IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. _____

LUIS ALFREDO CHALAMPUENTE AMAGUANA,
Petitioner,
v.
JUAN BALTASAR, Warden, GEO Aurora Contract Detention Facility, in his official capacity;
GEORGE VALDEZ, Director, Denver Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, in his official capacity;
TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement, in his official capacity;
MARKWAYNE MULLIN, Secretary, United States Department of Homeland Security;
PAMELA JO BONDI, Attorney General of the United States, in her official capacity,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241
AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

Luis Alfredo Chalampuente Amaguana is an indigenous *Kichwa* asylum seeker from Ecuador. He brings this petition for a writ of habeas corpus challenging his unlawful detention under 8 U.S.C. § 1225(b)(2)(A) and (B) as applied to him by the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Petitioner entered the United States without inspection on December 13, 2021, and has resided here continuously since that date—a period of more than four years. He was apprehended in the interior of the United States—outside a supermarket in Lakewood, Colorado—not at the border and not upon arrival. He is being held without a bond hearing or any individualized determination of flight risk or danger.

The answer to Petitioner's detention claim is provided by the plain text of the statute, confirmed by overwhelming judicial consensus, and is now clearly established law in this District. For example, the United States District Court for the District of Colorado held in *Grijalva Esquivel v. Baltazar*, No. 1:25-cv-04187-SKC (D. Colo. Jan. 29, 2026), that § 1225(b)(2) does not apply to an individual "already resid[ing] in the United States"—that §§ 1225 and 1226 "cover noncitizens presenting at arrival (under § 1225) and then everybody else (under § 1226)." Petitioner is "everybody else." He has lived here for over four years. His detention is unlawful, and the writ should be granted.

Petitioner's case is particularly compelling. The United States government itself issued him a Notice to Appear on September 1, 2022, placing him in removal proceedings under 8 U.S.C. § 1229a—proceedings that presuppose detention authority under § 1226(a), not § 1225(b)(2). Having exercised § 1229a jurisdiction over him for more than three years, the government cannot now flip the jurisdictional switch and claim § 1225(b)(2) mandatory detention strips him of the bond hearing that § 1226(a) and its own charging document contemplate. That internal inconsistency independently compels relief.

Petitioner also asserts his rights as a member of two certified classes: (1) the nationwide Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, 2025 WL 3289861, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025), as clarified by final judgment (Dec. 18, 2025); and (2) the local class certified in *Mendoza Gutierrez v. Baltazar*, No. 1:25-cv-02720-RMR (D. Colo. Nov. 21, 2025). Those class certifications provide corroborating authority—the merits of Petitioner's individual claim independently compel the same result.

Petitioner additionally suffers from documented anxiety and depression for which he was receiving ongoing medical treatment before his detention. ICE has denied him access to his prescribed medications since his arrest on March 10, 2026. The unlawfulness of Petitioner's confinement is thus compounded by

unconstitutional conditions of confinement that independently require judicial intervention.

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). The Court should grant the petition.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241(c)(3), 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the Constitution (Suspension Clause). This Court may grant relief under 28 U.S.C. § 2241 (habeas), 28 U.S.C. § 2201 (Declaratory Judgment Act), and 28 U.S.C. § 1651 (All Writs Act). Noncitizens may challenge the lawfulness of their detention through habeas. *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

2. This petition challenges custody, not removal—a classic habeas claim collateral to any removal order and not barred by 8 U.S.C. § 1252(b)(9), § 1252(g), or § 1252(a)(5). See *Grijalva Esquivel v. Baltazar*, No. 1:25-cv-04187-SKC, slip op. at 2 (D. Colo. Jan. 29, 2026).

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e) and *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), because Petitioner is detained at GEO Aurora Contract Detention Facility, 3130 N. Oakland St., Aurora, CO 80010, in this District.

PARTIES

4. Petitioner Luis Alfredo Chalampuente Amaguana [redacted] is a native and citizen of Ecuador, an indigenous *Kichwa* speaker, and an asylum applicant. He is in custody at the GEO Aurora Contract Detention Facility in Aurora, Colorado, within the meaning of the habeas statute. *See Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

5. Respondent Juan Baltasar is Warden of the GEO Aurora Contract Detention Facility and Petitioner's immediate physical custodian. He is sued in his official capacity.

6. Respondent George Valdez is Director of the Denver Field Office of ICE's Enforcement and Removal Operations division and is also Petitioner's immediate custodian responsible for his detention and removal. He is sued in his official capacity.

7. Respondent Todd M. Lyons is Acting Director of ICE. He is sued in his official capacity.

8. Respondent Markwayne Mullin is Secretary of Homeland Security, Petitioner's ultimate legal custodian responsible for implementation of the immigration laws as codified under the Immigration and Nationality Act (INA). She is sued in her official capacity.

9. Respondent Pamela Jo Bondi is Attorney General of the United States, with authority over the Department of Justice and the Executive Office for Immigration Review. She is sued in her official capacity.

EXHAUSTION OF ADMINISTRATIVE REMEDIES IS NOT REQUIRED

10. There is no statutory exhaustion requirement under 28 U.S.C. § 2241. Any exhaustion obligation is purely prudential, and courts have broad discretion to waive it. *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004). Exhaustion is excused where "administrative remedies are inadequate or not efficacious," "pursuit of administrative remedies would be a futile gesture," "irreparable injury will result," or "the administrative proceedings would be void." *Id.* All four conditions are independently satisfied here.

11. Exhaustion Is Futile. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), is binding precedent stripping all Immigration Judges of jurisdiction to conduct bond hearings for noncitizens who entered without inspection (EWI). There is no procedural mechanism by which Petitioner could obtain a bond hearing

before any Immigration Judge in any court in the country. See *Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025); *Lopez-Campos v. Raycraft*, 797 F.Supp.3d 771, 781 (E.D. Mich. 2025).

12. Administrative Remedies Are Inadequate and Void. The agency lacks jurisdiction to grant the relief Petitioner seeks. No administrative body can order ICE to reclassify Petitioner under § 1226(a). "There are at least three broad sets of circumstances in which the interests of the individual weigh heavily against requiring administrative exhaustion: (1) where a party could 'suffer irreparable harm if unable to secure immediate judicial consideration'; (2) where the administrative agency is not empowered to grant effective relief; and (3) where the administrative body is shown to be biased or has otherwise predetermined the issue before it." *Brown v. Haaland*, 604 F. Supp. 3d 1059, 1088 (D. Nev. 2022) (cleaned up). All three conditions are met here.

13. Irreparable Injury. Each day Petitioner remains detained without legal authority constitutes irreparable harm. Liberty, once lost, cannot be restored. Petitioner's ongoing deprivation of mental health medication compounds the irreparable nature of his unlawful confinement.

14. No Administrative Jurisdiction Over Constitutional Claims. Administrative bodies cannot adjudicate constitutional claims or overrule the BIA's own

binding precedent. "There is nothing efficient about sending constitutional claims to a body that cannot decide them, only to wait for an opportunity to appeal." *Am. Fedn. of Govt. Employees, AFL-CIO v. Trump*, 782 F. Supp. 3d 793, 817 (N.D. Cal. 2025).

STATEMENT OF THE FACTS

A. Petitioner's Background, Entry, and Residence in the United States

15. Petitioner Luis Alfredo Chalampuente Amaguana is 54 years old, a native and citizen of Ecuador. He is an indigenous *Kichwa* speaker born in Otavalo, Ecuador, and a member of the indigenous *Cabildo Kichwa* community. He is fluent in Quechua and Spanish; he does not speak or read English.

16. On or about December 4, 2021, Petitioner entered the United States without inspection (EWI) at or near Paso del Norte. He was not apprehended upon arrival. He passed into the interior of the United States. This fact is established by the government's own charging document: the Notice to Appear issued September 1, 2022 alleges entry "at or near PASO DEL NORTE, on or about December 4, 2021," and charges Petitioner under INA § 212(a)(6)(A)(i) as a person "present in the United States without being admitted or paroled." See Exhibit 2 (NTA & I-589).

17. Petitioner has resided continuously in the United States since his December 2021 entry—a period of more than four years. He has lived in [redacted] Colorado, with his wife Claudia and his daughter. He has held a valid employment authorization document, filed federal taxes for three or four consecutive years, and was in the process of purchasing a home—with a closing scheduled for the very day ICE arrested him. He presents no danger or flight risk.

18. Petitioner has a pending application for asylum, withholding of removal, and protection under the Convention Against Torture before the Denver Immigration Court. *In the Matter of Chalampuente Amaguana*, File No. A220-379-565 (Denver Immigr. Ct.). An Notice to Appear (NTA) was issued September 1, 2022, placing Petitioner squarely in § 1229a removal proceedings.

19. Petitioner is the father of four children. His daughter, [redacted] s a Lawful Permanent Resident residing in [redacted] Colorado. His wife Claudia and his LPR daughter constitute his primary support network in the United States. He has two additional adult children residing in Ecuador.

20. Petitioner has documented medical conditions including anxiety and depression for which he was receiving treatment and prescription medications

from a licensed physician prior to his arrest. Since his detention on March 10, 2026, he has been denied access to his prescribed psychiatric medications and his symptoms have worsened.

B. The Government's Own Notice to Appear Establishes Interior Residence and § 1226(a) Jurisdiction

21. The government's own Notice to Appear, issued September 1, 2022 and filed with EOIR, forecloses any claim that § 1225(b)(2) applies to Petitioner. On the NTA, DHS did not check the box "You are an arriving alien." It checked: "You are an alien present in the United States who has not been admitted or paroled." DHS charged Petitioner under 8 U.S.C. § 1182(a)(6)(A)(i); INA § 212(a)(6)(A)(i) — the provision for persons present in the interior without admission or parole—not under any arriving-alien or expedited-removal provision. The 8 U.S.C. § 1225(b)(1); INA § 235(b)(1) vacatur checkboxes are blank. The government's own charging instrument is a binding concession that Petitioner is an interior resident subject to bond under 8 U.S.C. § 1226(a)—not an arriving alien subject to mandatory detention 8 U.S.C. § 1225(b)(2).

22. For more than three and a half years—from September 2022 through the present—the government has exercised 8 U.S.C. § 1229a removal jurisdiction over Petitioner. Having initiated these formal removal proceedings, served

Petitioner with an NTA, and litigated his case through Denver Immigration Court appearances, the government cannot now claim that § 1225(b)(2) mandatory detention applies to the same individual. The government is bound by its own jurisdictional posture. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

C. ICE Detention and Application of *Matter of Yajure Hurtado*

23. On or about March 10, 2026—more than four years after Petitioner's last entry into the United States—ICE officers approached Petitioner as he was leaving a King Soopers supermarket in [redacted] Colorado. Officers asked if he was Luis, and upon his acknowledgement, took him into custody without explanation. He was not apprehended at any border, port of entry, or near any crossing. He was apprehended in the interior of the United States, in a supermarket parking lot, in the middle of his daily life.

24. ICE placed Petitioner in continued § 1229a removal proceedings at the Denver Immigration Court in Aurora, Colorado, and enforced his detention under 8 U.S.C. § 1225(b)(2), relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). His next hearing is preliminary, currently scheduled for April 15, 2026.

25. Petitioner has not sought a bond hearing before an Immigration Judge because doing so would be categorically futile. *Yajure Hurtado* is binding on all IJs and strips them of jurisdiction to conduct bond hearings for EWI aliens. Any such request would be denied for lack of jurisdiction as a matter of binding BIA precedent.

26. The government's simultaneous postures are internally inconsistent and independently compel relief: the government has exercised § 1229a removal jurisdiction over Petitioner since September 2022 by issuing an NTA—a charging instrument that presupposes § 1226(a) detention authority—yet now the government claims that § 1225(b)(2) strips it of the bond hearing those very proceedings contemplate. The government cannot have it both ways.

27. The government has never made any showing, under any standard, that Petitioner poses a danger or flight risk.

D. Petitioner's Mental Health and Denial of Medical Care in Detention

28. Before his arrest, Petitioner was under the active care of a physician for diagnosed anxiety and depression. He was receiving prescription medication for these conditions. Since ICE's March 10, 2026 arrest, Petitioner has been held at the GEO Aurora Contract Detention Facility without access to his prescribed psychiatric medications. The facility has not provided an adequate

substitute or referred him to a mental health professional, and his condition has grown worse.

29. The ongoing denial of prescribed psychiatric medication to a diagnosed detainee constitutes deliberate indifference to serious medical need and an independent violation of the Fifth Amendment's Due Process Clause. Separately, it reinforces the irreparable nature of Petitioner's unlawful confinement and the urgency of this Court's intervention.

CLASS MEMBERSHIP — CORROBORATING AUTHORITY FOR RELIEF

32. Petitioner's individual merits independently entitle him to relief, as set forth in the Argument below. The following class certifications confirm that this Court and the Central District of California have already resolved the dispositive legal question in Petitioner's favor. They provide corroborating authority and an additional independent basis for relief.

A. *Maldonado Bautista* — Nationwide Bond Eligible Class (C.D. Cal.)

33. On November 20, 2025, the Central District of California granted partial summary judgment in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, holding that class members detained as EWI aliens are subject to § 1226(a) and entitled to bond consideration. *Id.* at *11.

34. On November 25, 2025, the court certified a nationwide Bond Eligible Class defined as: "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231." On December 18, 2025, the court entered final judgment on Counts I, II, and III and clarified that classwide vacatur of the DHS Policy was entered under the APA.

35. Respondents are parties to *Maldonado Bautista* and bound by its final declaratory judgment. Nevertheless, Respondents continue to deny bond hearings to class members.

36. Petitioner is a member of the Bond Eligible Class because: (A) he has no lawful status and is currently detained at Aurora ICE Processing Center; (B) he entered without inspection in December 2021 and was not apprehended upon arrival; and (C) he is not subject to detention under § 1226(c), § 1225(b)(1), or § 1231.

B. *Mendoza Gutierrez* — District of Colorado Local Class

37. This District has held that § 1225's mandatory detention provision "does not apply to someone like [petitioner], who has been residing in the United States for more than two years." *Mendoza Gutierrez v. Baltazar*, No.

1:25-cv-02720-RMR, 2025 WL 2962908, at *5 (D. Colo. Oct. 17, 2025). Petitioner has resided here for more than four years. He comfortably satisfies the factual predicate that the court described. The operative question under *Grijalva Esquivel v. Baltazar*, No. 1:25-cv-04187-SKC, slip op. at 10 (D. Colo. Jan. 29, 2026), is whether Petitioner is "seeking admission"—actively attempting to enter the country. He is not. He has been living here for over four years and cannot "go into a place where [he] already [is]." *Id.* (quoting *J.G.O. v. Francis*, 2025 WL 3040142, at *3 (S.D.N.Y. Oct. 28, 2025)).

38. On November 21, 2025, U.S. District Judge Regina M. Rodriguez certified a local class of approximately 500 individuals detained at the Aurora ICE Processing Center who are being denied bond hearings under § 1225(b)(2). The class is defined to include: all people arrested or detained in Colorado pending removal where (a) the government has not alleged the person was admitted; (b) the person was not paroled at entry; (c) the most recent arrest did not occur at the border while arriving; and (d) detention is based on § 1225(b)(2)(A). Petitioner satisfies all four criteria.

ARGUMENT

I. SECTION 1226(a) GOVERNS PETITIONER'S DETENTION—NOT § 1225(b)

A. The Plain Text: "Seeking Admission" Requires Active Present Conduct at the Border

39. The District of Colorado has spoken definitively. In *Grijalva Esquivel v. Baltazar*, No. 1:25-cv-04187-SKC, slip op. at 8–16 (D. Colo. Jan. 29, 2026), Judge S. Kato Crews analyzed the plain text of §§ 1225 and 1226 and held—consistent with over 350 prior district court decisions—that § 1225(b)(2)(A) does not apply to a person who "already resides in the United States." The court held that §§ 1225 and 1226 "cover noncitizens presenting at arrival (under § 1225) and then everybody else (under § 1226)." *Id.* at 16. Petitioner is "everybody else."

40. Section 1225(b)(2)(A) requires mandatory detention only where "the examining immigration officer determines that [a noncitizen] *seeking admission* is not clearly and beyond a doubt entitled to be admitted." (Emphasis added.) Being an "applicant for admission" does not automatically mean "seeking admission." As *Grijalva* explained, quoting *J.G.O. v. Francis*: "'Applicant for admission . . . doesn't require an application of any sort. All that's needed is presence without admission . . . By contrast, 'seeking admission' might mean something more than that—some active desire or process toward admission.'" *J.G.O.*, 2025 WL 3040142, at *3.

41. "Seeking" is written in the present-progressive tense, "which is used to refer to an action or a state that is continuing to happen." *Id.* Putting this together, "seeking admission" requires a noncitizen to be "continu[ing] to want to go into the country." *Id.* Petitioner cannot be "seeking admission" to the United States because "you can't go into a place where you already are." *Id.*; *Grijalva*, slip op. at 10. Here Petitioner has been within the interior of the United States for over four years.

42. The implementing regulation confirms this. Section 235.3(c) of 8 C.F.R. limits § 1225(b)(2) to "Arriving [noncitizens]," and "arriving aliens" are defined as "applicants for admission coming or attempting to come into the United States at a port of entry." 8 C.F.R. § 1.2. Petitioner is plainly not "coming or attempting to come into the United States." *Grijalva*, slip op. at 18–19.

B. Surplusage Canon and Disjunctive "Or"

43. Reading "seeking admission" to mean the same thing as "applicant for admission"—as the government contends—violates the rule against surplusage. If the terms were coterminous, Congress would have had no reason to add "seeking admission" at all. *Grijalva*, slip op. at 11 (citing *Duncan v. Walker*, 533 U.S. 167, 174 (2001)).

44. The government's reliance on § 1225(a)(3)—which lists noncitizens "who are applicants for admission or otherwise seeking admission"—is unavailing. This conflates two distinct terms using the word "or," which "is customarily used in the disjunctive, that is, the words it connects are to be given separate meanings." *Grijalva*, slip op. at 11 (quoting *Loughrin v. United States*, 573 U.S. 351, 357 (2014)).

C. Jennings v. Rodriguez Confirms § 1226(a) Governs

45. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court itself said that § 1225(b)(2) applies to noncitizens "seeking admission into the country" while § 1226 applies to noncitizens "already in the country pending the outcome of removal proceedings." *Id.* at 289 (emphasis added). Petitioner is "already in the country" and has been for over four years. The Supreme Court's own language confirms § 1226(a) governs.

D. The Laken Riley Act Confirms § 1225 Does Not Already Cover EWI Interior Aliens

46. In January 2025, Congress passed the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), which amended § 1226(c)(1)(E) to add mandatory detention for noncitizens "present in the United States without being admitted or paroled" who commit additional offenses. If the government's theory were correct—that

§ 1225(b)(2) already covered all such individuals through mandatory detention—the Laken Riley Act would have had no legal effect. *Grijalva*, slip op. at 17. "When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect." *Stone v. INS*, 514 U.S. 386, 397 (1995).

E. *Yajure Hurtado* Receives No Deference Under *Loper Bright*

47. Under *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), courts must "exercise their independent judgment in deciding whether an agency has acted within its statutory authority" and may not defer to the BIA's interpretation under Chevron. *Id.* at 412–13. The BIA's reading in *Yajure Hurtado* "is a deviation from the agency's long-standing interpretation of §§ 1225 and 1226; is not guidance issued contemporaneously with the relevant statutes; and contradicts the statutory interpretations of dozens of federal courts." *Grijalva*, slip op. at 15. Under *Loper Bright*, the BIA's interpretation "is no longer controlling." *Id.*

II. THE GOVERNMENT'S OWN NTA ESTABLISHES § 1226(a) JURISDICTION

48. The government's simultaneous invocation of § 1225(b)(2) mandatory detention and § 1229a removal proceedings is internally inconsistent and legally

untenable. Section 1229a proceedings—formal removal proceedings initiated by NTA—contemplate detention authority under § 1226(a), not § 1225(b)(2). The INA's structure makes this clear: § 1229a proceedings are the vehicle for determining whether a noncitizen is removable; § 1226 governs detention during such proceedings; § 1225(b)(2) is a threshold inspection statute applicable to arriving aliens at ports of entry, not to noncitizens already in formal removal proceedings.

49. When DHS issued Petitioner an NTA on September 1, 2022, it made a legal determination to place him in § 1229a removal proceedings—and in so doing, it exercised jurisdiction under a statutory scheme that presupposes § 1226 detention authority. For over three years, the government has treated this case as a § 1229a matter. It cannot now reverse course and claim that § 1225(b)(2)—a provision for arriving aliens—applies to the same individual for whom it initiated § 1229a proceedings. The government is bound by its own jurisdictional posture. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954) (agency bound by its own established procedures).

III. APA AND REGULATORY VIOLATIONS

50. The government's July 2025 "Interim Guidance" directing IJs to apply § 1225(b)(2) to EWI interior residents reversed thirty years of established agency

practice—that such individuals "will be eligible for bond," 62 Fed. Reg. 10312, 10323 (1997)—without engaging in notice-and-comment rulemaking, in violation of 5 U.S.C. §§ 553, 706(2)(A), (D).

51. The agency is bound by its own regulations under the Accardi doctrine. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). The 1997 regulations promulgated at 8 C.F.R. § 235.3(c) demonstrate that § 1225(b)(2) was always understood to apply only to "arriving" aliens, not interior residents. Having relied on that interpretation for decades, and having issued Petitioner an NTA under § 1229a, the government cannot unilaterally shift his detention classification through an internal guidance memorandum.

IV. SEPARATION OF POWERS — MAJOR QUESTIONS DOCTRINE

52. The effective elimination of bond hearings for millions of long-term interior residents constitutes a decision of "vast economic and political significance" requiring clear congressional authorization under *West Virginia v. EPA*, 597 U.S. 697, 735 (2022). Congress has repeatedly demonstrated it knows how to mandate detention when it intends to do so—see § 1226(c), § 1225(b)(1), and the Laken Riley Act. The absence of such clear language in § 1225(b)(2) is dispositive.

V. SUSPENSION CLAUSE

53. Because *Yajure Hurtado* strips IJs of bond jurisdiction and provides no administrative mechanism to challenge the § 1225(b)(2) classification itself, Petitioner has no forum in which to challenge the legal basis of his detention. The Suspension Clause, U.S. Const. Art. I, § 9, cl. 2, guarantees access to this Court's jurisdiction. *Boumediene v. Bush*, 553 U.S. 723, 739–40 (2008).

VI. FIFTH AMENDMENT DUE PROCESS

54. Categorical detention without any individualized determination of flight risk or danger constitutes an arbitrary deprivation of liberty in violation of the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. at 690. Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), the three-factor test weighs decisively in Petitioner's favor: his liberty interest is paramount; the risk of erroneous deprivation under a categorically incorrect classification is 100%; and the government's interest is fully protected by the individualized bond hearing § 1226(a) already provides.

55. Independently, the denial of Petitioner's prescribed psychiatric medications since his March 10, 2026 arrest violates the Fifth Amendment's Due Process Clause. A pretrial detainee's right to adequate medical care is well established. *See Bell v. Wolfish*, 441 U.S. 520, 535–37 (1979) (detainees retain constitutional protections against punitive conditions). The failure to provide prescribed

medication for a diagnosed condition is deliberate indifference to serious medical need. *See Estelle v. Gamble*, 429 U.S. 97, 104 (1976); *Ramos v. Lamm*, 639 F.2d 559, 574 (10th Cir. 1980). This Court should order immediate provision of Petitioner's prescribed medications regardless of the outcome on the core detention claim.

VII. NATIONAL CONSENSUS

56. Since the government adopted its new detention policy in July 2025, well over 350 federal district court decisions have rejected the government's interpretation. Courts appointed by presidents of both parties have reached the same conclusion, with "a regularity bordering on the monotonous." *Jimenez Facio v. Baltazar*, No. 25-CV-03592-CYC, 2025 WL 3559128, at *2 (D. Colo. Dec. 12, 2025).

57. This District has rejected the government's position in over a dozen cases. See, e.g., *Grijalva Esquivel v. Baltazar*, No. 1:25-cv-04187-SKC (D. Colo. Jan. 29, 2026); *Jimenez Facio v. Baltazar,* No. 25-CV-03592-CYC (D. Colo. Dec. 12, 2025); *Espinoza Ruiz v. Baltazar*, No. 1:25-cv-03642-CNS (D. Colo. Nov. 26, 2025); *Arauz v. Baltazar,* No. 1:25-cv-03260-CNS (D. Colo. Oct. 31, 2025); *Loa Caballero v. Baltazar*, No. 1:25-cv-3120-NYW (D. Colo. Oct. 22, 2025);

Mendoza Gutierrez v. Baltazar, No. 1:25-cv-2720-RMR (D. Colo. Oct. 17, 2025).

58. Two circuit panels have ruled in the government's favor: *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. Feb. 6, 2026) (2-1), and *Avila v. Bondi*, No. 25-3248 (8th Cir. Mar. 25, 2026) (2-1). Neither is binding here. The Tenth Circuit has not ruled. Under *Loper Bright*, this Court exercises independent judgment on statutory interpretation and otherwise is not bound by the views of sister circuits.

59. Both circuit majorities are unpersuasive and have been sharply criticized from within. In the Fifth Circuit, Judge Dana Douglas (Biden appointee) dissented. In the Eighth Circuit, the dissent was written by Judge Ralph Erickson — a Trump appointee — who held that the majority relies on a novel interpretation of 'alien seeking admission' that eluded the courts and five previous presidential administrations, and that for the past 29 years, Petitioner would have been entitled to a bond hearing during his removal proceedings. *Avila,* slip op. at 1–2 (Erickson, J., dissenting). That this interpretation cannot command a majority even among Republican-appointed judges on the Eighth Circuit powerfully confirms its legal infirmity.

60. This Court should join the overwhelming district court consensus, give no weight to non-binding circuit decisions that contradict the plain statutory text, and grant the writ.

VIII. NO ADEQUATE ALTERNATIVE REMEDY

61. This Court is the only forum that can grant relief. There is no administrative avenue to challenge the § 1225(b)(2) classification itself. § 1252 provides review only of final orders of removal. *Calcano-Martinez v. INS*, 533 U.S. 348, 350 (2001). Requiring Petitioner to wait years for a final order would render his right to a bond hearing permanently meaningless.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Assume jurisdiction over this matter;

B. Find that Petitioner's detention under 8 U.S.C. § 1225(b)(2)(A) is unlawful and that § 1226(a) governs his custody;

C. Grant a writ of habeas corpus ordering Respondents to provide Petitioner with an individualized bond hearing under 8 U.S.C. § 1226(a) within SEVEN (7) DAYS of this Court's order, at which the government bears the burden of justifying continued detention by clear and convincing evidence, with consideration of the

least restrictive alternative including ICE's Intensive Supervision Appearance Program (ISAP);

D. In the alternative, order Petitioner's immediate release on recognizance or reasonable conditions of supervision;

E. Declare that Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz* (C.D. Cal. Nov. 25, 2025, final judgment Dec. 18, 2025) and the local class certified in *Mendoza Gutierrez v. Baltazar* (D. Colo. Nov. 21, 2025);

F. Order, pursuant to the Fifth Amendment's Due Process Clause, that Respondents immediately provide Petitioner with his prescribed psychiatric medications and adequate mental health care pending resolution of this matter;

G. Order Respondents to file a status report within TEN (10) DAYS certifying compliance, including the date of any bond hearing, whether bond was granted or denied, and the reasons for any denial;

H. Order, pursuant to the All Writs Act, 28 U.S.C. § 1651(a), that Respondents SHALL NOT REMOVE Petitioner from the District of Colorado or the United States unless or until this Court or the Tenth Circuit vacates this Order;

I. Retain jurisdiction to ensure compliance with this Court's orders;

J. Award Petitioner his reasonable costs and attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, with motion and affidavit filed within 30 days of final judgment, supported by affidavit per D.C.COLO.LCivR 54.3(a); and

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

Dated: March 28, 2026

Respectfully submitted,

s/ Jim Salvator
Jim Salvator, Colorado #21055
Law Offices of Manuel E. Solis of Colorado
P.O. Box 230542
Houston, Texas 77223
Telephone: 720-520-4245 (cell); 720-325-1728
Email: jsalvator@manuelsolis.com
Attorney for Petitioner