U.S.C. § 1331 because this action arises under federal law, including the INA, 8 U.S.C. § 1101, et seq., and the Administrative Procedure Act, 5 U.S.C. § 551, et seq. In sum, this Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

19. 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

20. The District of Kansas has exercised habeas jurisdiction over claims challenging statutory detention authority, rejecting arguments that such review is precluded. As this

Court recently recognized, challenges to the statutory basis of detention are properly brought through habeas corpus, and the court has jurisdiction to consider whether 8 U.S.C. § 1225(b) lawfully applies to a noncitizen who has already been paroled into the United States and is residing in the interior. See *Orellana v. Welsh*, No. 26-3019-JWL (D. Kan. March 13, 2026) (granting petition and ordering Respondents to provide bond hearing pursuant to 8 U.S.C. § 1226(a) or release petitioner).

21. 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 District of Kansas. The venue is therefore proper in this District, as the Petitioner is detained here, and the immediate custodian responsible for his detention is located within this District.

REQUIREMENTS OF 28 U.S.C. § 2243

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

23. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. Habeas corpus is "perhaps the most important writ known to 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).

LEGAL FRAMEWORK

24. The Immigration and Nationality Act ("INA") prescribes three basic detention frameworks applicable to noncitizens encountered by the Department of Homeland Security during the removal process.

25. First, 8 U.S.C. § 1226 governs the detention of noncitizens placed in standard removal proceedings before an Immigration Judge ("IJ") under 8 U.S.C. § 1229a. Noncitizens detained pursuant to § 1226(a) are entitled to an individualized custody determination, including the opportunity for release on bond or conditional parole. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Mandatory detention under § 1226(c) applies only to a narrow category of individuals with specified criminal histories.

26. Second, the INA provides for mandatory detention under 8 U.S.C. § 1225(b), which applies exclusively to noncitizens seeking admission at a port of entry or apprehended at or shortly after entry, before they have been admitted or paroled into the United States.

27. Third, the INA authorizes detention under 8 U.S.C. § 1231(a) for noncitizens subject to a final order of removal, including individuals in withholding-only proceedings.

28. This case concerns the misapplication of § 1225(b) to a noncitizen who was lawfully paroled into the United States, placed into standard removal proceedings, and detained while awaiting adjudication before an Immigration Judge, such that § 1226(a) governs Petitioner's custody.

29. Petitioner was inspected and paroled into the United States pursuant to INA § 212(d)(5) on December 30, 2022, with parole authorized through February 26, 2023. Parole under § 212(d)(5) constitutes lawful authorization to be physically present in the United States pending further proceedings. On March 16, 2026, ICE issued a Notice to Appear, thereby initiating removal proceedings under 8 U.S.C. § 1229a. Jurisdiction has vested with the Immigration Court.

30. On March 16, 2026, the same date Petitioner was arrested, ICE issued a Notice to Appear to Petitioner, thereby initiating removal proceedings against him under 8 U.S.C. § 1229a before the Immigration Court. At the time of his arrest by ICE, Petitioner was placed into removal proceedings and had not been ordered removed.

31. Noncitizens who have been paroled into the United States and placed into § 1229a removal proceedings are, by statute, governed by the detention framework set forth in § 1226(a). Nothing in the INA authorizes DHS to treat such individuals as subject to mandatory detention under § 1225(b).

32. Nevertheless, ICE has recently asserted detention authority inconsistent with the statutory framework by detaining paroled noncitizens as though they were applicants for admission subject to § 1225(b), even when those individuals have long since entered the United States and are residing in the interior pending Immigration Court proceedings.

33. That interpretation conflicts with the text, structure, and purpose of the INA. Section 1225(b) applies only to individuals "seeking admission" and is premised on inspections conducted at the border or immediately upon entry. *See* 8 U.S.C. § 1225(b)(2)(A). The Supreme Court has confirmed that § 1225(b)'s mandatory detention regime applies at

the Nation's borders and ports of entry, where the government determines admissibility in the first instance. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

34. By contrast, § 1226(a) applies broadly to noncitizens "pending a decision on whether the alien is to be removed from the United States," including individuals charged as inadmissible and placed into § 1229a proceedings.

35. The District of Kansas has directly addressed this issue and held that § 1226(a), not § 1225(b), governs detention where a noncitizen has been residing in the interior of the United States prior to detention. In *Orellana v. Welsh*, this Court agreed with the Fifth Circuit dissent's interpretation that the text of § 1225(b)(2)(A) applies only to noncitizens who are "seeking admission," a requirement not satisfied where the individual is already present in the United States. The Court concluded that noncitizens who have been present in the United States for an extended period at the time of their detention are not subject to mandatory detention under § 1225(b)(2)(A) and are instead eligible for release on bond under § 1226(a). The Court further explained that this interpretation is consistent with the structure and history of the statutes, preserves the longstanding distinction between arriving and present noncitizens, and avoids unnecessary redundancies.

36. This conclusion is consistent with the overwhelming weight of authority from federal courts across the country. Federal courts have repeatedly held that DHS may not detain paroled noncitizens awaiting Immigration Court proceedings under § 1225(b). Rather, such individuals fall squarely within § 1226(a) and are entitled to an individualized custody determination. *See, e.g., Hyppolite v. Noem*, No. 1:2025-cv-04304 (E.D.N.Y., Oct. 6, 2025) (rejecting government's attempt to classify a paroled asylum seeker as

subject to mandatory detention); *Rodriguez-Vazquez v. Bostock*, No. 3:25-cv-05240-TMC (W.D. Wash. Sept. 30, 2025) (holding that § 1226(a), not § 1225(b), governs detention of paroled noncitizens present in the interior); *Oliveira Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025, (D. Mass. July 7, 2025) (§ 1225(b) limited to individuals at the border or shortly after entry).

37. ICE's detention of Petitioner cannot be justified by reference to any independent ground once Petitioner was paroled into the United States and placed into removal proceedings under 8 U.S.C. § 1229a. At that point, and in the absence of any criminal conduct, Petitioner's custody could only be governed by 8 U.S.C. § 1226(a).

38. Section 1226(a) requires that detention be discretionary, subject to individualized review, and accompanied by the opportunity for release on bond or conditional parole.

39. ICE's refusal to provide Petitioner with a bond hearing or other individualized custody determination violates the INA, implementing regulations, and the Due Process Clause of the Fifth Amendment.

40. Because Petitioner is neither an arriving alien seeking admission nor subject to a final order of removal, his continued detention under any framework other than § 1226(a) is ultra vires.

41. Accordingly, Petitioner's detention is not authorized by statute, and habeas relief is warranted.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

42. Exhaustion of administrative remedies is not required in this case. 28 U.S.C. § 2241 contains no statutory exhaustion requirement, and courts apply only a prudential exhaustion doctrine in immigration habeas matters. See *McCarthy v. Madigan*, 503

U.S. 140, 144 (1992) (exhaustion not required where not mandated by statute). Where, as here, a petitioner challenges the statutory and constitutional authority for detention, exhaustion is not required because administrative agencies cannot adjudicate constitutional claims and lack the power to grant habeas relief.

43. Moreover, exhaustion would be futile because neither the IJ nor the Board of Immigration Appeals can review DHS's claim that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b), nor can they order release where DHS invokes that statute. Administrative procedures, therefore, cannot provide the relief sought, release from unlawful detention. *See McCarthy*, 503 U.S. at 146–49 (exhaustion excused where agency remedies are inadequate or would cause irreparable injury).

44. The District of Kansas has likewise recognized that challenges to the statutory basis of detention are properly brought through habeas corpus. In *Orellana v. Welsh*, this Court held that 8 U.S.C. § 1252(g) does not jurisdictionally bar the court's consideration of such petitions, and that § 1225(b)(2)(A) applies only when a noncitizen is actively "seeking admission." Accordingly, § 1225(b) is limited to individuals at the border or seeking admission and cannot be extended to noncitizens who, like Petitioner, have already been paroled into the country and are residing in the interior.

45. The government's reliance on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and *Matter of Q. Li* to justify mandatory detention under 8 U.S.C. § 1225(b) is legally unsustainable. As this Court held in *Orellana v. Welsh*, 8 U.S.C. § 1225(b)(2)(A) applies only when a noncitizen "applicant for admission" is actively "seeking admission" into the United States. Because Petitioner was inspected and paroled into the United States in December 2022 and was arrested in the interior while awaiting

Immigration Court proceedings, § 1225(b) does not apply to his detention, and Respondents lack statutory authority to deny him access to a bond hearing.

46. Federal courts have recognized that noncitizens who have been inspected and paroled into the United States and who are awaiting adjudication in removal proceedings are not subject to mandatory detention under 8 U.S.C. § 1225(b). In *Castañon-Nava v. Department of Homeland Security*, No. 18-cv-3757 (N.D. Ill. Nov. 13, 2025), the district court squarely rejected DHS's position that individuals apprehended in the interior may be subjected to § 1225(b)(2) mandatory detention, holding instead that such individuals fall under the discretionary detention framework of 8 U.S.C. § 1226(a).

47. Courts across multiple jurisdictions have reached the same conclusion, holding that 8 U.S.C. § 1225(b) does not authorize mandatory detention of noncitizens who have already entered the United States and are apprehended in the interior while awaiting removal proceedings. See *Rodriguez-Vazquez v. Bostock,* No. 3:25-cv-05240-TMC (W.D. Wash. Sept. 30, 2025); *Oliveira Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, 792 F. Supp. 3d 211 (D. Mass. July 24, 2025).

48. In light of the foregoing authority, further administrative proceedings cannot remedy Petitioner's unlawful and unconstitutional detention. Immigration Judges lack authority to resolve the purely statutory and constitutional questions presented here. As a practical matter, following the Board of Immigration Appeals' precedential decisions in *Matter of Q. Li* and *Matter of Yajure Hurtado*, Immigration Judges have routinely concluded that they lack jurisdiction to consider bond requests once DHS asserts

detention authority under 8 U.S.C. § 1225(b), even where the noncitizen affirmatively disputes the applicability of that statute as a matter of statutory interpretation. Consequently, bond applications by individuals in Petitioner's posture are denied as a matter of course based solely on DHS's asserted detention framework, without any forum for adjudicating whether § 1225(b) lawfully applies to detention occurring in the interior of the United States after parole and release. Under these circumstances, administrative remedies are not merely inadequate, but functionally unavailable, rendering habeas corpus relief the only viable mechanism to challenge Petitioner's continued detention. Requiring prudential exhaustion would therefore be futile and would serve only to prolong unlawful custody and irreparable harm.

CLAIMS FOR RELIEF

CLAIM ONE

Detention Violates the Immigration and Nationality Act (INA)

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

50. The government is unlawfully detaining Petitioner pursuant to 8 U.S.C. § 1225(b), despite the fact that § 1225(b) is directed to detention arising in connection with the inspection and admission process. Petitioner is not such an individual; rather, he was inspected and paroled into the United States on December 30, 2022, and has remained continuously present in the United States for over three years. The statutory framework and decades of established agency practice make clear that individuals who were paroled and not apprehended at or near the border are detained, if at all, under 8 U.S.C. § 1226, which allows for discretionary custody and provides the right to a bond hearing.

51. The government's effort to classify Petitioner as an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b) rests entirely on a legal label that no longer corresponds to Petitioner's procedural posture. Petitioner was inspected and paroled into the United States pursuant to INA § 212(d)(5), released into the interior, and placed into standard removal proceedings under 8 U.S.C. § 1229a. Once parole was granted and jurisdiction vested with the Immigration Court, Petitioner ceased to be a noncitizen "seeking admission" within the meaning of § 1225(b).

52. As the District of Kansas recently held in *Orellana v. Welsh*, the mandatory detention provision of § 1225(b)(2)(A) imposes a requirement that the alien be "seeking admission" that is not satisfied in the case of an already-present alien merely by the statutory label of "applicant for admission." The court concluded that aliens who have resided in the interior of the United States for years are not subject to mandatory detention under § 1225(b)(2)(A) and are instead eligible for release on bond under § 1226(a), which provides for individualized custody determinations.

53. Federal courts have repeatedly rejected DHS's attempt to bootstrap mandatory detention authority by continuing to label paroled, interior detainees as "applicants for admission," holding that 8 U.S.C. § 1226(a)—not § 1225(b)—governs detention once a noncitizen is no longer at the border or in the immediate entry context. *See Castañon-Nava v. DHS*, No. 18-cv-3757 (N.D. Ill. Nov. 13, 2025); *Rodriguez-Vazquez v. Bostock*, No. 3:25-cv-05240-TMC (W.D. Wash. Sept. 30, 2025); *Oliveira Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025).

54. Because Petitioner is not subject to detention under § 1225(b), his continued detention without access to a custody redetermination hearing violates the INA, exceeds DHS's

statutory authority, and is unlawful. Petitioner is entitled to habeas relief, including immediate release, or in the alternative, a constitutionally compliant bond hearing under 8 U.S.C. § 1226(a).

CLAIM TWO

Violation of the Due Process Clause of the Fifth Amendment

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

56. Petitioner's continued detention without a bond hearing or individualized determination of flight risk or danger violates the Due Process Clause of the Fifth Amendment. The government asserts that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b), even though he was paroled into the United States over three years ago, is deeply embedded in his community in the Chicago metropolitan area, has a wife and minor child who reside in the Chicago metropolitan area and depend upon him, has a pending asylum claim based on religious persecution and racial discrimination, and was not apprehended at or near the border.

57. Treating Petitioner as an "applicant for admission" and subjecting him to indefinite, mandatory detention without procedural safeguards is arbitrary, punitive, and contrary to the basic guarantees of due process.

58. Freedom from bodily restraint lies at the core of the liberty protected by the Due Process Clause. *See Zadvydas v. Davis,* 533 U.S. 678, 690 (2001). Even where the government possesses authority to detain individuals for immigration purposes, such detention must bear a reasonable relation to its asserted purpose and be accompanied

by adequate procedural protections. *See Demore v. Kim*, 538 U.S. 510, 531 (2003). Here, Petitioner's detention is not reasonably related to any legitimate immigration purpose because he is not a recent entrant, was lawfully paroled into the United States, has longstanding ties to the United States through his pending asylum proceedings and his family, and DHS cannot justify treating him as if he had just arrived under an expedited removal framework.

59. The District of Kansas has likewise rejected DHS's attempt to apply 8 U.S.C. § 1225(b) to noncitizens apprehended in the interior, holding that § 1225(b)(2)(A) applies only when a noncitizen is actively "seeking admission," and that detention of interior-arrested individuals is governed by 8 U.S.C. § 1226(a), which entitles them to a bond hearing or release. See *Orellana v. Welsh.*

60. Accordingly, Petitioner's continued detention violates the Fifth Amendment, and this Court should grant habeas relief and order Petitioner's immediate release, or, at a minimum, a prompt bond hearing with the government bearing the burden to justify continued detention by clear and convincing evidence.

CLAIM THREE

Violation of the Suspension Clause of the U.S. Constitution

61. Petitioner incorporates by reference all preceding paragraphs. The Suspension Clause, U.S. Const. art. I, § 9, cl. 2, guarantees that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." Petitioner's continued detention, without access to judicial review or a mechanism to challenge the legality of custody, violates this constitutional guarantee. By asserting mandatory detention authority under 8 U.S.C. §

1225(b) and denying Petitioner any opportunity to seek release or a bond hearing, the government has effectively extinguished the core function of the writ—to test the legality of restraint on personal liberty.

62. The Supreme Court has long held that habeas relief remains available to noncitizens seeking to challenge unlawful executive detention. *See INS v. St. Cyr*, 533 U.S. 289, 301 (2001) ("At the absolute minimum, the Suspension Clause protects the writ as it existed in 1789."). The writ cannot be withdrawn where, as here, the Executive detains an individual without statutory authority and without due process safeguards. *See Boumediene v. Bush*, 553 U.S. 723, 797 (2008) (inadequate substitutes cannot replace habeas; detainees must have a meaningful opportunity to challenge detention).

63. The government's position—that Petitioner is subject to mandatory detention and categorically barred from seeking release—deprives him of any meaningful forum to challenge the legality of his detention and effectively suspends his right to judicial review. As this Court held in *Orellana v. Welsh*, DHS's attempt to apply 8 U.S.C. § 1225(b) to noncitizens apprehended in the interior exceeds the limits of the INA. Absent habeas review, DHS's unlawful detention scheme would leave Petitioner confined without any lawful mechanism to challenge the statutory basis of his custody, in direct violation of the Constitution's guarantee of meaningful judicial review.

64. Because Petitioner's detention without access to meaningful judicial review of his custody constitutes an effective suspension of the writ of habeas corpus, this Court must exercise jurisdiction and grant relief. Petitioner respectfully requests an order directing his immediate release, or, in the alternative, a prompt individualized custody hearing

at which the government must justify continued detention by clear and convincing evidence.

REQUEST FOR IMMEDIATE RELEASE

65. As reflected in the Declaration of Jorge E. Artieda, Esq., a former attorney with U.S. Immigration and Customs Enforcement and former Special Assistant United States Attorney, submitted as an exhibit to this Petition, immigration judges have recently begun systematically denying bond in post-habeas cases based on generalized and speculative findings of flight risk, even where respondents demonstrate strong community ties, lack of criminal history, and viable forms of relief from removal. Mr. Artieda explains that, based on more than two decades of experience in immigration enforcement and detention litigation, this pattern represents a dramatic shift in bond adjudications, in which immigration judges increasingly rely on abstract rationales — such as the speculative nature of relief applications, lack of financial sponsorship, or immigration status violations common to virtually all detained individuals — to deny bond without meaningful individualized analysis.

66. This Court has recognized that immediate release is the appropriate remedy where the Government lacks statutory authority to detain a petitioner. In *Orellana v. Welsh*, this Court ordered Respondents to provide the individualized bond hearing required under Section 1226(a) or release the petitioner from custody, rejecting the government's invocation of § 1225(b) as the basis for mandatory detention of a noncitizen apprehended in the interior of the United States. Other courts have reached the same conclusion in materially identical circumstances. In *Yskakuulu v. Jamison*, No. 2:26-cv-909 (E.D. Pa., Feb. 17, 2026), the court granted habeas corpus and ordered the

immediate release of the petitioner without conditioning relief on the outcome of a bond hearing. Similarly, in *Leiva Pinto v. Jamison*, No. 2:26-cv-646 (E.D. Pa., Feb. 4, 2026), the court ordered the immediate release of the petitioner because the Government's detention under § 1225(b) lacked legal authority. Petitioner Madymarov's case presents an even stronger basis for relief than the cases discussed above. Unlike petitioners who entered without inspection, Petitioner was affirmatively inspected and paroled into the United States pursuant to INA § 212(d)(5) on December 30, 2022, and was issued a Form I-94 by the Government itself, with parole authorized through February 26, 2023. While still in valid parole status, he timely filed an asylum application on January 26, 2023, and thereafter built a stable life in Des Plaines, Illinois for over three years before his arrest. Under these circumstances, the same result—recognizing that his detention is governed by 8 U.S.C. § 1226(a) and that he is entitled to an individualized bond hearing—is warranted here.

67. The record establishes that Petitioner poses no danger to the community and no risk of flight. Petitioner has no criminal history of any kind. He was granted humanitarian parole pursuant to INA § 212(d)(5) on December 30, 2022, was issued a Form I-94 authorizing his stay through February 26, 2023. As he had not been placed into removal proceedings during the relevant period, Petitioner properly filed his asylum application with USCIS. While still in valid parole status, he timely filed a Form I-589, Application for Asylum and Withholding of Removal, with USCIS on January 26, 2023, naming his wife and minor son as derivative beneficiaries. At the time of his arrest on March 16, 2026, he was not evading immigration authorities — to the contrary, he was

voluntarily attending a mandatory ICE check-in appointment in full compliance with his immigration obligations, accompanied by his wife and minor child.

68. Petitioner's case illustrates precisely the constitutional defect at issue. Because DHS has invoked § 1225(b), Immigration Judges are categorically precluded under current BIA precedent from exercising bond jurisdiction over Petitioner's custody. Petitioner has therefore been held since his arrest without any opportunity whatsoever to appear before a neutral decisionmaker and present the overwhelming evidence that he is neither a danger to the community nor a flight risk. This is not a case where a bond hearing was held but produced an inadequate result — it is a case where the Government's statutory misclassification has foreclosed any bond forum entirely.

69. Mr. Artieda's declaration confirms that even where bond hearings do occur in analogous cases, immigration judges have adopted a practice of denying bond in post-habeas proceedings by relying on boilerplate findings that an applicant's form of relief is "speculative," that the applicant lacks sufficient financial sponsorship, or that the applicant's immigration status itself constitutes evidence of flight risk — rationales inherent to virtually every detained noncitizen and which cannot constitute the individualized assessment that due process requires. Where, as here, the Government's classification forecloses bond jurisdiction entirely, the risk of this systemic failure is not merely theoretical; it is guaranteed. Ordering a bond hearing under a § 1225(b) framework would subject Petitioner to a process that is constitutionally deficient from its inception.

70. Under these circumstances, ordering another bond hearing would not cure the constitutional defect. Courts have recognized that where the existing detention

framework cannot reliably safeguard a detainee's liberty interest, habeas relief in the form of immediate release is appropriate. See *Orellana v. Welsh*, (ordering Respondents to afford § 1226(a) process or release petitioner). The purpose of habeas review is not to require repetitive administrative proceedings that cannot provide meaningful relief, but to ensure that unlawful detention ceases.

71. Accordingly, the appropriate remedy is not another bond hearing, but Petitioner's immediate release from custody under reasonable conditions of supervision.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter pursuant to 28 U.S.C. § 2241;
2. Issue an order prohibiting Respondents from transferring Petitioner outside this judicial district during the pendency of these proceedings;
3. Issue a Writ of Habeas Corpus directing Respondents to immediately release Petitioner Marlen Madymarov from immigration detention;
4. In the alternative, order that Petitioner be provided a prompt, individualized custody hearing before a neutral adjudicator, at which the government bears the burden of establishing by clear and convincing evidence that continued detention is necessary to ensure his appearance or protect the community;
5. Enjoin Respondents from re-detaining Petitioner absent lawful statutory authority and constitutionally sufficient procedures;
6. Declare that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b) and is entitled to custody review under 8 U.S.C. § 1226(a); and

7. Grant such other and further relief as the Court deems just and proper in equity and under the circumstances.

Respectfully submitted on March 22, 2026.

COUNSEL FOR PETITIONER,

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have reviewed the relevant documentation of the events described in this Petition that was reasonably available to me prior to and at the time of filing. Based on those documents and on discussions with individuals whom the Petitioner authorized to speak on his behalf, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge.

Respectfully submitted on March 22, 2026.

COUNSEL FOR PETITIONER

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