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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

Samuel Mauricio GONZALEZ POLANCO Petitioner, v. Juan Baltazar, Administrator, Aurora ICE Processing Center (GEO); Robert HAGAN, Denver Field Office Director, Enforcement and Removal Operations U.S. Immigration and Customs Enforcement (USICE) Todd M. LYONS, Acting Director, USICE; Kristi NOEM, Secretary of Homeland Security; Pamela BONDI, Attorney General of the United States Respondents.	)	**PETITION FOR WRIT OF HABEAS CORPUS** Case No. [redacted]er:

PETITION FOR WRIT OF HABEAS CORPUS AND MEMORANDUM OF LAW IN SUPPORT

I. INTRODUCTION

1) Petitioner Samuel Mauricio Gonzalez Polanco, by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging the legality of his continued detention by the Department of Homeland Security.

2) Petitioner is currently in custody at the Denver Contract Detention Facility in Aurora, Colorado. His continued detention violates the Constitution and laws of the United States because it lacks valid statutory authority, was imposed without due process of law, constitutes an unreasonable seizure under the Fourth Amendment, and has become arbitrary, excessive, and punitive.

3) In July 2022 Petitioner was granted parole under 8 U.S.C. § 1182(d)(5) into the United States. See Exhibit A Section I Parole. He fully complied with all conditions imposed by DHS, including participation in the Alternatives to Detention program and electronic monitoring. He lived openly in the community, maintained employment, supported his family, and established significant ties, including the birth of his United States citizen child.

4) Despite more than three years of full compliance, In September 2025 Respondents abruptly re-detained Petitioner.

5) Respondents publicized rational for Petitioner's arrest and re-detention was the allegation that Petitioner was affiliated with the [redacted] organization. *See* Exhibits A, B and C Section II: I-213 from 09/2025 and Social Media Posts.

6) That allegation was not supported by reliable evidence. *See* Exhibit E Section II IJ Order Granting Motion to Strike.

7) It was nevertheless memorialized by Respondents in their I-213, and thereafter relied upon by immigration authorities to justify Petitioner's arrest and re-detention.

8) It was also disseminated publicly by the Government, portraying Petitioner as a dangerous gang-affiliated individual and associating his identity with organized criminal activity. See Exhibit B, and C Section II.

9) The Government did not merely detain Petitioner—it labeled him.

10) That label carried significant consequences: it shaped his detention, influenced his custody status, and exposed him to reputational harm both inside and outside of custody.

11) That allegation has now been definitively rejected by the Immigration Court. In removal proceedings, the Immigration Judge struck the portion of the Form I-213 containing the allegation, finding that it lacked any evidentiary foundation and that "no other information on the I-213 provides any reliable source for that information," rendering the claim "wholly unsubstantiated." See Exhibit E Section II.

12) That finding was not procedural or technical—it was substantive.

13) It reflected a determination that the Government's central factual allegation had no evidentiary support.

14) That ruling eliminated the sole articulated justification for Petitioner's re-detention and continued detention.

15) Independent expert analysis reaches the same conclusion: there is no credible evidence linking Petitioner to any criminal organization. *See* Exhibit D Section II Dr. Katz Expert Report.

16) Despite the collapse of the only asserted factual basis for Petitioner's re-detention, Respondents continue to deprive him of his liberty.

17) Petitioner's history makes the Government's position even more untenable.

18) Petitioner was initially processed under 8 U.S.C. § 1225 at the time of his entry into the United States.

19) He was thereafter granted parole pursuant to 8 U.S.C. § 1182(d)(5), valid from July 11, 2022, to September 11, 2022, and allowed into the interior of the United States. *See* Exhibit A Section I.

20) Petitioner lived in the United States following that release for more than three years.

21) He complied with all conditions imposed upon him.

22) In November 2022, the Government issued a Notice to Appear. *See* Exhibit D Section I Notice to Appear.

23) Petitioner remained in the United States thereafter and continued to comply with the reporting and monitoring requirements of the Alternatives to Detention Program in which he was enrolled as a condition of his parole. *See* Exhibit B Section I.

24) In October 2024 Petitioner was granted Petitioner Temporary Protected Status ("TPS") pursuant to 8 U.S.C. § 1254a. That grant constituted an affirmative temporary authorization for Petitioner to remain in the United States. *See* Exhibit G Section I Temporary Protected Status Grant.

25) It reflects a formal determination by the Government that Petitioner's presence in the United States is lawful for the duration of that status.

26) The Government cannot reconcile that grant of temporary lawful presence with its current detention posture.

27) After years of presence in the United States, after release into the interior, and after the grant of TPS, Respondents re-arrested Petitioner based on an unsupported allegation of gang affiliation.

28) That allegation has now been definitively rejected, as completely unsubstantiated. *See* Exhibit E Section II.

29) Nevertheless, Respondents continue to detain Petitioner.

30) In response to this petition, Respondents may attempt to argue (as they have in countless other recent cases) that Petitioner remains subject to detention under 8 U.S.C. § 1225(b)(2)(A) as an "applicant for admission" "seeking admission" potentially invoking the termination of parole upon service of the Notice to Appear pursuant to 8 C.F.R. § 212.5(e)(2)(i).

31) Those anticipated arguments fail as a matter of law.

32) Courts in this District have repeatedly and unequivocally held that § 1225(b)(2)(A) applies only to individuals who are actively and presently "seeking admission" to the United States.

33) Noncitizens who have been physically present in the United States for years are not "seeking admission" within the meaning of the statute. *See Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 WL 2977650, at *6 (D. Colo. Oct. 22,

2025); *Hernandez v. Baltazar*, No. 25-cv-03094-CNS, 2025 WL 2996643, at *5 (D. Colo. Oct. 24, 2025); *Garcia Abanil v. Baltazar*, No. 26-cv-00123-WJM, 2026 WL 100587, at *4–5 (D. Colo. Jan. 14, 2026).

34) That principle applies with even greater force here.

35) Petitioner is not an individual at the border.

36) He is not seeking admission.

37) He is already inside the United States.

38) He has lived here for more than three years.

39) He has complied with the Government's requirements.

40) He has been granted a temporary lawful status.

41) The legal fiction of "arriving alien" cannot be extended indefinitely after the Government has released an individual into the interior and authorized his presence:

> § 1225(b)(2)(A) and its mandatory detention requirement do not apply to noncitizens, like Petitioner, who have been present in the United States for over two years. *See, e.g.*, *Nava Hernandez*, 2025 WL 2996643, at *4 ("the plain text and structure of § 1225 and § 1226 support a determination that § 1225(b)(2)(A)'s provision for mandatory detention does not apply to someone like [Petitioner], who has been residing the United States for more than two years") (quotations and citations omitted).

Marquez-Rico v. Baltazar 1:25-cv-03943-CNS *3 (December 16, 2025).

42) Similarly, in *Buitrago Murzi v. Noem*, 1:26-cv-00359-CNS *2-3 (February 12, 2026) a Colorado District Court Judge stated:

> Other courts considering habeas petitions against substantially similar backgrounds have concluded that paroled petitioners who go on to live in the United States have been released on their own recognizance, and therefore that § 1226, rather than § 1225, applies. *See, e.g. Sidqui v.*

> *Almodovar, et al.,* No. 25–CV–9349 (VSB), 2026 WL 251929, at *10 (S.D.N.Y. Jan. 30, 2026) ("Petitioner's release on parole, and not the humanitarian parole in § 1182(d)(5)(A), constitutes strong evidence that he was released under § 1226(a) and not under § 1225(b)." (citation modified)); *Aviles-Mena v. Kaiser*, No. 25–cv–06783–RFL, 2025 WL 2578215, at *4 (N.D. Cal. Sept. 5, 2025) ("Yet, the government also concedes that Aviles-Mena was paroled out of ICE custody on May 23, 2022. The Court concurs with other courts that have found that section 1225(b)(1) does not authorize designation for expedited removal of any noncitizen who has, at any point in time, been paroled into the United States . . . . Thus, under the plain meaning of section 1225(b)(1), Aviles-Mena no longer qualifies for expedited removal because he was 'paroled' into the United States and has been living and working in the United States for three years." (citation modified)); *Coal. for Humane Immigrant Rts. v. Noem*, Case No. 25–cv–872 (JMC), --- F. Supp. 3d ----, 2025 WL 2192986, at *27 (D.D.C. Aug. 1, 2025) ("The Arriving Aliens Provision Does Not Authorize Expedited Removal of Parolees."); *Ahmadi v. Becerra, et al.,* Case No. 1:25–cv–01044–CDB (HC), 2026 WL 309561, at *10 (E.D. Cal. Feb. 5, 2026) ("8 U.S.C. § 1226(a) attaches as the governing legal scheme. Because Petitioner [was] released on [his] own recognizance after [his] initial detention at the border, [he is] also ineligible for expedited removal proceedings as [he has] been 'paroled' within the meaning of section 1225(b)(1)." (citation modified)); *Valencia Zapata v. Kaiser*, 801 F. Supp. 3d 919, 935 n.4 (N.D. Cal. 2025).

Buitrago Murzi v. Noem, 1:26-cv-00359-CNS *2-3 (February 12, 2026).

43) As a matter of constitutional due process, Respondents cannot arbitrarily, without any process whatsoever, return Petitioner to mandatory detention without bond years pursuant to § 1225 years after his initial parole release, where he has done nothing to violate the terms of his release.

44) Any attempt to do so is not grounded in statutory text or controlling precedent—it is a litigation position designed to avoid the procedural protections that attach under 8 U.S.C. § 1226(a).

45) But this case is not, at its core, about statutory classification.

46) It is about the complete absence of any lawful basis for redetaining Petitioner, and even less legal authority for his continued detention.

47) Respondents made a serious public allegation against Petitioner. *See* Exhibit A, B and C Section II.

48) They have utterly failed to provide the most minimal evidence in support of those wild and grossly inflammatory allegations, despite detaining the Petitioner on the basis of these libelous statements for over six months.

49) A neutral adjudicator has rejected the allegations entirely. See Exhibit E Section II.

50) Yet the Government continues to detain Petitioner as though that allegation were actually true.

51) Civil detention must remain regulatory in nature.

52) It must be tied to a legitimate governmental purpose.

53) When detention persists after the factual predicate for that detention has been eliminated, it ceases to be regulatory and becomes punitive.

54) That transformation is constitutionally impermissible.

55) The Constitution does not allow the Government to detain an individual indefinitely based on allegations it cannot substantiate.

56) Nor does it permit the Government to publicly brand an individual as a member of a criminal organization and then continue to detain him after that claim has been rejected as unsupported.

57) Petitioner's continued detention is therefore unlawful.

58) It violates the Due Process Clause of the Fifth Amendment.

59) It is not supported by statute.

60) And it cannot be sustained under controlling precedent in this District.

61) Petitioner, Samuel Mauricio Polanco Gonzalez (A240-727-027), has now been incarcerated for over six months based solely on the Respondents' false, unsupported and inflammatory allegation that he is affiliated with the transnational criminal organization [redacted]

62) In these circumstances, detention is no longer reasonably related to any legitimate immigration purpose. Petitioner is being held without a valid statutory basis, without compliance with governing regulatory requirements, and without the procedural safeguards required by due process. The continuation of detention after the government's central allegation has been discredited, combined with the absence of any lawful revocation of parole or other articulated basis for custody, renders the detention arbitrary and excessive.

63) This Court's intervention is required. Where the government publicly accuses, fails to substantiate those accusations, and nevertheless continues to detain, the resulting deprivation of liberty is untethered from any legitimate regulatory purpose and violates the Constitution.

64) Petitioner therefore respectfully requests that this Court grant the writ of habeas corpus and order his immediate release.

II. JURISDICTION AND VENUE

65) This Court has jurisdiction over this action pursuant to 28 U.S.C. § 2241 because Petitioner is in custody under the authority of the United States and challenges the legality of that detention as violative of the Constitution and laws of the United States.

66) Section 2241 authorizes federal courts to grant a writ of habeas corpus where a petitioner "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3).

67) Federal courts retain jurisdiction under § 2241 to review challenges to the lawfulness of immigration detention. The Tenth Circuit has expressly recognized that habeas corpus is the proper vehicle for such claims. *Palma-Salazar v. Davis*, 677 F.3d 1031, 1035 (10th Cir. 2012); *Aguilera v. Kirkpatrick*, 241 F.3d 1286, 1290–91 (10th Cir. 2001).

68) Jurisdiction is not barred by 8 U.S.C. § 1252. Petitioner does not challenge a final order of removal, the decision to commence proceedings, or the execution of a removal order. Rather, he challenges the legality of his present detention, including Respondents' failure to lawfully revoke parole and their continued detention based on allegations that have already been rejected as lacking any reliable evidentiary foundation. The Supreme Court has made clear that such detention-based claims fall outside the jurisdiction-stripping provisions of § 1252. *Reno v. American-Arab Anti-*

Discrimination Committee, 525 U.S. 471, 482 (1999); *Jennings v. Rodriguez*, 583 U.S. 281, 293–99 (2018). The Tenth Circuit has likewise confirmed that § 1252(b)(9) only precludes review of decisions and actions taken in removal proceedings. *Mukantagara v. U.S. Dep't of Homeland Sec.*, 67 F.4th 1113, 1121–22 (10th Cir. 2023).

69) This Court also has jurisdiction to consider Petitioner's constitutional claims, including violations of the Fifth Amendment and the Fourth Amendment, which are independently cognizable under § 2241. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

70) Venue is proper in this District pursuant to 28 U.S.C. § 1391(e) and § 2241 because Petitioner is detained within this District at the Denver Contract Detention Facility in Aurora, Colorado, and his immediate custodian is located within this District. *Rumsfeld v. Padilla*, 542 U.S. 426, 442–43 (2004).

III. PARTIES

71) Petitioner Samuel Mauricio Gonzalez Polanco is a noncitizen currently detained by the Department of Homeland Security at the Denver Contract Detention Facility in Aurora, Colorado. Petitioner is also currently in removal proceedings before the Executive Office for Immigration Review ("EOIR"), Immigration Court in Aurora, Colorado.

72) Respondent Juan Baltazar is the Warden, or Administrator, of the Aurora Contract Detention Facility (GEO) and the immediate custodian of Petitioner, responsible for

his day-to-day confinement. The Warden is therefore the proper respondent under *Rumsfeld v. Padilla*, 542 U.S. 426 (2004).

73) Respondent Robert Hagan is the Field Office Director for Enforcement and Removal Operations ("ERO") for U.S. Immigration and Customs Enforcement ("ICE") in the Denver Field Office. He is responsible for the oversight of immigration detention and enforcement operations within this jurisdiction, including the custody of Petitioner.

74) Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is responsible for the administration and enforcement of immigration detention policies nationwide.

75) Respondent, Secretary of Homeland Security is responsible for the administration and enforcement of the immigration laws of the United States, including decisions regarding parole, detention, and removal.

76) Respondent Pamela Bondi, Attorney General of the United States, is the head of the U.S. Department of Justice and is responsible for the administration of the immigration court system through the Executive Office for Immigration Review.

77) Each Respondent is sued in his or her official capacity.

IV. FACTUAL BACKGROUND

78) Petitioner Samuel Mauricio Gonzalez Polanco is a Venezuelan national who entered the United States without inspection on July 8, 2022.

79) He thereafter turned himself in to U.S. immigration authorities on the U.S. Border. He was held for inspection, background checks and processing until July 11, 2022.

80) On July 11, 2022, DHS exercised its discretion to grant Petitioner parole pursuant to 8 U.S.C. § 1182(d)(5) and released him into the United States under conditions of supervision. *See* Exhibit A and B Section I.

81) As a condition of his parole, Petitioner was scheduled to present himself at the ICE ERO Office in West Valley City for enrollment into the Alternatives to Detention program, including electronic monitoring. *See* Exhibit B Section I.

82) Petitioner complied fully with all conditions. He attended all required check-ins, did not abscond, and committed no violations. He lived openly in the community, maintained employment, and supported his family, including his United States citizen child. He has no criminal history beyond a minor traffic infraction.

83) In November 2022 he was issued a Notice to Appear in Removal Proceedings, with his initial appearance scheduled for July 10, 2024. *See* Exhibit D Section I.

84) On July 10, 2023, Petitioner timely filed his application for Asylum. *See* Exhibit E Section I Asylum Application.

85) In March 2024 Petitioner applied for Temporary Protected Status. His application was granted in October 2024. *See* Exhibit G Section I TPS Grant.

86) On July 20, 2024, Petitioner appeared in Immigration Court as ordered. His hearing was continued to May 28, 2025. *See* Exhibit F Section I Hearing Notice.

87) Petitioner thereafter retained counsel. Petitioner's counsel filed written pleadings with the Immigration Court on May 22, 2025, and the May 28, 2025 hearing was cancelled.

88) At that time Petitioner was in full compliance with all orders of ICE/ERO and the Salt Lake City Immigration Court.

89) But on September 6, 2025, Petitioner was arrested by ICE officers at Salt Lake City International Airport in a public setting while attempting to board a domestic flight. The published and publicized motive for his public arrest was the allegation that Petitioner was affiliated with a transnational criminal organization.

90) Following the arrest, Respondents publicly disseminated statements and images identifying Petitioner and portraying him as a dangerous individual associated with the [redacted] criminal organization. These statements were distributed through official and affiliated social media channels and widely circulated to the public. *See* Exhibits B and C Section II.

91) The allegation underlying the arrest was documented in an amended Form I-213. *See* Exhibit A Section II.

92) Petitioner has now been detained for over six months.

93) Respondents have utterly and completely failed to provide any evidence or support for these widely publicized, libelous allegations.

94) During the process of defending himself in removal proceedings, Petitioner challenged the allegation that he was a member [redacted]

95) During the course of the removal proceedings, the Government was afforded three months, and thereafter an additional three weeks, to provide evidence supporting the allegation that Petitioner was affiliated with [redacted]

96) Despite those opportunities, Respondents failed to produce any evidence whatsoever—much less reliable or substantiated evidence—to support the allegation.

97) The Government did not submit credible documentary evidence; it did not present reliable testimony; it did not provide any source of corroboration to support the allegation.

98) The Government's inability to produce evidence was not a procedural issue.

99) It was not the result of a missed deadline or a curable omission.

100) It reflected the absence of any reliable factual basis for the allegation.

101) It confirmed that that DHS had no evidence specific to Petitioner, and that the allegation upon which his re-detention was premised was not grounded in verified, or verifiable facts.

102) Due to the Respondents' complete inability to provide any evidence of the allegations, the Immigration Judge granted Petitioner's motion to strike the gang-related language, finding that there was no foundation for the allegation and no reliable source supporting it, and striking that allegation as wholly unsubstantiated. *See* Exhibit E Section II IJ Order.

103) Despite that determination, Respondents continue to detain Petitioner.

104) Respondents have now moved to pretermit his application for asylum and are now attempting to effectuate his removal to Ecuador pursuant to an alleged Asylum Cooperative Agreement ("ACA").

105) Although the U.S. Government and the Government of Ecuador have exchanged diplomatic notes agreeing in principle to negotiate the details of the Asylum Cooperative Agreement, the two countries have yet to publish any final agreement specifying which third countries' citizens Ecuador will agree to consider for inclusion in the 300 annual total of persons to be covered by this eventual agreement.

106) The Defendants are nevertheless seeking to utilize this nebulous exchange of diplomatic notes to completely preempt Petitioner's application for asylum from being presenting in the United States, despite the fact that Respondents' actions and their active publication of Petitioner's photo and the unfounded allegation that he is a member [redacted] have heightened the risk Petitioner faces in seeking protection outside the United States.

V. SUMMARY OF CLAIM

107) Petitioner's continued detention is unlawful and must be set aside.

108) First, Respondents lack any valid statutory authority to detain Petitioner.

109) Petitioner was previously granted parole under 8 U.S.C. § 1182(d)(5) and released into the United States, where he fully complied with all conditions of supervision imposed by the Department of Homeland Security.

110) Respondents subsequently re-detained based on wild allegations that he was a member [redacted] Those allegations have been proven to be completely fictitious.

111) Respondents have failed to provide Petitioner with any notice or information identifying any statutory basis for re-detaining him.

112) The government cannot grant parole, permit an individual to rely on that grant of liberty, and then nullify it through silent re-detention and unfounded, false accusations without invoking any lawful process for Petitioner to seek redress.

113) Second, Petitioner's detention violates the Fifth Amendment. Respondents deprived Petitioner of his liberty without due process of law by re-detaining him without notice, without explanation, and without affording him any opportunity to be heard.

114) That deprivation is particularly egregious where Petitioner had already been released, had fully complied with all conditions of supervision, and had established significant ties in the community. Due process requires, at a minimum, notice and an opportunity to contest the basis for detention. Respondents provided neither.

115) Third, Petitioner's arrest and continued detention violate the Fourth Amendment. The government seized Petitioner based on an allegation that lacked any reliable evidentiary foundation.

116) The Immigration Judge has now held that there was "no foundation" for the claim that Petitioner was a member [redacted] and that "no reliable source" supporting that claim. The Immigration Judge has stricken that charge as "wholly unsubstantiated." *See* Exhibit E Section II.

117) Continued detention based on unsupported allegations is objectively unreasonable.

118) Fourth, Petitioner's continued detention is arbitrary and excessive and no longer serves any legitimate regulatory purpose. Civil immigration detention is justified

only to ensure appearance at proceedings or to protect the community. Neither justification applies here. Petitioner has demonstrated full compliance with prior supervision, has no meaningful criminal history, and has already shown that less restrictive alternatives to detention are effective.

119) Both the Immigration Judge and an independent expert have confirmed that there is no credible evidence linking Petitioner to any criminal organization. *See* Exhibits D and E Section II. In these circumstances, continued detention is excessive and unjustified.

120) Fifth, Respondents' actions have transformed Petitioner's detention into punishment. Following his arrest, Respondents publicly disseminated statements and images portraying Petitioner as a dangerous individual associated with a transnational criminal organization. *See* Exhibits B and C Section II. Those statements were made despite the absence of any reliable evidentiary foundation and were later contradicted by the Immigration Court's determination that the allegation was wholly unsubstantiated. The combination of public accusation and continued detention, in the absence of any lawful basis, renders Petitioner's confinement punitive rather than regulatory.

121) Finally, Respondents' continued detention of Petitioner persists despite the complete collapse of its claimed factual and legal foundation.

122) The central allegation underlying detention has been rejected by the Immigration Court, independent expert analysis confirms that no credible evidence supports it, and Respondents have no legal or factual grounds for continuing to detain

Petitioner. In these circumstances, detention is not merely unsupported—it is arbitrary, excessive, and unconstitutional. *See* Exhibits D and E Section II.

123) For all of these reasons, Petitioner is entitled to habeas relief, including immediate release from custody.

VI. ARGUMENT

A. THIS COURT HAS HABEAS JURISDICTION TO REVIEW PETITIONER'S DETENTION, AND 8 U.S.C. § 1252 DOES NOT BAR REVIEW

124) This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody under the authority of the United States and challenges the legality of that custody as violative of the Constitution and laws of the United States. The writ of habeas corpus has long served as the primary vehicle for testing unlawful executive detention. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). That principle applies with full force in the immigration context. *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001).

125) The Tenth Circuit has repeatedly confirmed that § 2241 provides jurisdiction over challenges to the legality of immigration detention. *Aguilera v. Kirkpatrick*, 241 F.3d 1286, 1291–92 (10th Cir. 2001); *Palma-Salazar v. Davis*, 677 F.3d 1031, 1035 (10th Cir. 2012). Petitioner's claim falls squarely within the core of habeas because he challenges present physical confinement and seeks release from unlawful custody. Petitioner's continued detention cannot be justified under any governing legal framework. It is unsupported by statute, inconsistent with mandatory regulations, imposed without due process, and no longer serves any legitimate

governmental purpose. Each of these defects independently warrants relief; together, they confirm that Petitioner's detention is unlawful.

126) Respondents may attempt to invoke various sections of 8 U.S.C. § 1252 to argue that this Court lacks jurisdiction. Those arguments have failed repeatedly across the U.S. for various reasons, depending on the statutory section invoked.

127) For example, the U.S. Supreme Court has held that 8 U.S.C. § 1252(g) is narrowly limited to decisions to "commence proceedings, adjudicate cases, or execute removal orders," and must be interpreted strictly. *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 482 (1999). Similarly, both the U.S. Supreme Court and the Tenth Circuit have held that § 1252(b)(9) does not bar review of detention in habeas.

128) The Supreme Court has made clear that detention challenges are not a part of removal proceedings subsumed into a Petition for Review by §1252(b)(9). *Jennings v. Rodriguez*, 583 U.S. 281, 293–99 (2018). The Tenth Circuit has held that claims arise from removal proceedings only when they directly challenge the proceedings themselves. *Mukantagara v. DHS*, 67 F.4th 1113, 1121–22 (10th Cir. 2023).

129) Here, Petitioner challenges his detention:

- lacks statutory authority,
- was imposed without due process,
- was based on unproven and rejected allegations, and
- persists without any lawful justification.

130) These claims are independent of removal proceedings and fully cognizable in habeas.

131) This Court also has authority to adjudicate Petitioner's constitutional claims, including violations of the Fourth and Fifth Amendments. *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004); *Zadvydas*, 533 U.S. at 690.

132) Accordingly, jurisdiction is proper and this Court may grant effective relief, including immediate release.

B. RESPONDENTS' DETENTION OF PETITIONER IS UNLAWFUL UNDER THE GOVERNING STATUTORY AND REGULATORY FRAMEWORK

133) The Fifth Amendment to the United States Constitution prohibits the Government from depriving any person of liberty without due process of law.

134) That protection applies fully to noncitizens in immigration detention.

135) *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

136) Civil immigration detention is constitutionally permissible only where it is reasonably related to a legitimate governmental purpose.

137) It cannot be arbitrary.

138) It cannot be punitive.

139) And it cannot be sustained in the absence of a valid factual foundation.

a. The INA's Statutory Detention Framework

140) The Immigration and Nationality Act (INA) contains three statutes governing the civil detention of non-citizens. Each section applies to a specific set of circumstances:

a. 8 U.S.C. § 1225 applies to individuals classified as 'arriving aliens' 8 C.F.R. § 1.2, who are "seeking admission" into the United States;

b. 8 U.S.C. § 1226 governs the detention of noncitizens present in the country pending removal proceedings;

c. 8 U.S.C. § 1241 governs detention of noncitizens with final removal orders.

141) This case sits at the intersection of § 1226 and § 1225.

142) Section 1225 mandates detention without a bond hearing, whereas § 1226(a) permits release and requires an individualized custody determination. *Jennings v. Rodriguez*, 583 U.S. 281, 293–94 (2018).

143) The government will undoubtedly assert--as they have in numerous cases across the U.S. since July 9, 2025, that Petitioner is subject to mandatory detention pursuant to 8 U.S.C. 1225(b)(2)(A) as an "applicant for admission" "seeking admission". *See, e.g., Garcia Albanil v. Baltazar*, 1:25-cv-04029-WJM-STV *3-4 (January 14, 2026).

144) By contrast, it is Petitioner's contention that Respondents promptly released him into the U.S. on temporary parole, issued a Notice to Appear in Removal proceedings and granted him Temporary Protected Status. *See* Exhibits A, D and G Section I.

145) Therefore, while it could be argued, (despite the fact that he never made any formal application for admission at any U.S. Port of Entry) that he was nevertheless subject to 8 U.S.C. §1225(b) when Respondents processed him after he entered without inspection at the border in 2022, Respondents made an affirmative choice to release him on parole at that time.

146) Respondents' failure to subject him to mandatory detention without bond, pursuant to §1225(b) at the time of his entry without inspection is dispositive.

b. Section 1225(b)(2)(A) Applies Only to Individuals Actively Seeking Admission

147) Section 1225(b)(2)(A) governs the inspection and detention of individuals who are "applicants for admission" "seeking admission."

148) By its plain terms, the statute applies to individuals who are actively seeking admission into the United States.

149) It does not apply to individuals who are already physically present in the country and have been living here for an extended period of time.

150) Courts in the District of Colorado have repeatedly and unequivocally confirmed this limited interpretation of the statutory language.

c. District of Colorado Precedent Rejects DHS's Expansive Use of § 1225(b)(2)(A)

151) In *Loa Caballero v. Baltazar*, the court held that the phrase "seeking admission" requires that the individual be "presently and actively seeking lawful entry into the United States." *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 WL 2977650, at *6 (D. Colo. Oct. 22, 2025).

152) The court further explained that individuals who have been present in the United States "for years upon years" are not seeking admission within the meaning of § 1225. *Id.*

153) In *Hernandez v. Baltazar*, the court rejected the Government's attempt to apply § 1225 to individuals who were already living in the United States, emphasizing that

the statute does not extend to such circumstances. *Hernandez v. Baltazar*, No. 25-cv-03094-CNS, 2025 WL 2996643, at *5 (D. Colo. Oct. 24, 2025).

154) In *Garcia Abanil v. Baltazar*, the court reaffirmed that noncitizens already present in the United States are not "seeking admission," but are instead "seeking to remain." *Garcia Abanil v. Baltazar*, No. 26-cv-00123-WJM, 2026 WL 100587, at *4–5 (D. Colo. Jan. 14, 2026).

155) These cases establish a clear and controlling rule in this District: Section 1225 (b)(2)(A) cannot be used to justify detention of individuals who have already been released into and have lived within the United States for a significant period of time.

d. District of Colorado Precedent Similarly Rejects DHS's retroactive application of § 1225(b)(2)(A) to cases of noncitizens detained near the U.S. border, processed and released or paroled after entry without inspection.

156) Courts in this District have also rejected the government's attempt to apply § 1225(b)(2)(A) retroactively to individuals who were initially detained near the U.S. border after an entry without inspection, but who were thereafter processed and released, and who have now been living in the United States for extended periods of time.

157) In *Marquez-Rico v. Baltasar, supra*, a judge from this district found that a noncitizen who had been arrested and detained on the U.S. Border in November 2022, issued a Notice to Appear charging him with having entered without inspection pursuant to 8 U.S.C. § 1182(a)(6)(A)(i), and released on recognizance, who was re-detained nearly three years later—is not subject to mandatory detention

pursuant to 8 U.S.C. § 1225(b), and that detention was therefore governed by 8 U.S.C. § 1226 (a), entitling the petitioner to a bond hearing. *Marquez-Rico v.* *3.

158) The same District Judge reached a similar analytical conclusion in *Buitrago-Murzi v. Noem, supra* *2-3; *See also, Diallo v. Baltazar*, 1:25-cv-3548-SKC (January 29, 2026).

e. Petitioner is Outside the Scope of § 1225(b)(2)(A).

159) That reasoning applies here. Petitioner is not an arriving alien and is not seeking admission.

160) Petitioner has never "sought admission" at a port of entry, and he was most definitely not "seeking admission" when Respondents re-detained him in September 2025 on allegations that he was a member [redacted] *See* Exhibit A Section II.

161) He entered without inspection in July 2022, and promptly turned himself in for inspection. He was thereafter released on parole. *See* Exhibit A Section I.

162) He has been physically present in the United States and completely compliant with the alternatives to detention reporting mandated as a condition of that parole for over three years. He has appeared at every court hearing. He applied for and was granted Temporary Protected Status. *See* Exhibit G Section I.

163) More than three years after his initial entry without inspection and his release from custody pursuant to humanitarian parole, Respondents arbitrarily re-detained him with no explicit basis in the law, based on libelous allegations untethered to any factually established reality.

164) Petitioner cannot now be subject to expedited removal and Respondents cannot retroactively invoke § 1225(b)(2)(A) in order to transform the factually reality of the last three years and thereby convert Petitioner into someone subject to mandatory detention as an arriving alien, or someone seeking admission.

165) Respondents cannot identify a statutory basis for detention. But regardless of whether they could cite a statute, their actions fail for a more fundamental reason: Petitioner's re-detention was based on a factual predicate that has been rejected for lack of proof and cannot sustain continued custody.

C. RESPONDENTS' CONTINUED DETENTION OF PETITIONER PURSUANT TO GROUNDLESS AND UNPROVEN LIBELOUS ALLEGATIONS VIOLATES HIS CONSTITUTIONAL RIGHT TO DUE PROCESS OF LAW.

a. In additional to Lawful Statutory Authority, Civil Detention ALSO Requires a Valid Factual Basis

166) Immigration detention is not criminal punishment.

167) It is justified only as a regulatory measure.

168) The Supreme Court has made clear that the legitimacy of civil detention depends on its connection to a lawful governmental objective. *Zadvydas,* 533 U.S. at 690.

169) Where that connection is absent, detention becomes unconstitutional.

170) The Government may not make up facts to justify arrest or detention.

171) Detention cannot rest on speculation; it cannot rest on unverified allegations.

172) And deprivation of the liberty of an accused cannot persist after the factual predicate for detention has been rejected.

173) Respondents' detention of Petitioner is unlawful because it is not authorized by the governing statutory scheme, is inconsistent with the regulatory framework that controls immigration custody, and rests on a factual predicate that has already been rejected as wholly unsupported.

b. The Government's Sole Basis for Detaining this Petitioner—his Alleged Tren de Aragua Affiliation—Has Been Rejected for complete lack of evidence.

174) The only known basis for Petitioner's re-detention was a government-created narrative that he was associated with a transnational criminal organization. That narrative was publicly disseminated and used to justify his arrest. Yet when subjected to judicial scrutiny, it collapsed entirely. The Immigration Judge found the allegation to be "wholly unsubstantiated" and unsupported by any reliable evidence. *See* Exhibit E Section II.

175) That narrative and allegation were central to the Respondents' re-detention of Petitioner.

176) That allegation was used to mischaracterize Petitioner as dangerous.

177) That allegation was used to justify continued detention.

178) It was memorialized in the Petitioner's amended I-213. *See* Exhibit A Section II.

179) It was disseminated publicly. *See* Exhibit B and C Section II.

180) It formed the core factual predicate for re-detention and continued confinement.

181) That predicate no longer exists.

182) That mischaracterization was not merely unsupported—it was presented to the Immigration Court and expressly rejected. The Immigration Judge found that the

allegation was "wholly unsubstantiated" and lacked any reliable evidentiary foundation. *See* Exhibit E Section II.

183) Despite that determination, Respondents continue to detain Petitioner.

184) The statutory framework does not authorize detention based on factual allegations that have collapsed under judicial scrutiny.

185) Where the government's asserted justification for detention has been invalidated, continued custody is no longer tethered to any lawful purpose.

186) This defect is compounded by Respondents' failure to identify, much less comply with any governing regulatory framework.

187) Here, Respondents re-detained Petitioner without notice, without process, and without any lawful revocation of his prior release. The absence of procedural compliance alone renders the detention unlawful. When combined with the collapse of the factual basis for detention, the illegality is even more pronounced.

188) Respondents' detention of Petitioner is therefore unauthorized by statute, contrary to regulation, and unsupported by any valid factual predicate.

189) The continued detention of Petitioner in the absence of both any process for review of his detention or a valid factual predicate is the very definition of arbitrary government action.

190) Courts in this District have recently addressed similar (but less egregious) circumstances. They have found that when Respondents fail to comply with statutory and regulatory requirements, continued detention is unlawful and requires release. In *Sanchez v. Bondi*, the court found that ICE failed to provide the required

notice and opportunity to respond upon re-detention and rejected the government's argument that any deficiency could be remedied by providing additional process. No. 1:25-cv-02287-CNS, slip op. at 4–6 (D. Colo. Dec. 4, 2025).

191) Instead, the court held that because ICE "violated its own regulations when it detained [Petitioner] without notifying him of the reasons why he was being detained," the petitioner was "entitled to habeas relief." Id. at 4.

192) The court further rejected the argument that a petitioner must demonstrate prejudice beyond the denial of process itself, explaining that "failure to receive mandatory process is clearly prejudicial." *Id.* at 5.

193) The same defects are present here. Petitioner was re-detained without formal notice of the reasons for his re-detention, (albeit plenty of informal notice) and without any meaningful opportunity to respond to the Respondents' wild and wildly inaccurate allegations or to seek review of his arbitrary re-detention.

194) Respondents detained Petitioner on false charges in a detention environment where it was Respondents' position that Petitioner had no legal right to release, much less to a bond or a status revocation hearing.[1]

195) The Due Process Clause prohibits arbitrary deprivations of liberty. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Where the government grants liberty—whether through parole, supervision, or release—it may not revoke that liberty without

[1] *Garcia Albanil v. Baltazar*, 1:25-cv-04029-WJM-STV *3-4 (January 14, 2026) provides a brief history of the July through September 2025 changes in the Respondents' interpretations of their governing statutes, and the implications for the detention environment in which Petitioner found himself in September 2025.

providing fundamentally fair procedures, including notice and an opportunity to respond.

196) Petitioner was re-detained without any notice explaining why his prior grant of liberty was being revoked. He was not informed of any alleged violation, any change in circumstances, or any lawful basis for returning him to custody.

197) The implementation of the Respondents' July 9, 2025 policy memo mandating detention without bond for all noncitizens who had entered without inspection, combined with the confirmation of that policy as binding on all the nations' immigration judges, meant that Petitioner had no avenue to seek redress for his unlawful re-detention.

198) The inclusion of the allegation that he was a member [redacted] in the I-213 similarly functioned to close of even the route of a habeas petition, because so long as the I-213 included that allegation, it was extremely unlikely that any Immigration Judge would have granted Petitioner a bond, even after he obtained a habeas order.

199) Petitioner therefore did not immediately seek habeas relief upon re-detention.

200) That decision was reasonable, and grounded in the expectation that the Government would comply with its legal obligation to provide concrete, evidence as proof of the public allegations it had made.

201) But the U.S. Constitution forbids punitive civil detention. *See Bell v. Wolfish*, 441 U.S. 520, 535–39 (1979).

202) Detention becomes punitive where it is no longer reasonably related to a legitimate regulatory purpose. *See Zadvydas*, 533 U.S. at 690.

203) That is precisely what has occurred here.

204) Respondents re-detained Petitioner based on a factually serious allegation.

205) Despite detaining Petitioner for months, Respondents have utterly failed to offer any substantive proof of the allegation.

206) As a result, the Immigration Judge has now rejected that allegation.

207) Respondents have nevertheless continued to deprive Petitioner of his liberty. That is the essence of a due process violation. The prejudice is immediate and on-going.

208) Due process requires that detention decisions be grounded in reliable and probative evidence. *See Matter of Guerra*, 24 I. & N. Dec. 37, 40 (B.I.A. 2006).

209) Because Respondents revoked Petitioner's liberty based on a lie that they have now completely failed to prove, Petitioner's continued detention violates the Constitution.

VII. CLAIMS FOR RELIEF

COUNT I
Violation of the Fourth Amendment

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

211) The Fourth Amendment protects against unreasonable seizures.

212) Petitioner was arrested and detained based on an allegation that lacked any reliable evidentiary foundation.

213) The Constitution requires that the Government act with fundamental fairness when depriving an individual of liberty.

214) That obligation includes the duty to rely on truthful, accurate, and reliable information when making detention determinations.

215) Immigration proceedings, though civil in nature, must conform to the requirements of due process. *See Bridges v. Wixon*, 326 U.S. 135, 154 (1945).

216) Where the Government fails to meet that obligation, the resulting detention is unlawful.

217) The Immigration Judge has held as a factual matter the allegation that Petitioner was a member of [redacted] had "no foundation" and "no reliable source," and therefore struck it from the I-213 and the record of proceedings as "wholly unsubstantiated." *See* Exhibit E Section II.

218) Independent expert analysis confirmed what the Immigration Judge found to be the case: that there is no credible evidence linking Petitioner to any criminal organization and that the methodology used by DHS is unreliable. *See* Exhibit D Section II.

219) An arrest and detention based on wholly unsupported, false, allegations is inherently unreasonable.

220) Even if the initial arrest were assumed to be based on valid grounds for suspicion, continued detention must remain justified. Where the factual predicate collapses, continued detention becomes unlawful. *Manuel v. City of Joliet*, 580 U.S. 357, 367 (2017).

221) Nevertheless, Respondents continue to detain Petitioner despite the absence of any factual or legal basis for his continued detention. That continued detention is objectively unreasonable.

222) Each day that Petitioner remains detained without a lawful factual basis constitutes a continuing violation of the Fifth Amendment.

223) This is not a past harm.

224) It is a present and ongoing deprivation of liberty.

225) Habeas corpus exists precisely to remedy such unlawful confinement. *See Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

COUNT II
Violation of the Fifth Amendment—Procedural Due Process

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

227) Civil detention must bear a reasonable relation to a legitimate governmental purpose. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Respondents cannot justify Petitioner's detention on any permissible ground.

228) Petitioner is not a flight risk. He was previously released, placed on electronic monitoring, and complied fully with all conditions. He attended check-ins, remained in contact with authorities, and lived openly without incident.

229) Petitioner is not a danger. The sole allegation supporting that claim has been rejected as "wholly unsubstantiated." *See* Exhibit E Section II. Independent expert

analysis confirms there is no credible evidence of criminal affiliation. See Exhibit D Section II.

230) For more than three years Petitioner was completely compliant with the Alternatives to Detention Program requirements. In these circumstances, continued detention is unconstitutional. The government has already determined that supervision is sufficient and that determination has been validated through Petitioner's conduct.

231) Where detention no longer serves any legitimate purpose, it becomes arbitrary. *Zadvydas,* 533 U.S. at 690.

232) Respondents' recent actions further confirm that Petitioner's detention is untethered from any legitimate regulatory purpose. After detaining Petitioner for months based on allegations that were ultimately rejected as wholly unsubstantiated, Respondents have now shifted course and moved to pretermit his asylum application while attempting to remove him to Ecuador under the Asylum Cooperative Agreement. This abrupt change in position does not reflect a consistent enforcement objective—it reflects an effort to justify continued detention after the original basis for custody has collapsed.

233) Courts have made clear that civil detention must remain tethered to a lawful and nonpunitive purpose. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Yaya v. Baltazar*, No. 26-cv-00332-STV, slip op. at 9–10 (D. Colo. Mar. 12, 2026).

234) Where the government shifts theories of detention or removal in response to the failure of its initial justification, that conduct underscores the arbitrariness of continued detention.

235) Here, Respondents initially relied on an unsubstantiated allegation of [redacted] that has now been rejected due to the complete lack of any evidentiary foundation.

236) Nevertheless, Respondents now seek to pursue removal through an entirely different mechanism while continuing to detain Petitioner arbitrarily, without any detention review hearing.

237) This sequence of events demonstrates that Petitioner's detention is not grounded in a stable or lawful regulatory framework, but instead reflects an ongoing effort to sustain custody in the absence of a valid basis. Detention under such circumstances is not regulatory—it is arbitrary and punitive.

238) Respondents are detaining Petitioner not because of evidence, but in spite of its absence. That is not permissible under the Constitution.

COUNT III
Violation of the Fifth Amendment—Substantive Due Process

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

240) The deprivation of physical liberty, even for a brief period, constitutes irreparable injury. *Elrod v. Burns*, 427 U.S. 347, 373 (1976). That principle applies with particular force where, as here, detention is imposed in violation of the Constitution. Each additional day that Petitioner remains in custody constitutes a continuing constitutional injury that cannot be remedied after the fact.

241) Petitioner is suffering ongoing and irreparable harm as a direct result of his unlawful detention.

242) Petitioner is currently confined despite the absence of any lawful basis for his detention. The government sole basis for re-detaining Petitioner at all has been rejected by the Immigration Court due to lack of foundation and any reliable evidentiary source. *See* Exhibit E Section II. Independent expert analysis confirms that there is no credible evidence supporting the government's claim. *See* Exhibit D Section II. In these circumstances, the continued deprivation of liberty is not merely harmful—it is unlawful, and irreparable.

243) The harm extends well beyond the loss of liberty. Petitioner has been separated from his family, including his United States citizen child, and is unable to provide emotional or financial support. He has lost the ability to maintain employment and to sustain the stability he had established while living in compliance with DHS supervision. These harms are immediate, concrete, and ongoing, and they cannot be undone through later relief.

244) Petitioner is also suffering significant reputational harm as a result of Respondents' actions. Following his arrest, Respondents publicly disseminated statements and images portraying Petitioner as a dangerous individual associated with a transnational criminal organization. *See* Exhibits B and C Section II. These statements were widely circulated through official channels and were made despite the absence of any reliable evidentiary foundation. They were later directly

contradicted by the Immigration Judge's determination that the allegation was wholly unsubstantiated. *See* Exhibit E Section II.

245) The combination of public stigma and continued detention is particularly harmful. The government has not only deprived Petitioner of his liberty, but has also publicly associated him with serious criminal conduct that it has been unable to substantiate. This reputational injury is ongoing and cannot be fully repaired, even if Petitioner ultimately prevails in his case. The damage to his reputation, relationships, and standing in the community is immediate and lasting.

246) Moreover, the conditions of confinement themselves impose additional irreparable harm. Petitioner is subject to physical restraint, restricted movement, limited access to family, and the psychological burden of continued detention without justification. These harms are compounded by the uncertainty and stress associated with being detained despite having fully complied with prior supervision and despite the absence of any credible evidence supporting the government's allegations.

247) The irreparable nature of this harm is further underscored by the absence of any adequate remedy at law. No monetary award or subsequent judicial determination can restore the time Petitioner has spent in unlawful detention, repair the disruption to his family life, or fully undo the reputational harm caused by Respondents' public accusations.

248) Finally, the ongoing nature of the constitutional violations in this case makes immediate relief necessary. Petitioner is not challenging past conduct alone—he is

challenging present, continuing detention that is unsupported by law and imposed without due process. Each day that passes perpetuates the violation.

249) For all of these reasons, Petitioner is suffering irreparable harm, and immediate judicial intervention is required.

VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. **Grant this Petition for Writ of Habeas Corpus** and declare that Petitioner's continued detention violates the Constitution and laws of the United States;
2. **Order Petitioner's immediate release from custody** under such conditions as this Court deems appropriate, consistent with decisions of this District **ordering immediate release** as the appropriate remedy. *See, e.g., Sanchez v. Bondi*, No. 1:25-cv-02287-CNS (D. Colo. Dec. 4, 2025); *Virachak v. Baltazar*, No. 1:26-cv-00391-STV (D. Colo. Mar. 17, 2026); and *Izquierdo Navarro v. Bondi*, No. 25-cv-04210-NYW (D. Colo. Feb. 18, 2026).
3. Alternatively, order Respondents to provide Petitioner with a prompt and constitutionally adequate custody redetermination hearing before an Immigration Judge, consistent with both statutory and due process requirements.
4. Enjoin Respondents from re-detaining Petitioner absent lawful authority and compliance with required statutory and constitutional procedures;
5. **Award reasonable attorneys' fees and costs** pursuant to the Equal Access to Justice Act; and
6. **Grant such other and further relief as this Court deems just and proper.**

RESPECTFULLY SUBMITTED this 24th day of March, 2026.

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Exhibit A — Parole Document

Exhibit B — Alternatives to Detention Agreement

Exhibit C — November 2022 I-213

Exhibit D — Notice to Appear

Exhibit E — I-589 Stamped July 10, 2023

Exhibit F — July 10, 2024, Continued Hearing Notice for May 2025

Exhibit G — Temporary Protected Status Grant

SECTION II: September 2025 Documents regarding Arrest, Re-detention, and Evidence of False Accusation o[redacted]nembership

Exhibit A — I-213 from September 2025

Exhibit B — ICE Social Posts

Exhibit C — Additional Social Media Dissemination and Printout of Google Search Results

Exhibit D — Dr. Charles Katz Expert Report

Exhibit E — IJ Order Granting Motion to Strike