UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

ARNOLD MURCIA VANEGAS

Petitioner,

v.

ROBERT HAGAN, Field Office Director of Enforcement and Removal Operations, Denver Field Office, Immigration and Customs Enforcement; **MARKWAYNE MULLIN**, Secretary, U.S. Department of Homeland Security; **PAMELA BONDI**, U.S. Attorney General; **JUAN BALTASAR**, Warden of Denver Contract Facility, in their official capacities

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Arnold Murcia Vanegas has been incarcerated since on or about February 21, 2026, at the Denver Contract Facility located in Aurora, Colorado.

2. Petitioner was apprehended during a routine Immigration and Customs Enforcement check in.

3. Currently, Petitioner has a pending Asylum application under 8 U.S.C. § 1158 that he timely filed prior to detention.

4. Upon filing his timely application for Asylum, he was granted work authorization from Respondents.

5. Previously, Petitioner was scheduled to appear at the Downtown Immigration Court located at 1961 Stout Street, Ste. 3101, Denver, CO 80294. *See* Exhibit 1.

6. Presently, Petitioner is being detained by Respondents under the auspicious that he is subject to mandatory detention under 8 U.S.C. § 1225; *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025).

7. Petitioner has been placed in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection. *See* Exhibit 1.

8. When Petitioner was detained in February of 2026, he was not provided notice that he was subject to detention.

9. Since Petitioner's detention, he has not been provided an individualized detention hearing before an Immigration Judge.

10. The Court should expeditiously grant this petition.

JURISDICTION

11. Petitioner is in the physical custody of Respondents. Petitioner is detained at the GEO Detention Center, located in Aurora, Colorado.

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

13. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All-Writs Act, 28 U.S.C. § 1651.

VENUE

14. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Colorado, the judicial district in which Petitioner currently is detained.

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

REQUIREMENTS OF 28 U.S.C. § 2243

1. The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved for similar individuals in this District. *See Lopez de Leon v. Baltazar, et al.,* 1:26-cv-00555-SKC-SBP (Order ECF 17, Dated Feb. 20, 2026) (Judge Crews determining that 8 U.S.C. § 1226 encompasses aliens who were not apprehended upon arrival *citing Aleman Hernandez,* 2025 WL 3718159, at *6)); *Castillo-Cabral v. Baltazar et al.,* 1:26-cv-00418-RBJ (Order ECF. 14, Dated Feb. 19, 2026); *Balderas Rivas v.* Baltazar et al., 1:26-cv-00442-SKC (Order ECF 15, Dated Feb. 17, 2026); *Marrero Yera v. Baltazar,* 1:26-cv-00476-SKC-SBP (Order ECF 17, Dated Feb. 19, 2026); *Buitrago Murzi,* 1:26-cv-00359-CNS (Order

ECF 14, Dated Feb. 12, 2026); *Trejo v. Baltazar,* 1:25-cv-4026-SKC-NRN (Order Dated Jan. 8, 2026).

2. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response "within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed." 28 U.S.C. § 2243 (emphasis added).Given the overwhelming case law in this District that similarly situated individuals are not subject to mandatory detention under 8 U.S.C. § 1225, rather they are subject to 8 U.S.C. § 1226(a), expedited briefing and relief is requested.

3. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

4. Petitioner Arnold Murcia Vanegas is a citizen of Columbia who has been in immigration detention since February 21, 2026.

5. Respondent Robert Hagan is the Director of the Denver Field Office of ICE's Enforcement and Removal Operations division. As such, Robert Hagan is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

6. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and

Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

7. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

8. Respondent Juan Baltasar is employed by GEO Group, as Warden of the Denver Contract Detention Facility, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

1. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

2. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) ("[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious."). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.

3. The Court's ruling in *Zadvydas* is rooted in due process's requirement that there be "adequate procedural protections" to ensure that the government's asserted justification for a

noncitizen's physical confinement "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification.

4. The first justification of preventing flight, however, is "by definition . . . weak or nonexistent where removal seems a remote possibility." *Zadvydas*, 533 U.S. at 690. Thus, where removal is not reasonably foreseeable and the flight prevention justification for detention accordingly is "no longer practically attainable, detention no longer 'bears [a] reasonable relation to the purpose for which the individual [was] committed.'" *Id.* (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). As for the second justification of protecting the community, "preventive detention based on dangerousness" is permitted "only when limited to specially dangerous individuals and subject to strong procedural protections." *Zadvydas*, 533 U.S. at 690–91.

5. Thus, under *Zadvydas*, "if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute." *Id.* at 699–700. If removal is reasonably foreseeable, "the habeas court should consider the risk of the [noncitizen's] committing further crimes as a factor potentially justifying the confinement within that reasonable removal period." *Id.* at 700.

6. At a minimum, detention is unconstitutional and not authorized by statute when it exceeds six months and deportation is not reasonably foreseeable. *See Zadvydas*, 533 U.S. at 701 (stating that "Congress previously doubted the constitutionality of detention for more than six months" and, therefore, requiring the opportunity for release when deportation is not reasonably

foreseeable and detention exceeds six months); *see also Clark v. Martinez*, 543 U.S. 371, 386 (2005).

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

1. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

2. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

3. The Petitioner has been detained by Respondents absent legal justification other than being present in the United States without being admitted or paroled under INA § 212(a)(6)(A)(i).

4. Application of 8 U.S.C. § 1225(b)(2) on the Petitioner violates the Fifth Amendment's Due Process clause.

5. The Administrative Procedure Act ("APA") proscribes that those in Petitioner's situation or circumstance whom have been granted parole under 8 U.S.C. § 1182(d)(5)(A), are entitled to certain due process rights, both under the APA and procedural due process. *Seee Y-Z-L-H v. Bostock,* 792 F.Supp.3d 1123, 1146 (D. Or. 2025)(finding a violation under the APA); *Mata Velasquez v. Kurzdorfer,* 794 F.Supp.3d 128,154 (W.D.N.Y. 2025) (finding violation under procedural due process.

6. Petitioner does not have an order of removal, rather Petitioner has a pending application for relief from deportation.

7. Petitioner has been originally informed to check in routinely with Respondents, attend his court hearings scheduled *outside* of detention. (emphasis added). *See* Exhibit 1.

8. There is nothing in the record that demonstrates that Petitioner failed to comply with Respondent's requests such as appearing for a check in as requested, when they abruptly decided to detain Petitioner simply for being in the country.

9. Petitioner's ongoing mandatory detention does not bear a reasonable relation to the purpose for which he was detained.

10. For these reasons, Petitioner's ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment and is unlawful.

11. Even in districts where the Fifth Circuit's decision *Buenrostro-Mendez v. Bondi,* 166 F.4th 494 (5th Cir. 2025) is binding, Courts are finding that application of mandatory detention under 8 U.S.C. § 1225 is unlawful and the remedy for such detention is release. *See also Salvador Rodriguez v. Frink,* --- F.Supp. 3d ---, No. 4: 26-cv-01169, 2026 WL 709487 (S.D. Tex. Mar 13, 2026 (Ellison, J.).

COUNT TWO

Violation of 8 U.S.C. § 1226(a)

12. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

13. In a similar case, it is Petitioner's contention that based upon the Notice to Appear issued, he is no longer subject to mandatory detention under 8 U.S.C. § 1225, rather he is subject to detention under 8 U.S.C. § 1226(a).

14. Petitioner's Notice to Appear states that he was present in the United States who has not been admitted or paroled.

15. The Notice to Appear does not claim that he was an "arriving noncitizen."

16. In a case that bears factual similarities, *Diallo v. Baltazar et. al.,* No. 1:25-cv-3548-SKC, 2026 WL 237296, at *2 (D. Colo. Jan 29, 2026), a Judge in this district has determined that

based upon a reading of the Notice to Appear, a release from detention on conditional parole is housed in provisions of 8 U.S.C. § 1226a, rather than § 1225. *Id.* pg. 5 of 8.

17. Since Petitioner is not being treated as an arriving alien based upon his Notice to Appear, detention under 8 U.S.C. § 1225 is wholly in applicable and the prolonged detention without a bond hearing is unlawful.

18. The weight of authorities and opinions entered in this District have determined that Petitioner is at least eligible for a bond hearing as he is being detained under 8 U.S.C. 1226(a) and therefore eligible for release.

19. This District has also determined that the erroneous detention classification of those similarly situated as Petitioner is unlawful, therefore relief under habeas is the proper mechanism to cure the issue. *See Lopez de Leon v. Baltazar, et al.,* 1:26-cv-00555-SKC-SBP (Order ECF 17, Dated Feb. 20, 2026) (Judge Crews determining that 8 U.S.C. § 1226 encompasses aliens who were not apprehended upon arrival *citing Aleman Hernandez,* 2025 WL 3718159, at *6)); *Castillo-Cabral v. Baltazar et al.,* 1:26-cv-00418-RBJ (Order ECF. 14, Dated Feb. 19, 2026); *Balderas Rivas v.* Baltazar et al., 1:26-cv-00442-SKC (Order ECF 15, Dated Feb. 17, 2026); *Marrero Yera v. Baltazar,* 1:26-cv-00476-SKC-SBP (Order ECF 17, Dated Feb. 19, 2026); *Buitrago Murzi,* 1:26-cv-00359-CNS (Order ECF 14, Dated Feb. 12, 2026); *Trejo v. Baltazar,* 1:25-cv-4026-SKC-NRN (Order Dated Jan. 8, 2026).

1. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA, his due process rights, and the weight of authorities in this District.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus similar to that issued in *Abanil v. Baltazar,* --- F. Supp. 3d ---, 2026 WL 100587, at *4 (D. Colo. Jan. 14, 2026); *Martinez-Orellana v. Hagan,* No. 26-cv-0355-WJM (Order dated Feb 13, 2026).

c. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner; *See* Exhibit 2.

d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

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

DATED this 27th of March 2026.

/s/ William J. O'Donnell

Counsel for Petitioner

Certificate of AI

The undersigned counsel certifies that generative artificial intelligence was not used to draft this filing.

/s/ William J. O'Donnell