IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MORALES REYES, Constantino

Petitioner,

v.

JAMISON, J.L.,
Warden, Federal Detention Center, Philadelphia;

RIFE, John E.,
Acting Field Office Director, Immigration and Customs Enforcement, Enforcement and Removal Operations, Philadelphia Field Office;

MULLIN, Markwayne,
Secretary of the Department of Homeland Security;

BLANCHE, Todd,
Acting U.S. Attorney General

U.S. DEPARTMENT OF HOMELAND SECURITY;

EXECUTIVE OFFICE OF IMMIGRATION REVIEW,

Respondents.

Case No. 2:26-cv-2047

AMENDED VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

The Honorable Joseph F. Leeson
United States District Judge

Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents, as follows:

INTRODUCTION

1. Petitioner Constantino Morales Reyes, initially filed a Petition for a Writ of Habeas Corpus on March 28, 2026 on the basis that his detention by Immigration and Customs Enforcement (ICE) is unlawful. Petitioner now amends his petition, pursuant to Rule 15(a)(1)(A) of the Federal Rules of Civil Procedure, to include a sixth claim for relief setting forth how the voluntary departure order that serves as the basis for Petitioner's detention was unlawfully executed in violation of the INA's regulations.

2. Petitioner is a 23 year-old native of Mexico who is in the custody of the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"). Prior to his detention, Petitioner had lived in Norristown, PA for over six years after entering the United States in 2019.

3. On March 27, 2026, DHS detained Petitioner while preparing to pull away from his home in his car. ICE is currently detaining Mr. Morales Reyes at the Philadelphia Federal Detention Center. DHS purports to hold Mr. Morales Reyes under 8 U.S.C. § 1225(b)(2)(A), a mandatory detention statute. Its detention of Mr. Morales Reyes followed a drastic recent shift away from decades of prior precedent and practice.

4. Respondent's new application of 8 U.S.C. § 1225(b)(2) conflicts with the plain language and structure of the immigration detention statutes and has been widely rejected by district judges around the country, including within this Circuit. *See Ndiaye v. J.L. Jamison, et al*, No. CV 25-6007, 2026 WL 373247, at *7 (E.D. Pa. Feb. 10, 2026) (noting "308 judges[, appointed by every president since Ronald Reagan,] have ruled against the [Government]'s mass detention policy—ordering release or bond hearings in more than 1,600 cases" and listing cases in this

District) (alterations in original) (internal citation omitted).

5. Respondents' application of 8 U.S.C. § 1225(b)(2) to Petitioner is contrary to law, violating both the Immigration and Nationality Act (INA) and the Administrative Procedure Act (APA). Respondents' detention of Mr. Morales Reyes under § 1225(b)(2)(A) further violates his substantive and procedural due process rights. *See, e.g.*, *Ndiaye v. Jamison*, No. 25-cv-6007, 2025 WL 3229307, at *2 (E.D. Pa. Nov. 19, 2025).

6. ICE also encouraged Mr. Morales Reyes to sign a voluntary departure order without giving him an opportunity to speak to counsel. This order was not signed knowingly or voluntarily by Mr. Morales Reyes. He has requested that ICE withdrawal the voluntary departure order on this basis.

7. Mr. Morales Reyes respectfully requests that this Court issue a writ of habeas corpus and order Respondents to release him from their custody. *See, e.g.*, *Ndiaye*, 2025 WL 3229307 at *5 n.5 (ordering immediate release and finding that "[a] bond hearing would certainly result in [Petitioner's] release and only serve to delay relief when the "Government has offered no rationale to refuse bond").

PARTIES

8. Petitioner Constantino Morales Reyes is a noncitizen currently detained by Respondents pending removal proceedings. He is detained in ICE custody at the Federal Detention Center in Philadelphia, Pennsylvania.

9. Respondent J.L. Jamison is sued in his official capacity as the Warden of the Philadelphia Federal Detention Center (FDC). He has direct custodianship over Petitioner at Philadelphia FDC.

10. Respondent John E. Rife is sued in his official capacity as the Acting Field Office Director of U.S. Department of Homeland Security, Immigration and Customs Enforcement's Philadelphia Field Office. He is responsible for the administration and management of ICE Enforcement Removal Operations in Pennsylvania and exercises administrative control over Petitioner's custody.

11. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security. DHS is responsible for administering and enforcing the immigration laws, including the decision to detain noncitizens during the course of their removal proceedings. Secretary Mullin has ultimate legal custodianship over Petitioner.

12. Respondent Todd Blanche is sued in his official capacity as the Acting Attorney General of the United States. He is responsible for the Department of Justice, including the Executive Office of Immigration Review. EOIR adjudicates individual immigration matters, including in removal and custody proceedings.

13. Respondent the U.S. Department of Homeland Security is the federal agency responsible for implementing and enforcing the Immigration and Nationality Act, including the detention of noncitizens during removal proceedings.

14. Respondent the Executive Office of Immigration Review is the federal agency responsible for administering removal and custody proceedings. EOIR is a component of the U.S. Department of Justice. EOIR includes the Board of Immigration Appeals (BIA) and the immigration courts.

JURISDICTION AND VENUE

15. This action arises under the Fifth and Fourteenth Amendments to the U.S. Constitution.

16. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 1361. 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*., and the All Writs Act, 28 U.S.C. § 1651.

17. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against one of its agencies and that agency's officers are sued in their official capacities. 5 U.S.C. § 702.

18. Venue is proper in this District because the Petitioner is detained in this district. 28 U.S.C. § 1391; *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004).

STATEMENT OF FACTS

19. Constantino Morales Reyes left his country of birth, Mexico, and entered the United States by crossing the southern border in 2019.

20. After entering the United States, Mr. Morales Reyes went to live in Norristown, PA where he was resides with his wife and daughter. His daughter is a U.S. citizen. Mr. Morales Reyes works at a local restaurant to support his family.

21. On or about March 27, 2026, Mr. Morales Reyes was arrested by ICE agents who approached him while he was sitting in his car.

22. Mr. Morales Reyes was taken to the ICE Field Office and pressured to sign a voluntary departure order. Mr. Morales Reyes was told by an official that it would cost him at

least $5,000 to speak to a lawyer. Uncertain of what to do, he signed the order.

23. On April 14, 2026, Mr. Morales Reyes's counsel requested by email that ICE withdraw the voluntary departure order. ECF No. 9-1.

24. DHS currently holds Mr. Morales Reyes at the Philadelphia Federal Detention Center.

25. Upon information and belief, Respondents detained Mr. Morales Reyes under its revised interpretation of the immigration detention statues; specifically their new view that all noncitizens who have not been "admitted," 8 U.S.C. § 1101(a)(13)(A) are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

26. On March 28, 2026, Mr. Morales Reyes filed a Petition for a Writ of Habeas Corpus. ECF No. 1. On April 2, 2026, Respondents filed an Opposition. ECF No. 4. On March 17, 2026, Mr. Morales Reyes and Respondents filed Supplemental Submissions; ECF Nos. 8, 9; in response to the Court's Order requesting supplemental information. ECF No. 7.

27. Mr. Morales Reyes now files this amended petition.

LEGAL FRAMEWORK

I. Section 1226(a) Governs the Detention of People Like Petitioner Who are Detained in the United States and Have Not Previously Been Admitted

28. There are two immigration statutes at issue here. 8 U.S.C. § 1226 governs the detention of noncitizens who entered without inspection and by default applies to all persons "pending a decision on whether the[y] . . . [are] to be removed from the United States." *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018). Section 1225(b)(2) governs the detention of individuals "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*, 583 U.S. at 287.

29. Recently, Respondents' have flipped this statutory scheme on its head by stating that all noncitizens subject to grounds of inadmissibility are mandatorily detained under § 1225(b)(2), regardless of whether they are at the border or already in the country. *Yajure Hurtado*, 29 I. & N. Dec. 216, 220 (B.I.A. 2025). This novel interpretation regarding § 1225(b)(2) has been soundly rejected by Article III Courts. Judges from all around the country, including from the Eastern District of Pennsylvania, have held that people who are present without having been admitted are eligible for bond pursuant to § 1226(a). *See Ndiaye*, 2026 WL 373247, at *7 (noting "308 judges[, appointed by every president since Ronald Regan,] have ruled against the [Government]'s mass detention policy—ordering release or bond hearings in more than 1,600 cases" and listing cases in this District) (alterations in original) (internal citation omitted). As these decisions explain, Respondents' position, relying on the Board of Immigration Appeals' decision in *Yajure Hurtado*, is wrong.

30. First, the plain text of the statute shows that 8 U.S.C. § 1226(a), not § 1225(b), applies to immigrants like Mr. Morales Reyes. The text of § 1225 shows that it applies only to "noncitizens who are just arriving or have recently arrived in the country." *Ndiaye*, 2025 WL 3229307 at *5. The statute requires detention of noncitizens who are "seeking admission," a phrase that "connotes some affirmative, present-tense action"—applying this phrase to "noncitizens already residing in the United States" is inconsistent with the plain text of the statute. *Id*. The title and heading of the statute also shows that § 1225 only applies to noncitizens at the border. *Id*.

31. The text of § 1226, on the other hand, shows that it plainly applies to noncitizens "already present in the country" because of its title and because "[n]one of its provisions mention arriving noncitizens or discuss the border or ports of entry." *Id*. As such, it "creates a default rule

for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings." *Jennings*, 583 U.S. at 303.

32. Second, Respondents' interpretation of § 1225 violates the rule against surplusage because it reads out the phrase "seeking admission." *Ndiaye*, 2025 WL 3229307, at *14. Under Respondents' interpretation, all noncitizens "seeking admission" are "applicants for admission," "effectively eliminate[ing] any meaning to the words 'seeking admission' within the statute." *Id.* Instead, Congress added the phrase "seeking admission" to the statute, distinguishing "applicants from admission" from noncitizens "seeking admission." *Id.*

33. Third, Respondents' interpretation of the statute would also render all the grounds of mandatory detention in 8 U.S.C. § 1226(c) applied to inadmissible noncitizens, including the recently-passed Laken Riley Act, superfluous. *Ndiaye*, 2025 WL 3229307 at *6; *see Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2013) ("[T]he canon against surplusage is strongest when an interpretation would render superfluous another part of the same statutory scheme.").

34. Fourth, agency past practice shows that noncitizens like Mr. Morales Reyes are subject to detention under § 1226(a), not § 1225(b). For almost thirty years, since § 1225(b)(2)'s inception in 1997, "the Government's immigration enforcement practices have been to detain noncitizens who have been residing in the United States under § 1226, entitling them to a bond hearing." *Ndiaye*, 2025 WL 3229307 at *6.

35. Finally, as discussed below, the BIA's interpretation of 8 U.S.C. § 1225(b)(2)(A) to mandate detention without a bond hearing for all noncitizens present in the United States without having been admitted presents serious constitutional concerns. To the degree that the statute remains ambiguous, the Court should presume that Congress "did not intend the alternative which

raises serious constitutional doubts" and reject that construction. *Clark v. Martinez*, 543 U.S. 371, 381–82 (2005).

II. The BIA's Application of Mandatory Detention to Noncitizens Like Petitioner Violates Substantive and Procedural Due Process

36. "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). This fundamental due process protection applies to all noncitizens within the United States, including both removable and inadmissible noncitizens. *See id*. at 693; *Plyler v. Doe*, 457 U.S. 202, 212 (1982); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896).

37. Absent adequate procedural protections, substantive due process requires a "special justification" that "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Zadvydas*, 533 U.S. at 693; *Demore*, 538 U.S. at 528. The broad policy set forth in *Yajure Hurtado* is not reasonably related to the purposes of prevent danger to the community or flight risk and violates substantive due process.

38. Additionally, procedural due process protects noncitizens against deprivation of liberty without adequate procedural protections, including notice and the opportunity to be heard. *A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1367 (2025); *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020).

39. In determining the proper procedure to protect a detained noncitizen's procedural due process rights under the Fifth Amendment, courts apply the three-part balancing test in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), weighing (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Black v. Decker*, 103 F.4th 133, 147-48 (2d Cir. 2024); *Gayle v. Warden Monmouth C'ty Corr. Facility*, 12 F. 4th 321, 331 (3d Cir. 2021); *see also Kashranov v. Jamison*, No. 2:25-CV-05555-JDW, 2025 WL 3188399, at *5 (E.D. Pa. Nov. 14, 2025) (applying *Mathews* to a claim identical to Petitioners).

THE PROPER REMEDY IS RELEASE

40. Given Respondents did not conduct any pre-deprivation assessment of Mr. Morales Reyes risks prior to his detention, he merits release, as recognized by many courts in this District. *See, e.g.*, *Kourouma v. Jamison*, No. 26-cv-182, 2026 WL 120208, at *5 (E.D. Pa. Jan. 15, 2026) ("The Court will order the release of Petitioner because he was unlawfully detained."); *Kashranov*, 2025 WL 3188399, at *8 ("Because the Government detained Mr. Kashranov without the bond hearing that Section 1226(a) and the Due Process Clause require, Mr. Kashranov should not now be in custody."); *Centeno Ibarra v. Warden of the Fed. Det. Ctr. Philadelphia*, No. CV 25-6312, 2025 WL 3294726, at *8 (E.D. Pa. Nov. 25, 2025) ("Because a bond hearing is unnecessary, this Court will order his immediate release."). And because Respondents purport to base, Mr. Morales Reyes's detention on the entry of a voluntary departure, the Court should order Mr. Morales

Reyes's immediate release should it find that Respondents violated the INA's voluntary departure regulation.

41. Mr. Morales Reyes also merits release because a bond hearing before an immigration judge has been shown not to be an adequate remedy. Immigration judges have unreasonably refused to grant bond despite evidence that a noncitizen is not a danger or a flight risk, requiring petitioners to seek further relief from habeas courts. *See A.D. v. Oddo*, No. 25-460J, Memorandum Order at 7–8 (W.D. Pa. Feb. 12, 2026) (finding petitioner was unfairly prejudiced at his habeas ordered bond hearing and ordering immediate release); *Soto-Medina v. Lynch*, No. 1:25-CV-1704, 2026 WL 161002, at *2 (W.D. Mich. Jan. 21, 2026) (noting that at a habeas ordered bond hearing petitioner presented evidence that he is not a flight risk or danger, including "evidence of his family connections, that his daughter attended Chicago Public Schools, and that he has a pending asylum application and valid work authorization," that the "government did not present any evidence" against granting bond, but "the immigration judge denied Petitioner's request for bond because Petitioner had 'not established that he is not a flight risk'"); *Ramirez v. Lynch*, No. 1:25-CV-1800, 2026 WL 212932, at *1 (W.D. Mich. Jan. 27, 2026) (same).

42. A hearing before an immigration judge also does not provide a sufficient assurance of neutrality. Immigration judges, who serve at the pleasure of the U.S. Attorney General—a respondent in this matter—have been removed from service for not following the Executive's deportation goals.[1] And on January 13, 2026, Chief Immigration Judge Teresa L. Riley instructed immigration judges to continue denying bond despite a nationwide declaration against DHS's

[1] *See, e.g.*, Joshua Goodman, *Military Lawyer Swiftly Fired from Immigration Bench After Defying Trump Deportation Push*, Times Union (updated Dec. 19, 2025), https://perma.cc/JWJ2-WH9E.

detention policies in *Maldonado Bautista v. Santacruz*, No. 25-cv-1873, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025).[2]

43. If, alternatively, this Court orders for a bond hearing, due process requires that the Government bear the burden of proof by clear and convincing evidence. *See Gayle*, 12 F.4th at 332 ("[W]hen such a severe deprivation is at issue, the Government must bear the burden of proof."). Such a "standard of proof serves to [properly] allocate the risk of error between the litigants and reflects the relative importance attached to the ultimate decision." *German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203, 213 (3d Cir. 2020) (citing *Addington v. Texas*, 441 U.S. 418, 423 (1979)). The Third Circuit has long ordered for the government to bear a clear and convincing burden at a constitutionally-mandated bond hearing. *German Santos*, 965 F.3d at 214; *Guerrero-Sanchez v. Warden York Cnty. Prison*, 905 F.3d 208, 224 n.12 (3d Cir. 2018), *abrogated on other grounds by Johnson v. Arteaga-Martinez*, 596 U.S. 572 (2022). Other circuit courts have similarly held the same for Section 1226(a) detention. *Hernandez-Lara v. v. Lyons*, 10 F.4th 19, 39-40 (1st Cir 2021); *Velasco Lopez*, 978 F.3d at 855–56; *see also Soto-Medina*, 2026 WL 161002, at *5-11. Any assessment of custody should include consideration of alternatives to detention and ability to pay. *See, e.g.*, *Black*, 103 F.4th at 155.

44. Should this Court order for a bond hearing, it should preside over such a hearing rather than assign it to an EOIR administrative judge, for the reasons discussed above. *See Centeno-Martinez v. Jamison*, No. CV 25-3593, 2025 WL 3157711, at *3 (E.D. Pa. Nov. 12, 2025) (finding that the district court should hold the bond hearing because it is "a 'legal and logical

[2] *See Practice Alert: EOIR Issues Nationwide Guidance on Maldonado Bautista*, AILA Doc. No. 26011404, Am. Immigr. Laws. Ass'n (Jan. 16, 2026), https://perma.cc/9LDH-ZKAF (last visited Feb. 8, 2026).

concomitant' of habeas jurisdiction, particularly where delay risks perpetuating the constitutional injury"); *Swann v. Charlotte Mecklenburg Bd. of Educ*., 402 U.S. 1, 15 (1971) ("[T]he scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies."); *see also Zadvydas*, 533 U.S. at 700 (authorizing federal courts to "condition[]" a noncitizen's release "on any of the various forms of supervised release that are appropriate in the circumstances").

FIRST CLAIM FOR RELIEF
Violation of the Immigration and Nationality Act
Unlawful Application of Mandatory Detention Provision

45. Petitioner re-alleges and incorporates by reference the above paragraphs.

46. 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 grounds of inadmissibility. Specifically, it does not apply to Mr. Morales Reyes, who has been living in the United States since 2021, for over four years prior to his detention on March 27, 2026.

47. Mr. Morales Reyes was not "seeking admission". At the time of his detention in Norristown, PA on March 27, 2026, he was no longer engaged in that "present-tense action." *Ndiaye*, 2025 WL 3229307 at *5. He therefore no longer met the requirements of Section 1225(b)(2)(A).

48. Respondents' unlawful and arbitrary application of 8 U.S.C. § 1225(b)(2) to Mr. Morales Reyes violates the INA.

SECOND CLAIM FOR RELIEF
Violation of the Administrative Procedure Act
Agency Policy and Practice is Arbitrary, Capricious, and Contrary to Law

49. Petitioner re-alleges and incorporates by reference the above paragraphs.

50. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

51. An agency decision that "runs counter to the evidence before the agency" is arbitrary and capricious. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins*., 463 U.S. 29, 43 (1983).

52. An agency decision that "failed to consider important aspects of the problem" is also arbitrary and capricious. *Dep't of Homeland Sec. v. Regents of the Univ. of Californi*a, 140 S. Ct. 1891, 1910 (2020).

53. Respondents have failed to articulate reasoned explanations for their decision to expand the use of mandatory detention to all noncitizens who entered without inspection, which represent changes in the agencies' policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.

54. Respondents' application of 8 U.S.C. § 1225(b)(2) to Mr. Morales Reyes is arbitrary, capricious, and not in accordance with law.

THIRD CLAIM FOR RELIEF
Violation of the Fifth Amendment Due Process Clause
Detention Without Any Relation to Limited Goals of Civil Immigration Detention Violates Substantive Due Process

55. Petitioner re-alleges and incorporates by reference the above paragraphs.

56. 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. Substantive

due process requires that immigration detention without a bond hearing be reasonably related to the goals of ensuring the appearance of noncitizens at future proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690.

57. The BIA's application of mandatory detention under 8 U.S.C. § 1225(b)(2) is not reasonably related to those goals and thus violates substantive due process. Mr. Morales Reyes has resided in the United States since 2019, has a steady address where he resides with his family, and is gainfully employed.

58. Respondents' detention of Mr. Morales Reyes without any consideration of his particular flight or danger risks bears no relation to the limited goals of immigration detention.

FOURTH CLAIM FOR RELIEF
Violation of the Fifth Amendment Due Process Clause
Detention Without Any Procedures to Limit Erroneous Deprivation of a Core Private Right Violates Procedural Due Process

59. Petitioner re-alleges and incorporates by reference the above paragraphs.

60. 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. Courts apply the *Mathews v. Eldridge* balancing test to determine what procedures the due process clause requires. *Gayle*, 12 F.4th at 331.

61. The first factor, the private interest that will be affected by the official action, clearly weighs in favor of Petitioner Because "[f]reedom from imprisonment . . . lies at the heart of the liberty" interest protected by due process. *Zadvydas*, 533 U.S. at 690.

62. The second factor also weighs in favor of Petitioner because there is a great risk of unnecessary detention since Respondents' interpretation of the statute does not permit any individualized determination of whether detention during removal proceedings is necessary.

Respondents' procedures—or lack thereof—create an erroneously high risk of wrongly depriving those, like Mr. Morales Reyes, their protected interest in being free from government custody. *Kashranov*, 2025 WL 3188399, at *8.

63. The government has no legitimate interest in detaining Petitioner when detention is not necessary to ensure his appearance at future hearings or protect the community, and less restrictive measures like a reasonable bond would serve those purposes. *Hernandez-Lara*, 10 F.4th at 32–33; *see Ousman D. v. Decker*, No. 20-cv-9646, 2020 WL 5587441, at *4 (D.N.J. Sept. 18, 2020) (holding that due process requires consideration of less restrictive alternatives to detention that would address the government's legitimate purpose); *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 241–42 (W.D.N.Y. 2019) (same). Additionally, affording noncitizens pre-deprivation review of their flight or danger risks presents a minimal burden and serves the government's interest in ensuring only those individuals that need to be detained are detained. *See Kashranov*, 2025 WL 3188399, at *8.

64. Respondents' detention of Petitioner without any hearing to determine whether that detention is necessary violates procedural due process.

FIFTH CLAIM FOR RELIEF
Violation of the Fifth Amendment Due Process Clause
Deprivation of Procedural Rights to a Hearing Under the INA

65. Petitioner re-alleges and incorporates by reference the above paragraphs.

66. The INA permits a noncitizen to voluntarily depart the United States in lieu of being subject to removal proceedings in some circumstances. 8 U.S.C. § 1229c(a)(1) ("The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense under this subsection, in lieu of being subject to proceedings under section 1229a of this title

or prior to the completion of such proceedings, if the alien is not deportable under section 1227(a)(2)(A)(iii) or section 1227(a)(4)(B) of this title.").

67. Respondents deprived Mr. Morales Reyes of his right to a hearing on his removability as provided by the INA at 8 U.S.C. § 1229a by causing him to involuntarily waive that right. For a waiver to be made knowingly, "the choice must be explicitly presented . . . and the [individual] must explicitly agree to waive the specific right in question." *Cruz Uitz v. Noem*, No. CV 25-06420-MWF, 2025 U.S. Dist. LEXIS 211772, at *24 (C.D. Cal. Sep. 23, 2025).

68. After detaining him, ICE officials told Mr. Morales Reyes that he would not be able to speak to a lawyer without paying at least $5,000. On the same day as his arrest, ICE officials encouraged him to sign a voluntary departure order. Despite Mr. Morales Reyes's first language being Spanish, the voluntary departure paperwork is in English. ECF No. 8-2. By coercing Mr. Morales Reye into signing a voluntary departure order, Respondents caused Mr. Morales Reyes to involuntarily waive his rights to a hearing. *See Lopez-Flores v. Ibarra*, Civil Action No. 1:17-cv-00105, 2018 U.S. Dist. LEXIS 239242, at *23 (S.D. Tex. Jan. 22, 2018).

SIXTH CLAIM FOR RELIEF
Violation of the Immigration Nationality Act's Regulations
Violation of the Voluntary Departure Regulation, 8 C.F.R. 240.25(a)

69. Petitioner re-alleges and incorporates by reference the above paragraphs

70. The INA's regulations authorize only certain DHS officials to execute voluntary departure orders. Pursuant to 8 C.F.R. § 240.25, "[t]he authority contained in section 240B(a) of the Act to permit aliens to depart voluntarily from the United States may be exercised in lieu of being subject to proceedings under section 240 of the Act by district directors, assistant district directors for investigations, assistant district directors for examinations, officers in charge,

chief patrol agents, the Deputy Executive Associate Director for Enforcement and Removal Operations, the Director of the Office of Juvenile Affairs, service center directors, and assistant service center directors for examinations." *Id.*

71. The order signed by Mr. Morales Reyes lists an "Acting SDDO" as the "Authorized DHS Official." ECF No. 8-2. SDDO stands for Supervisory Detention and Deportation Officer. "3. Operational Requirements", Immigration and Customs Enforcement, *available at* https://www.citizensforethics.org/wp-content/uploads/2025/04/2023-4-10-2nd-Production_Part1.pdf#:~:text=The%20information%20is%20organized%20by%20facility%20zone%2C,CDF%20activities%20including%20those%20of%20contract%20personnel. (last visited April 18, 2026). Supervisory Detention and Deportation Officers, let alone *acting* SDDOs, are not authorized under the regulations to issue voluntary departure orders. The DHS officials who are authorized, are more senior leadership in the DHS organization structure. For example, agency materials define an officer in charge as "the highest ranking officer at the [Contract Detention Facility] and has ultimate authority and responsibility at the site. The [officer in charge] oversees all [facility] activities including those of contract personnel." *Id.* Whereas a SDDO "provides administrative and technical supervision to [deportation officers], [immigration enforcement agents] and clerical personnel." *Id.* Because a DHS official wields a quasi-judicial power when entering a voluntary departure order, which is alternatively vested in the hands of an Immigration Judge; 8 C.F.R. § 1240.26; there is a logic to the regulations placing this authority only into the hands of senior DHS leadership.

72. When DHS violates its own regulations in executing an immigration order, the order cannot serve as the basis to detain a noncitizen. *See E.MM v. Almodovar*, No. 25 Civ. 8212, 2025 WL

3077995, at *6 (S.D.N.Y. Nov. 4, 2025) ("Neither the relevant regulations nor the Delegation Order authorized the assistant field office director to revoke E.M.M.'s OSUP. And, as a result, the Government violated its regulations in revoking E.M.M.'s OSUP and E.M.M.'s continued detention pursuant to Mr. Robinson's decision is unlawful."); *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (W.D.N.Y. May 2, 2025) (finding that "there is no delegation order clearly giving [an assistant field office director] the authority to revoke release").

73. Because the Acting SDDO that executed Mr. Morales Reyes's voluntary departure order was not authorized to do so, Respondents cannot continue to detain Mr. Morales Reyes on the basis of that unlawful order.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1) Assume jurisdiction over this matter;

2) Issue an order administratively staying Respondents from transferring Petitioner outside of this Court's geographic jurisdiction pending the Court's adjudication of the petition;[3]

[3] Petitioner requests a stay of his transfer to ensure that should this Court grant him relief, he may quickly and reasonably access such relief. *See, e.g.*, Order, ECF No. 4, *Zavala Ulloa v. Jamison*, 2:26-cv-00813-KSM (E.D.P.A. Feb. 9, 2026) (enjoining Respondents "from taking any action that would result in the removal of Petitioner from the Eastern District of Pennsylvania"); Order, ECF No. 3, *Lantiguez Alvarado v. Bondi*, No. 26-cv-768 (S.D.N.Y. Jan. 29, 2026) (administratively staying the noncitizen from transfer out of the Southern and Eastern Districts of New York, or the District of New Jersey).

At a recent show cause hearing, Judge Jerry W. Blackwell of the U.S. District Court for the District of Minnesota outlined the collateral difficulties of acquiring adequate government compliance if the government transfers a noncitizen outside of the habeas court's jurisdiction. He explained that it takes "repeat, after repeat, after follow-up, after follow-up with the Government" to receive information and procure a noncitizen's return. Tr. of Show Cause Hr'g, ECF No. 19, *Segundo*

3) Declare that Petitioner's continued detention violates the Immigration and Nationality Act, the Administrative Procedure Act, and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

4) Issue a Writ of Habeas Corpus and order Petitioner's immediate release from custody without additional or new conditions;[4]

5) In the alternative, conduct a custody hearing at which Respondents must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after

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A.P.G. et al. v. Bondi, No. 26-cv-603 (D. Minn. Feb. 3, 2026), at 11. And he traced the difficulty in prescribing adequate remedies, describing:

> For example, if we say, release the person immediately, then we learn that, having transported [the noncitizen] to El Paso or New Mexico, [the government] do[esn't] bring him back. We learn that somebody is put out on the street with just the clothes on their backs and have to figure out how to get back here when they should not have been arrested here in the first place, let alone flown halfway across the continent of North America. And have to – so now we have to address that. We have to say, bring them back.
>
> And then we say, all right, so you brought them back. We can't have them released when it's minus 14 outside. And so now we have to address that. Don't release them in the circumstances that might endanger their health or safety.
>
> And so once that's addressed, then we learn they've been released, but now conditions have been imposed. That somebody who should not have been arrested in the first place is now being told, you're going to be released if you wear an ankle monitor, which the Court didn't order because the person was unlawfully detained in the first place. Then we have to go back and address that now.

Id. at 33–34.

[4] *See, e.g.,* Order, ECF 8, *Noicy v. Jamison et al.*, No. CV 26-1388, 2026 WL 637635 (E.D. Pa. Mar. 6, 2026) (ordering that "the Government shall not subject [Petitioner] to any conditions of release including the imposition of any and all GPS monitoring technology or devices").

consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present;

6) Issue an order requiring Respondents to return Petitioner's personal property, including identification and documents;[5]

7) Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law, *see Michelin v. Warden Moshannon Valley Corr. Ctr.*, --- F.4th ---, 2026 WL 263483 (3d Cir. Feb. 2, 2026); and

8) Grant such further relief as the Court deems just and proper.

Dated: April 18, 2026

Respectfully submitted,

/s/Christopher P. Setz-Kelly
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[5] *See, e.g.,* Order, ECF 6, *Juarez Francisco v. Jamison et al.*, No. CV 26-1321, 2026 WL 607988 (E.D. Pa. Mar. 4, 2026) (ordering "immediately upon his release [return] all personal belongings confiscated upon or during his detention, including his identification documents"); Order, ECF 20, *Abreu v. Baker et al.*, Civil No. 25-3088-BAH (D. Md) (Dec. 18, 2025) (ordering return of petitioner's personal property confiscated at the time of her detention); *Ortiz Martinez v. Wamsley*, No. 2:25-CV-01822-TMC, 2025 WL 2899116, at *5 (W.D. Wash. Oct. 10, 2025) (same).

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner as a member of Petitioner's legal team. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: April 18, 2026

Respectfully submitted,

/s/Christopher P. Setz-Kelly
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Pro Bono Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Amended Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system.

Dated: April 18, 2026

Respectfully submitted,

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