

KAREN VENICE BRYAN, MN Bar # 0397399
karen.bryan@kblawgrp.com
KB LAW PLLC
4100 Excelsior Blvd
St Louis Park, MN 55416
Office: (612) 345-4782
Fax: (612) 886 3360

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Nan Lin,

Petitioner,

Case No. 0:26-cv-1991

v.

Secretary, Department of Homeland
Security; U.S. Department of Homeland
Security, in their official capacity;

**PETITION FOR WRIT OF
HABEAS CORPUS**

Todd M. LYONS, Acting Director of
Immigration and Customs Enforcement;
Immigration and Customs Enforcement, in
his official capacity;

David EASTERWOOD, Field Office
Director of Enforcement and Removal
Operations, Minneapolis - St. Paul Field
Office, Immigration and Customs
Enforcement, in his official capacity;

Mary DE ANDA-YBARRA, Field Office
Director of Enforcement and Removal
Operations, El Paso Field Office,
Immigration and Customs Enforcement, in
her official capacity;

Warden of Otero County Processing Center,
custodian of detainees at the Otero County
Processing Center, in their official capacity.

Respondents.

INTRODUCTION

1. Petitioner, Nan Lin, is a non-citizen from China. Petitioner entered the United States on or about December 3, 2023.
2. On December 4, 2023, Petitioner was released from custody on his own recognizance under I.N.A. § 236, 8 U.S.C. 1226, which allows the Attorney General to release a noncitizen from custody "pending a decision on whether the alien is to be removed from the United States." *Id.* See Ex. A. Order of Release on Recognizance.
3. On December 4, 2025, Petitioner was also issued a notice to appear (NTA) and placed in full removal proceedings pursuant to 8 U.S.C. § 1229a. See Ex. B. Notice to Appear.
4. Petitioner timely filed Form I-589, Application for Asylum and Withholding of Removal, with the New York Immigration Court on April 31, 2024. See Ex. C. Form I-589, Application for Asylum and Withholding.
5. Petitioner has a valid work permit and no criminal history. Petitioner, like thousands of other asylum seekers, is waiting for an individual merits hearing so that his asylum claims can be considered by an immigration judge. Upon information and belief, Petitioner has no criminal history. In short, Petitioner has done everything that the government has required of him to lawfully seek asylum.
6. For the past more than two (2) years, Petitioner has lived peaceably in the United States.
7. Petitioner has strong ties to the community and an approved Form I-360, Petition for Special Immigrant Juvenile (SIJ) status  See Ex. D. Form I-360 Approval Notice.

8. Nevertheless, despite fully cooperating with the adjudication of his pending asylum claim, he was arrested without a judicial warrant and taken into ICE custody on December 19, 2025.
9. ICE officers detained Petitioner without adequate consideration of his prior case history or procedural status. His mandatory detention appears arbitrary and inconsistent with established principles of due process and proportional immigration enforcement.
10. Respondents did not provide Petitioner or counsel with any written custody determination, Notice to Revoke Bond or explanation for the detention.
11. Petitioner was unlawfully arrested in Minnesota and without explanation or due process, transported by Respondents to the Otero County Processing Center in Chaparral, New Mexico, with no notice to his counsel.
12. Petitioner is currently being detained by Respondents at the Otero County Processing Center in Chaparral, New Mexico.
13. Petitioner challenges his detention as a violation of the Immigration and Nationality Act (INA), the Administrative Procedures Act (APA), and the Due Process Clause of the Fifth Amendment.
14. Petitioner seeks habeas relief under 28 U.S.C. 2241, which is the proper vehicle for challenging civil immigration detention. *See Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (“Challenges to immigration detention are properly brought directly through habeas”) (citing *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001)).
15. Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus and order Respondents to immediately release him from custody.

JURISDICTION AND VENUE

16. This court has subject-matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Federal questions in this case arise under the Immigration and Naturalization Act, 8 U.S.C. § 1101-1524, and the United States Constitution.
17. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).
18. Under 28 U.S.C. § 2241, venue is proper in this district because Petitioner was apprehended and arrested without a judicial warrant in the State of Minnesota on December 19, 2025, before being transferred to the State of New Mexico without proper notice at Respondents' unilateral direction. Petitioner had retained counsel in New York and has now retained counsel in Minnesota to challenge his arrest and detention, and Respondents made no effort to inform Petitioner's counsel of his transfer.
19. This Court has previously found that its habeas jurisdiction attached at the time of an individual's apprehension in this District. Petitioner was apprehended within the District of Minnesota by federal officers and immediately placed into federal custody, therefore, this Court holds jurisdiction over the habeas petition. The Court's jurisdiction over the habeas petition is not defeated by any subsequent decision by Respondents to transfer Petitioner to another state. Habeas jurisdiction turns on custody and control, not on the Government's unilateral post-seizure movement of the detainee. The position that jurisdiction lies exclusively in the district to which Respondents transfer Petitioner would

permit the Government to determine the forum for judicial review through its own logistics. Federal courts may not be divested of jurisdiction in that manner.

20. Petitioner was apprehended in the State of Minnesota prior to being transferred to the State of New Mexico, a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this district, and Respondents in this case are national-level officials and officials with responsibility over the detention facility where Petitioner is detained. *Sue H. v. Donald Trump*, No. 26-cv-00416 (D. Minn. Jan. 20, 2026), and *Victor P. v. Kristi Noem*, et al., No. 26-cv-430 (MJD/SGE)(D. Minn. Jan. 19, 2026); see also *Jose A. v. Kristi Noem*, No. 26-cv-480 (JMB/ECW) (finding that jurisdiction was proper in Minnesota despite petitioner being transferred to El Paso, Texas because the decision to detain and arrest petitioner was made in Minnesota, witnesses of petitioner's arrest are in Minnesota, and petitioner was for some time actually detained in Minnesota).
21. The Court should find that this District is a proper forum for Petitioner to file his Petition. Petitioner was arrested in Minnesota and has retained counsel in Minnesota to challenge his arrest and detention. Petitioner left the District of Minnesota only because respondents secreted him away to New Mexico. Moreover, any necessary information, witnesses, or records regarding Petitioner's immigration status are most likely to be located in Minnesota. Furthermore, "[t]he decision to arrest and detain [Petitioner] was directed to personnel within this District, and therefore witnesses and information about the manner of his arrest would also be found in this District." *Jose A. v. Noem*, No. 26-cv-480 (JMB/ECW), 2026 WL 172524, at *2 (D. Minn. Jan. 22, 2026). Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's

claims occurred in this district. Venue is also proper in this Court because Respondents are employees, officers, and agencies of the United States.

PARTIES

22. Petitioner, Nan Lin, a 21-year-old Chinese national, resides in New York. Respondents detained Petitioner in the State of Minnesota with no explanation on December 19, 2025. There are no legitimate circumstances for Respondents to justify detaining Petitioner. Petitioner is now detained at the Otero County Processing Center in Chaparral, New Mexico.
23. Respondent Secretary of the Department of Homeland Security is responsible for overseeing the enforcement of federal immigration policies, including those that resulted in the detention of Petitioner. They are sued in their official capacity.
24. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (ICE). As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also the legal custodian of Petitioner. He is sued in his official capacity.
25. Respondent David Easterwood is the Acting Field Office Director for the Fort Snelling Field Office for ICE within DHS. In that capacity, Field Director Easterwood has supervisory authority over the ICE agents responsible for detaining Petitioner. He is sued in his official capacity.
26. Respondent Mary De Anda Ybarra is the Director of the El Paso Field Office of ICE's Enforcement and Removal Operations division. As such, she is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. She is sued in her official capacity.

27. Respondent Warden of the Otero County Processing Center, is the custodian of detained non-citizens, including Petitioner, housed at the Otero County Processing Center. They are sued in their official capacity.

EXHAUSTION OF REMEDIES

28. No statutory requirement of administrative exhaustion applies to Petitioner's challenge to the unlawfulness of his detention. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which she could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).
29. DHS has taken the position that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225. Further, in a published decision, the Board of Immigration Appeals held that "Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission." *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under the BIA's interpretation, Petitioner is ineligible for bond as a noncitizen who entered the United States without inspection. Exhaustion before the BIA would therefore be futile. Accordingly, there are no administrative remedies that Petitioner could exhaust before seeking habeas relief.
30. The BIA interprets § 1225(b) as mandating detention of arriving aliens pending removal proceedings. See *Matter of X-K-*, 23 I. & N. Dec. at 732 ("There is no question that Immigration Judges lack jurisdiction [for a bond hearing] over arriving aliens who have been placed in . . . removal proceedings . . ."). Notably, on February 18, 2026, a

Central District of California District Court Judge issued an order vacating the Board's decision in *Matter of Yajure Hurtado, Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.* 5:25-cv-01873, (C.D. Cal.).

31. Further, neither an immigration judge nor the Board of Immigration Appeals can rule on a petitioner's constitutional claims. See *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (B.I.A. 2020) (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C--*, 20 I. & N. Dec. 529, 532 (B.I.A. 1992) ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations."); see also *Gonzalez v. O'Connell*, 355 F.3d 1010, 1017 (7th Cir. 2004) (noting that "the BIA has no jurisdiction to adjudicate constitutional issues..."); see also *United States v. Gonzalez-Roque*, 301 F.3d 39, 48 (2d Cir. 2002) ("the BIA [Board of Immigration Appeals] does not have jurisdiction to adjudicate constitutional issues...")

32. Because Petitioner raises a constitutional due process claim in his habeas petition, exhaustion of his due process claims would be futile.

FACTUAL BACKGROUND

33. Petitioner, Nan Lin, is a 21-year-old Chinese national who is seeking asylum in the United States. Petitioner arrived in the United States on or about December 3, 2023. Respondents then released Petitioner on his own recognizance pursuant to I.N.A. § 236, 8 U.S.C. § 1226 on December 4, 2023. See Ex. A. Petitioner was issued Notice to Appear (NTA) and placed in full removal proceedings under 8 U.S.C. § 1229a. See Ex. B.

34. Petitioner timely filed Form I-589, Application for Asylum and Withholding of Removal, with the New York Immigration Court on May 31, 2024. *See* Ex. C. He is seeking asylum in the United States and has initiated the asylum application process in accordance with applicable immigration laws and procedures.
35. Petitioner has a valid work permit based upon his pending asylum application. Petitioner has never missed a court hearing or otherwise violated the conditions of his release from custody. Upon information and belief, Petitioner has no criminal history in the United States or elsewhere.
36. Despite this, Respondents detained Petitioner on December 19, 2025, in the State of Minnesota, for no apparent lawful reason and without a judicial warrant.
37. Petitioner is currently in removal proceedings and has complied with all requirements imposed by U.S. immigration authorities. *See* Ex. B.
38. Petitioner was arrested without a judicial warrant and detained in the State of Minnesota without any proper notice before being transferred to the State of New Mexico. Petitioner is currently detained at the Otero County Processing Center in Chaparral, New Mexico.
39. Detaining Petitioner is an expensive and pointless endeavor. Petitioner respectfully seeks the opportunity to return home and to continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country.

LEGAL BACKGROUND

40. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC 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.*
41. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention: The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).
42. A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law, 28 U.S.C. § 2441(c)(3), which should be granted if the petitioner meets their burden of proof—a preponderance of evidence. *Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025).
43. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.
44. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
45. Detained immigrants petitioning under 28 U.S.C. § 2241 face no statutory exhaustion requirements. *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025). Nor is a judicially imposed prudential exhaustion requirement appropriate where,

as here: time is of the essence, facts are largely undisputed, and the parties' disagreement is based on a legal conclusion. *Id.* at 967-68. There is no statutory requirement of administrative exhaustion before immigration detention may be challenged in federal court by a writ of habeas corpus. See 8 U.S.C. § 1252(d)(1).

46. As relevant here, the Immigration and Naturalization Act, 8 U.S.C. §1101-1524, describes two means of handling the custody and potential removal of noncitizens.

47. First, 8 U.S.C. § 1226(a) authorizes the detention of noncitizens in standard removal proceedings. See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention. See 8 C.F.R. §§ 1003.19(a), 1236.1(d). The text of § 1226 explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. Apr. 24, 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

48. In addition, while on release, the noncitizen may apply for asylum or other relief in the United States. 8 U.S.C. § 1158. While a grant of asylum is discretionary, the right to apply for asylum is not. The Refugee Act, codified in various sections of the INA, broadly affords a right to apply for asylum to any noncitizen, like Petitioner, "who is

physically present in the United States or who arrives in the United States[.]” 8 U.S.C. § 1158(a)(1); Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

49. The INA guarantees to noncitizens in standard removal proceedings who apply for asylum and other relief valuable procedural rights that reduce the risk of an erroneous decision. These include the rights to legal counsel, 8 U.S.C. § 1229a(b)(4)(A) and § 1362; to present supporting evidence (both documentary and through lay and expert witness testimony) and to challenge through cross-examination adverse evidence during a full adversarial hearing before an immigration judge (IJ), 8 U.S.C. § 1148(b)(1)(B); to seek reconsideration or reopening of an adverse decision, 8 U.S.C. § 1229a(c)(6)-(7), to appeal an adverse decision of an IJ to the Board of Immigration Appeals based on the full evidentiary record, 8 U.S.C. § 1229a(c)(5), and to appeal an adverse decision of the Board to a federal circuit court of appeals, 8 U.S.C. § 1252(b).

50. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

51. The second relevant means of detention is governed by 8 U.S.C. § 1225, which provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission under 8 U.S.C. § 1225(b)(2). Respondents treat noncitizens subject to mandatory detention under § 1225 as ineligible for bond.

52. The mandatory detention scheme under 8 U.S.C. § 1225(b)(2) applies only to noncitizens arriving at U.S. ports of entry who recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme

Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (emphasis added).

53. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including “Protecting the American People Against Invasion,” an order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The “Protecting the American People Against Invasion” EO instructs the DHS Secretary “to take all appropriate action to enable” ICE, Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) to prioritize civil immigration enforcement procedures including through the use of mass detention.
54. On January 21, 2025, Acting Deputy Secretary of DHS Benjamin Huffman issued for public inspection and effective immediately a designation expanding the scope of expedited removal to apply nationwide and to certain noncitizens who are unable to prove they have been in the country continuously for two years. On January 24, 2025, DHS published a Notice that expanded the application of expedited removal. Office of the Secretary, Dep’t of Homeland Security, Designating Aliens for Expedited Removal, 15 Fed. Reg. 8139 (“January 2025 Designation”). The designation was “effective on” January 21, 2025.
55. The January 2025 Designation expands the pool of noncitizens who can be subjected to the summary removal process substantially to include noncitizens who are

apprehended anywhere in the United States and who have not been in the United States continuously for more than two years. *Id.* at 8140.

56. The January 2025 Designation does not state that it applies to noncitizens who were in the United States before its effective date.

57. On July 8, 2025, without congressional authorization, the Executive Branch announced a new policy entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission.” The policy asserts that all undocumented noncitizens deemed “applicants for admission” are subject to mandatory detention under § 1225(b)(2)(A). The policy purports to apply even to those, like Petitioner, whom at the time of the policy shift, the government had already placed in standard removal proceedings, released from custody, and allowed to apply for asylum. The policy shift also violates the government’s own regulations. These regulations limit the government from seeking dismissal of full removal proceedings unless it can show that the “[c]ircumstances of the case have changed”. See 8 C.F.R. § 239.2(a)(7) (emphasis added). But the government’s new policy purports to allow it to seek dismissal based on changed circumstances independent of the noncitizen’s case.

58. Adopting this same position, on September 5, 2025, the Board of Immigration Appeals (BIA) issued a published decision holding that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bonds. See *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Notably, on February 18, 2026, a Central District of California District Court Judge issued an order vacating the Board’s decision in *Matter of Yajure Hurtado*.

Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al. 5:25-cv-01873, (C.D. Cal.).

59. ICE and EOIR have adopted this policy even though numerous federal courts have rejected this exact conclusion. For example, after IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239; see also *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion). Accordingly, federal courts have roundly rejected Respondent's erroneous interpretation of the INA since ICE implemented its July 8, 2025, memo. See *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025) (disagreeing with BIA's analysis in *Yajure Hurtado*); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (same); *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Martinez v. Hyde*, CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Garcia Jimenez v. Kramer*, No. 4:25-cv-03162-JFB-RCC, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Aguilar Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, 5:25-cv-01789-ODW-DFM, 2025 WL 2379285 (C.D. CA Aug 15, 2025); *Jacinto v. Trump, et al.*, 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 (D. Neb. August 19, 2025); *Leal-Hernandez v. Noem*, 1:25-cv-

02428-JRR, 2025 WL 2430025 (D. Minn. Aug. 24, 2025); *Herrera-Torralba v. Knight*, 2:25-cv-03166-RFB-DJA (D. Nev. Sep. 5, 2025); *Portugues Sanchez v. Noem et al.*, 25-cv-02010 (ADA/ML) (W.D. Tex. January 20, 2026); *Santiago v. Noem*, No. 3:25-cv-361-KC, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025); *Lopez-Arevelo v. Ripa*, --- F. Supp. 3d ----, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Buenrostro-Mendez v. Bondi*, No. 25-cv-3726, 2025 WL 2886346, (S.D. Tex. Oct. 7, 2025).

60. Petitioner was apprehended inside the United States, not at a port of entry or while seeking admission. Nevertheless, Respondents improperly rely on 8 U.S.C. § 1225(b)(2) to justify his detention without a hearing. That provision applies only to recent arrivals seeking admission. Instead, if detention were lawful at all, it would fall under 8 U.S.C. § 1226(a), which requires a judicial warrant and provides for a bond hearing, neither of which has occurred in this case.

CLAIMS FOR RELIEF

COUNT I

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Abuse of Discretion

Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

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

62. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

63. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v.*

Defs. Of Wildlife, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

64. To avoid an abuse of discretion, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

65. By revoking Petitioner’s order of release, without consideration of any individualized facts and circumstances applicable to him, and without finding that he is a danger to the community or a flight risk, and while his standard removal proceedings are still pending, Respondents have violated the APA.

66. The government previously considered Petitioner’s facts and circumstances and determined that he was not a flight risk or danger to the community. No changes to the facts have occurred that might justify this revocation of his release.

67. The fact that Respondents have already released Petitioner under the same facts and circumstances shows that Respondents do not consider him to be a danger to the community or a flight risk.

68. By detaining Petitioner without articulating a rationale based on his individualized circumstances, and by detaining him in contradiction of his individualized circumstances as Respondents have previously assessed them, they have abused their discretion under the APA.

COUNT II

Violation of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)

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

70. To the extent that Respondents purport to detain Petitioner pursuant to 8 U.S.C. § 1225(b)(2), his detention under that statute is unlawful. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. Petitioner was nowhere near the border and was not “seeking admission”.
71. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT III

Violation of Due Process (Arbitrary Detention)

72. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.
73. The Due Process Clause of the Fifth Amendment to the U.S. Constitution applies to all persons within the United States. Once a noncitizen enters this country, whether the presence is “lawful, unlawful, temporary, or permanent,” the Due Process Clause applies to the noncitizen. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
74. Due process requires that government action be rational and non-arbitrary. *See United States v. Bacon*, 646 F.3d 218, 221–22 (5th Cir. 2011).
75. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698.
76. Federal courts use the three-part test in *Mathews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. *Mathews v. Eldridge*, 424

U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.

77. First, Petitioner has a significant private interest at stake. Courts have long considered as-applied due process challenges to other mandatory detention provisions of the INA and found noncitizens to possess a cognizable interest in their freedom from custody. A person's interest in freedom from physical detention is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); see also *Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491 (“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.”). Petitioner is wrongfully confined, a direct attack on Petitioner’s liberty interests.

78. Second, Petitioner will continue to be deprived of this interest if the current procedure (detaining Petitioner without a legal basis) is followed. There is no rational explanation for detaining Petitioner. Respondents’ purported basis for detaining Petitioner under 8 U.S.C. 1225(b)(2) has been rejected by this court. *Ahmed A v. Bondi*, Case No. 25-4776 (JWB/DJF) (January 6, 2026); *Maldonado v. Olson*, 795 F. Supp. 3d 1134, 1142–48, 1150–52 (D. Minn. 2025); *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 968–970 (D. Minn. 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819, at *7–8 (D. Minn. Oct. 20, 2025); *R.E. v. Bondi*, No. 0:25-cv-3946-NEB, 2025

WL 3146312 (D. Minn. Nov. 4, 2025); *Herrera Avila v. Bondi*, No. 0:25-cv-3741 (JRT), 2025 WL 2976539 (D. Minn. Oct. 21, 2025).

79. Notably, this court and courts across the country have recently held that Respondents' novel interpretation regarding mandatory detention is either incorrect or likely incorrect. See *Buenrostro-Mendez v. Bondi*, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025), 2025 WL 2886346, at *3 (noting that "almost every district court to consider this issue" has rejected the Government's new interpretation); *Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *8 n.5 (E.D. Mich. Aug. 29, 2025) (collecting twelve such decisions). See also *Ahmed A v. Bondi*, Case No. 25-4776 (JWB/DJF) (January 6, 2026); *Maldonado v. Olson*, 795 F. Supp. 3d 1134, 1142–48, 1150–52 (D. Minn. 2025); *Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 968–970 (D. Minn. 2025); *Mayamu K. v. Bondi*, Civ. No. 25-3035 (JWB/LIB), 2025 WL 3641819, at *7–8 (D. Minn. Oct. 20, 2025); *R.E. v. Bondi*, No. 0:25-cv-3946-NEB, 2025 WL 3146312 (D. Minn. Nov. 4, 2025); *Herrera Avila v. Bondi*, No. 0:25-cv-3741 (JRT), 2025 WL 2976539 (D. Minn. Oct. 21, 2025); *Buenrostro-Mendez v. Bondi*, No. 25-cv-3726, 2025 WL 2886346, (S.D. Tex. Oct. 7, 2025); See *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025) (disagreeing with BIA's analysis in *Yajure Hurtado*); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (same); *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Martinez v. Hyde*, CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Garcia Jimenez v. Kramer*, No. 4:25-cv-03162-JFB-RCC, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Aguilar Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez*

v Noem, 5:25-cv-01789-ODW-DFM, 2025 WL 2379285 (C.D. CA Aug 15, 2025); *Jacinto v. Trump, et al.*, 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 (D. Neb. August 19, 2025); *Leal-Hernandez v. Noem*, 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Minn. Aug. 24, 2025); *Herrera Torralba v. Knight*, 2:25-cv-03166-RFB-DJA (D. Nev. Sep. 5, 2025).

80. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Petitioner poses no safety threats to the community. Releasing Petitioner, or at a minimum holding a bond hearing, would in fact *save* the government the resources and expense of continued imprisonment.

81. Petitioner has a fundamental interest in liberty and being free from official restraint. One's physical freedom is a paramount interest secured by statutes and the Constitution, and Petitioner possesses a strong liberty interest in his freedom from detention because he has established a life here – albeit without authorization.

82. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

83. The placement of Petitioner in detention pending the resolution of ongoing immigration proceedings violates Petitioner's constitutional rights to due process guaranteed in the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;

2. Declare that Petitioner's current detention without an individualized determination is unlawful;
3. Enjoin Respondents to immediately return Petitioner to the district and prohibit Respondents from transferring Petitioner from the district without the court's approval;
4. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;
5. Order Respondents to return Petitioner's seized property upon release;
6. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
7. Grant any further relief this court deems just and proper.

Dated: March 23, 2026

By: /s/Karen V. Bryan
Karen V. Bryan
4100 Excelsior Blvd
St Louis Park, MN 55416
Office: (612) 345-4782
Fax: (612) 886-3360
Email: karen.bryan@kblawgrp.com

**Verification by Petitioner's Legal Counsel
Pursuant to 28 U.S.C. § 2242**

I am submitting this verification because I am the Attorney for the Petitioner. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status are true and correct to the best of my knowledge.

/s/Karen V. Bryan
Karen V. Bryan, Esq.

Date: March 23, 2026