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UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

ALEJANDRO BADIA MARTINEZ,

Petitioner,

v.

JUAN BALTASAR, Warden of the Denver Contract Detention Facility, acting in his official capacity; KELEI WALKER, Field Office Director or Acting Field Office Director, Denver Field Office, U.S. Immigration and Customs Enforcement, acting in her official capacity; TODD LYONS, Acting Director of United States Immigration and Customs Enforcement, acting in his official capacity; MARKWAYNE MULLEN, Secretary of the United States Department of Homeland Security, acting in his official capacity; PAMELA BONDI, Attorney General of the United States, acting in her official capacity; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; EXECUTIVE OFFICE OF IMMIGRATION REVIEW; and DEPARTMENT OF HOMELAND SECURITY,

Respondents.
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CASE NO.: 1:26-cv-1313

PETITION FOR WRIT OF HABEAS CORPUS 28 U.S.C. § 2241

INTRODUCTION

1. ALEJANDRO BADIA MARTINEZ ("Petitioner") has been residing in the United States since April 16, 2022. He was detained by Customs and Border Patrol ("CBP") on April 16, 2022, near San Luis, Arizona. Petitioner was released from ICE custody under an Order of Release on Recognizance on April 18, 2022. (*See* Ex. 1, Order of Release on Recognizance, I-

220A). Petitioner filed a timely I-589 application for Asylum, Withholding of Removal and Protection under the Convention Against Torture in November 2022, with the United States Citizenship and Immigration Services ("USCIS"). (*See* Ex. 2, Biometrics Appointment Notice for I-589). He has resided in Florida since his release.

2. While in removal proceedings, Petitioner has reported as instructed to the Immigration and Customs Enforcement ("ICE") and presented himself to immigration court as required. On January 13, 2026, after leaving a gas station without his headlights on, Petitioner was pulled over by a law enforcement officer. After providing the law enforcement officer with his driver's license and information of his immigration status, Petitioner was detained.

3. Petitioner, at this moment, is detained at the Denver Contract Detention Facility, 3130 Oakland Street, Aurora Colorado. (*See* Ex. 3, ICE Detainee Locator). Petitioner has no arrests other than near the border in 2022 and his detention for a minor traffic infraction on January 13, 2026. He has never been charged with any crime or convicted of any crime and there has been no change in his circumstances since he was placed in detention on January 13, 2026. Therefore, he was detained due to the interceding Department of Homeland Security ("DHS") interpretation of their detention authority under 8 U.S.C. §§ 1225 and 1226. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) ("*Matter of Yajure Hurtado*").

4. Petitioner is in the physical custody of Respondents at the Denver Contract Detention Facility. He is pending removal proceedings with a Notice to Appear ("NTA") that has been filed with the EOIR under 8 U.S.C. § 1229a (*See* Ex. 4, Notice To Appear). Thus, rendering his ongoing detention illegal. Petitioner files this petition for writ of habeas corpus under 28 U.S.C. § 2241.

5. Petitioner is a citizen and national of Cuba (*See* Ex. 5, Cuban passport) who entered the United States on or about April 16, 2022, near San Luis, Arizona, to seek asylum. Petitioner was encountered and was detained.

6. At Petitioner's custody redetermination (bond) hearing on February 11, 2026, the IJ found he lacked jurisdiction based solely on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and did not make any discretionary or adverse findings under *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006). The IJ wrote in his order: "[t]he court lacks jurisdiction- Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025)." (*See* Ex. 6, IJ Order on Motion for Custody Redetermination).

7. In *Maldonado Bautista, et. al. v. Santacruz, et. al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Feb. 2026), District Court Judge Sykes certified a nationwide class of Bond Eligible Class Members consisting of noncitizens who are in immigration detention and being denied access to a bond hearing based on the government's allegation that they entered the United States without admission or inspection. The Court subsequently ruled that the Bond Eligible Class Members are being illegally detained pursuant to 8 U.S.C. §1225(b)(2)(A) and vacated both the underlying DHS policy used to support such detention and also the BIA decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Petitioner in the instant case is a Bond Eligible Class member.

8. This case presents a purely legal question appropriate for habeas review: whether a noncitizen encountered in the interior of the United States nearly four years after entry, who has never applied for admission, is detained under 8 U.S.C. § 1226(a), rather than 8 U.S.C. § 1225(b). Petitioner does not challenge the initiation of removal proceedings, nor any discretionary custody determination. *See Madu v. US. Att'y Gen.*, 470 F.3d 1362, 1367-8 (11th Cir. 2006). Multiple decisions in this District have held that long-term residents encountered in the interior under these circumstances are detained under § 1226(a), not § 1225(b). *See, e.g.*, *Fonseca Pichs v. Noem, et al*, No. 26-cv-00814-CYC (D. Colo., Mar. 13, 2026); *Trejo Ramirez v. Bondi, et al*, No. 1:26-cv-00716-NRN (D. Colo. Mar. 4, 2026); *Carrillo Alonzo v. Baltazar, et al,* No. 1:26-cv-00666-SKC (D. Colo. Feb. 25, 2026); *Adem v. Noem, et al*, No. 1:26-cv-00618-PAB (Feb. 27, 2026); *Gomez v. Bondi*, No. 26-CV-00489-NRN, 2026 WL 482677 (D. Colo. Feb. 20, 2026); *Hernandez-Redondo v. Bondi,* No. 25-cv-03993-PAB, 2026 WL 290989 (D. Colo. Feb. 4, 2026)*; Jimenez Facio v. Baltazar,* No. 25-cv-03592-CYC, 2025 WL 3559128 (D. Colo. Dec. 12, 2025)*; Garcia Cortes v. Noem,* No. 25-cv-02677-CNS, 2025 WL 2652880 (D. Colo. Sept. 16, 2025)*; Batz Barreno v. Baltasar,* No. 25-cv-03017-GPG-TPO, 2025 WL 3190936 (D. Colo. Nov. 14, 2025)*; Loa Caballero v. Baltazar,* No. 25-cv-03120-NYW, 2025 WL 2977650 (D. Colo. Oct. 22, 2025).

9. Petitioner respectfully requests an order directing Respondents to release Petitioner from custody; or in the alternative, to release Petitioner from custody subject to appropriate supervision; or in the alternative, to provide an actual custody redetermination hearing under § 1226(a) within seven days.

10. Section 1225(b)(2)(A) states that an applicant for admission shall be detained for

removal proceedings. It is the position of both DHS and EOIR (which houses both the BIA and immigration judges), that 8 U.S.C. §1225(b)(2)(A) applies to all individuals who arrived in the United States without documents, regardless of how long they have lived in the United States and regardless of how far they were from the border when they were apprehended. *See Matter of Yajure Hurtado*. However, § 1225(b)(2)(A) does not apply to individuals, like Petitioner, who are present in the United States for a significant period – in this case nearly four years. Instead, such individuals are subject to detention under a separate statute, 8 U.S.C. § 1226(a), and are eligible for release.

11. Early in July 2025, ICE released a memorandum instructing attorneys to coordinate with the Department of Justice, the agency housing EOIR to reject bond redetermination hearings for applicants who had arrived in the United States without documents. *See* ICE Memo: Interim Guidance Regarding Detention Authority for Applicants for Admission, AILA (July 8, 2025), https://shorturlat/XF71Y ("Lyons Memo").[1]

12. EOIR applied this amended reasoning in a May 15, 2025, BIA decision, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), finding that a noncitizen who had entered the United States without documents was ineligible for bond, despite not being placed in expedited removal proceedings. *Matter of Yajure Hurtado* followed. Since that decision, virtually all courts throughout the country have rejected the government's unlawful reversal of nearly three decades of settled immigration practice regarding the scope of mandatory detention pursuant to 8 U.S.C. §§ 1225 and 1226. *See* FN. 2, *infra.*

13. Nonetheless, Respondents continue to maintain that noncitizens who entered the United States without inspection, even years prior such as Petitioner and were previously released from immigration custody are subject to mandatory detention, because they are deemed to be on-going applicants for admission within the meaning of U.S.C. §1225(b)(2)(A).

14. This interpretation of the relevant law is a violation of the statute and due process. As such, Petitioner seeks an order of injunctive relief to be released from custody and to set aside relief under the Administrative Procedure Act ("APA") requiring that he be released immediately from ICE custody.

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[1] "ICE Says Many In Immigration Detention No Longer Qualify For Bond Hearings," CBS News (Jul. 15, 2025) https://www.cbsnews.com/news/ice-immigration-detention- bond-hearings/ ; "ICE declares millions of undocumented immigrants ineligible for bond hearings," The Washington Post (Jul. 15, 2025) https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented- immigrants-bond-hearings/

JURISDICTION

15. This Court has jurisdiction under 28 U.S.C. § 2241 to review the legality of Petitioner's continued detention. Habeas jurisdiction is available to noncitizens challenging the statutory basis of immigration detention. *See Madu*, 470 F.3d at 1366-68 (11th Cir. 2006). Petitioner is not challenging the initiation of removal proceedings or any discretionary decision regarding custody. Instead, he challenges only the government's legal conclusion that his detention is governed by 8 U.S.C. § 1225(b) rather than 8 U.S.C. § 1226(a). Such a "pure question of statutory interpretation" falls squarely within habeas jurisdiction. *Id.* at 1367.

16. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar review. Section 1252(a)(5) and § 1252(b)(9) apply only to challenges to removal orders and claims arising from removal proceedings. Petitioner raises neither. *See Id.* at 1367—68 ("Section 1252 does not preclude habeas review of claims that are independent of challenges to removal orders"). Section 1252(g) does not apply because Petitioner does not challenge the Attorney General's decision to commence proceedings, adjudicate proceedings, or execute any removal order. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). Section 1252(e) is inapplicable because Petitioner does not challenge the validity of any expedited removal order, nor could he - he was never subject to expedited removal.

17. Finally, Section 1252(a)(2)(B)(ii) does not apply because Petitioner is not seeking review of a discretionary custody determination; the immigration court made no such determination and expressly found the Court lacked jurisdiction to make such determination. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

VENUE

18. Venue lies in this District under 28 U.S.C. § 2241(a) and (d), because Petitioner is detained at Denver Contract Detention Facility which is within the District of Colorado. *See Rumsfeld v. Padilla*, 542 US. 426, 434-35 (2004) (proper respondent in a habeas petition is the immediate custodian in the district of confinement). JUAN BALTAZAR, acting in his official capacity as Warden of the Denver Contract Detention Facility, is a proper respondent, as the

official with immediate physical custody over Petitioner. *See Id.* at 435. The additional federal officials are included in their official capacities because they possess legal authority over Petitioner's detention under the Immigration and Nationality Act ("INA").

PARTIES

19. Petitioner, ALEJANDRO BADIA MARTINEZ, is a native and citizen of Cuba, detained by ICE at Denver Contract Detention Facility within the District of Colorado. He brings this petition pursuant to 28 U.S.C. § 2241 to challenge the legality of his continued detention.

20. Respondent, JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility, is the immediate custodian and the official responsible for Petitioner's physical detention.

21. Respondent, KELEI WALKER, in her official capacity as Field Office Director ("FOD"), Denver Field Office, US. Immigration and Customs Enforcement is responsible for the custody, detention, and removal operations for individuals detained within the geographic area encompassing Petitioner's place of confinement.

22. Respondent, TODD LYONS, in his official capacity as Senior Official Performing the Duties of the Director of ICE, directs the agency that exercises authority over the detention, custody, and supervision of noncitizens pursuant to the INA.

23. Respondent, MARKWAYNE MULLEN, in his official capacity as U.S. Secretary of Homeland Security, is the highest official within the DHS, which is charged with administering and enforcing federal immigration laws, including detention authority under the INA.

24. Respondent, PAMELA BONDI, in her official capacity as Attorney General of the United States, acting in her official capacity, presides over the Executive Office for Immigration Review, which oversees the Immigration Judge that has declined to hear Petitioner's request for release from custody.

25. Respondent, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, is an agency within the Department of Homeland Security charged with the enforcement of immigration laws, including the detention and removal of noncitizens.

26. Respondent, EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, ("EOIR") is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including authority of hearing custody redeterminations in bond hearings for noncitizens who are

detained by the DHS.

27. Respondent, DEPARTMENT OF HOMELAND SECURITY, is the federal department responsible for administering and enforcing the INA, including statutory authority governing the detention of certain noncitizens.

UNDISPUTED FACTS

28. Petitioner is a native and citizen of Cuba who entered the United States without inspection near San Luis, Arizona. Petitioner has resided continuously in the United States since April 16, 2022.

29. Petitioner was detained by ICE on January 13, 2026, after he was stopped for a minor traffic infraction.

30. Prior to January 13, 2026, Petitioner had been detained but was released under the following circumstances and conditions: he was apprehended by CBP on April 16, 2022. He was released under an Order of Release on Recognizance (I-220A) on April 18, 2022.

31. On April 18, 2022, CBP issued a NTA charging Petitioner as removable under 8 U.S.C. § 1182(a)(6)(A)(i).

32. On January 28, 2026, Petitioner requested a custody redetermination hearing under 8 U.S.C. § 1226(a). He would have presented information regarding residence, family relationships, community ties, work history, and the absence of criminal history. (See Ex. 7, Lee County, Florida Sheriff's Local Record Inquiry).

33. At the custody hearing, The Immigration Judge concluded that jurisdiction to redetermine custody was unavailable based on *Matter of Yajure Hurtado. See Custody Redetermination Order* attached hereto as Ex. 6.

34. Presently, Petitioner remains detained at the Denver Contract Detention Facility.

EXHAUSTION OF REMEDIES

35. There is no statutory exhaustion requirement for habeas challenges to the legal basis of immigration detention under 28 U.S.C. § 2241. *See Madu* at 1366—68 (11th Cir. 2006). Even if exhaustion applied, it would be futile. The Immigration Judge made no discretionary custody determination. As the Supreme Court has held, exhaustion is excused where "the administrative body is shown to be biased or has otherwise predetermined the issue before it." *McCarthy v.*

Madigan, 503 U.S. 140, 148 (1992); *see also Shalala v. 111. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000). This District has already held in identical circumstances that an administrative appeal would be futile because the result is predetermined by binding agency precedent. *See Patel*, 2025 WL 3442706, at 3.; *Vasquez Carcamo*, 2025 WL 3041895, at 3. Because the agency lacks authority to provide a custody redetermination under 8 U.S.C. § 1226(a), exhaustion would be futile.

STATUTORY BACKGROUND

36. Section 1226(a) provides that, "[o]n a warrant issued by the Attorney General," a noncitizen arrested and detained pending a decision on removal "may continue to be detained" or "may be released on bond" or conditional parole. 8 U.S.C. § 1226(a)(1) - (2). The statute authorizes the Attorney General to make both the initial custody determination and subsequent custody redeterminations. Implementing regulations assign authority for custody redeterminations to Immigration Judges. *See* 8 C.F.R. § 1003.19(a).

37. Section 1225 governs the inspection and processing of applicants for admission. Under section 1225(b)(1) and (b)(2), certain applicants for admission who are determined to be inadmissible "shall be detained" pending further consideration of their application or removal. These provisions apply only to "applicants for admission" as defined by the INA.

38. The INA defines "admission" as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). With limited exceptions not relevant here, a noncitizen who has entered the United States without inspection is not considered an "applicant for admission" at a later date solely by virtue of being encountered inside the country. Rather, the term applies to individuals who present themselves for inspection at a port of entry or who are treated as seeking admission under specific statutory provisions.

39. Section 1182(a)(6)(A)(i) renders an individual inadmissible if they are "present in the United States without being admitted or paroled." Section 1182(a)(7)(A)(i)(I) applies to "an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa" or other entry documents. The two grounds serve distinct statutory functions: § 1182(a)(6)(A)(i) describes unlawful presence after entry without inspection, while § 1182(a)(7) presumes an ongoing or contemporaneous "application for admission."

40. Under 1226(a), individuals detained pending removal proceedings are entitled to custody redeterminations before an Immigration Judge unless detained under statutory provisions that expressly withhold such authority. *See* 8 C.F.R. § 1003.19(h). By contrast, individuals detained under § 1225(b) are not eligible for bond redetermination because detention is mandatory for applicants for admission falling within that section.

41. The Department of Justice's 1997 regulations implementing the Illegal Immigration Reform and Immigrant Responsibility Act reaffirmed that noncitizens who entered without inspection and were later arrested inside the United States are detained under § 1226(a) and may seek bond before an Immigration Judge. *See Inspection and Expedited Removal of Aliens*, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (explaining that aliens "arrested in the interior" fall under the Attorney General's general detention authority).

42. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court distinguished the detention schemes of §§ 1225, 1226, and 1226(c), holding that each operates according to its terms and that bond eligibility turns on the statutory authority under which the individual is detained. The Court reiterated that §§ 1225(b) and 1226(a) impose mandatory detention, while § 1226(a) allows discretionary release.

43. This case does not involve 8 U.S.C. § 1231 or post-removal-order custody. Petitioner is in § 1229a proceedings and subject only to the pre-order detention provisions of the INA.

CONSTITUTIONAL VIOLATION

44. "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).

45. 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 US. at 690; *Demore*, 538 U.S. at 528. A noncitizen may only be detained based on these two justifications if they are otherwise statutorily eligible for bond. *Zadvydas*, 533 US. at 690.

46. "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976),

In this case, to determine the due process to be afforded to Petitioner, the Court should consider (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of that private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures, including the governmental function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Id.* at 335.

LEGAL ARGUMENT

1. Petitioner is entitled to an individualized determination of his custody status under the applicable statutes.

The statutory scheme governing immigration detention distinguishes between individuals detained as applicants for admission and those detained after entry while removal proceedings are pending. For individuals arrested in the interior of the country who have already entered without inspection, detention is governed by 8 U.S.C. § 1226(a). That provision authorizes the Attorney General to determine custody status during removal proceedings and permits release on bond or conditional parole. This framework applies to noncitizens who, like Petitioner, entered the United States without inspection years earlier and were encountered inside the country rather than at a port of entry. The implementing regulations have long recognized this distinction, continuing that individuals "arrested in the interior" after unlawful entry fall under the general detention authority of Section 1226(a).

Mandatory detention under 8 U.S.C. § 1225(b), by contrast, applies only to persons who are processed as applicants for admission. The statute predicates mandatory detention on that status and references individuals who present themselves for inspection, who are placed in expedited removal screening, or who otherwise fall within the statutory definition of an applicant for admission. The definition of admission, set forth at 8 U.S.C. § 1101(a)(13)(A), requires lawful entry after inspection and authorization. Individuals who enter without inspection are not transformed into applicants for admission simply because they are later encountered inside the United States during enforcement operations. The statutory structure does not permit treating long-settled interior residents as if they were arriving at the border. The application of § 1225(b)(2) to permit the continued detention of Petitioner is arbitrary, capricious, and not in

accordance with law, and as such, it violates the APA. 5 U.S.C. §706(2).

Because removal proceedings are pending under Section 1229a and no statutory provision mandates custody, Petitioner falls squarely under Section 1226(a) as a matter of law. Under that provision, Immigration Judges retain authority to conduct custody redetermination unless expressly divested of jurisdiction. The Immigration Judge in this case concluded that he had authority based under Section 1226(a) "Freedom from imprisonment – from government custody detention, or other forms of physical restraint – lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001). Petitioner has a fundamental interest in liberty and being free from official restraint, which the government may not deprive without due process of law. U.S. Const., Amendment V.

Where an agency declines to exercise statutory authority based on a legal error, habeas jurisdiction is appropriate to correct the misclassification. As aforementioned, this Court, as well as others around the nation have repeatedly held interior arrests of long-term residents who entered without inspection fall under Section 1226(a) and that detention under Section 1225(b) is not authorized in such circumstances. Hon. Lewis A. Kaplan compiled a list of cases ruling against the interpretation promoted by Respondents **as of Nov. 26, 2025**. See *Barco Mercado v. Francis, et al*, No. 1:25-cv-06582-LAK (S.D. N.Y., Nov. 26, 2025).[2] These decisions reflect the

[2] The citation list in its entirety follows; note that this does not include cases since that date which would likely be a list that is nearly as long: *Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238 (D. Mass. July 24, 2025); *Bautista v. Santacruz*, No. 25-cv-01873, 2025 WL 2670875 (C.D. Cal. July 28, 2025); *Gonzalez v. Noem*, No. 25-cv-02054, 2025 WL 2633187 (C.D. Cal. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 Civ. 5937, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Dos Santos v. Noem*, No. 25-cv-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Arrazola-Gonzalez v. Noem*, No. 25-cv-01789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 Civ. 6373, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-cv-06248, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Quinonez Mercado v. Dep't Homeland Sec.*, No. 25-cv-12066, 2025 WL 2430423 (D.Mass. Aug. 22, 2025); *Leal-Hernandez v. Noem*, No. 25-cv-02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Diaz Diaz v. Mattivelo*, No. 25-cv-12226, 2025 WL 2457610 (D. Mass. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, No. 25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Francisco T. v. Bondi*, No. 25-CV-03219, 2025 WL 2629839 (D. Minn. Aug. 29, 2025); *Chogllo Chafla v. Scott*, No. 25-cv-00437, 2025 WL 2531027 (D. Me. Sept. 2, 2025); *Salvador v. Bondi*, No. 25-cv-07946, 2025 WL 2995055 (C.D. Cal. Sept. 2, 2025); *Hernandez Nieves v. Kaiser*, No. 25-cv-06921, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); *Garcia v. Noem*, No. 25-cv-02180, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Doe v. Moniz*, No. 25-cv-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Mosqueda v. Noem*, No. 25-cv-02304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Guzman v. Andrews*, No. 25-cv-01015, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Sampiao v. Hyde*, No. 25-cv-11981, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Pizzaro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Hernandez Marcelo v. Trump*, No. 25-cv-00094, 2025 WL 2741230 (S.D. Iowa Sept. 10, 2025); *Lopez Santos v. Noem*, No. 25-CV-01193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Salcedo Aceros v. Kaiser*, No. 25-cv-06924, 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); *Munoz Materano v. Arteta*, No. 25 Civ. 6137, 2025 WL

2630826 (S.D.N.Y. Sept. 12, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 WL 2650637 (N.D. Cal. Sept. 16, 2025); *Garcia Cortes v. Noem*, No. 25-cv-02677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Vazquez v. Feeley*, No. 25-cv-01542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Salazar v. Dedos*, No. 25-cv-00835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Oliveros v. Kaiser*, No. 25-cv-07117, 2025 WL 2677125 (N.D. Cal. Sept. 18, 2025); *Castellanos v. Kaiser*, No. 25-cv-07962, 2025 WL 2689853 (N.D. Cal. Sept. 18, 2025); *Barrera v. Tindall*, No. 25-cv-541, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Chiliquinga Yumbillo v. Stamper*, No. 25-cv-00479, 2025 WL 2688160 (D. Me. Sept. 19, 2025); *Hasan v. Crawford*, No. 25-cv-1408, 2025 WL 2682255 (E.D.Va. Sept. 19, 2025); *Singh v. Lewis*, No. 25-cv-96, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Lepe v. Andrews*, No. 25-cv-01163, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. 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Nov. 7, 2025); *Cruz-Gamez v. Bondi*, No. 25-cv-02154, 2025 WL 3130820 (W.D. Wash. Nov. 7, 2025); *O.P.A.M. v. Wofford*, No. 25-cv-01423, 2025 WL 3120552 (E.D. Cal. Nov. 7, 2025); *Munoz v. Noem*, No. 25-CV-1753, 2025 WL 3218241 (W.D. Tex. Nov. 7, 2025); *Guartazaca Sumba v. Crowley*, No. 25-CV-13034, 2025 WL 3126512 (N.D. Ill. Nov. 9, 2025); *Perez v. Noem*, No. 25 C 13442, 2025 WL 3140692 (N.D. Ill. Nov. 10, 2025); *Pere-Gomez v. Warden, Camp E. Mont. Det. Facility*, No. 25-cv-773, 2025 WL 3141103 (E.D. Va. Nov. 10, 2025); *Otilio B.F. v. Andrews*, No. 25-cv-01398, 2025 WL 3152480 (E.D. Cal. Nov. 11, 2025); *Martinez v. Noem*, No. 25-cv-12029, 2025 WL 3145103 (N.D. Ill. Nov. 11, 2025); *Lopez Briseno v. Noem*, No. 25 C 12092, 2025 WL 3145985 (N.D. Ill. Nov. 11, 2025); *Sharan S. v. Chestnut*, No. 25-cv-01427, 2025 WL 3167826 (E.D. Cal. Nov. 12, 2025); *Aquino v. LaRose*, No. 25-cv-2904, 2025 WL 3158676 (S.D. Cal. Nov. 12, 2025); *Guevara v. Swearingen*, No. 25 C 12549, 2025 WL 3158151 (N.D. Ill. Nov. 12, 2025); *Vasquez Gonzalez v. Olson*, No. 25 C 13162, 2025 WL 3158191 (N.D. Ill. Nov. 12, 2025); *Diego v. Raycraft*, No. 25-13288, 2025 WL 3159106 (E.D. Mich. Nov. 12, 2025); *Alvarez v. Noem*, No. 25-cv-1313, 2025 WL 3151948 (W.D. Mich. Nov. 12, 2025); *Lucero v. Noem*, No. 25-cv-1295, 2025 WL 3165235 (W.D. Mich. Nov. 12, 2025); *E.M. v. Noem*, No. 25-cv-3975, 2025 WL 3157839 (D. Minn. Nov. 12, 2025); *Guaman Naula v. Noem*, No. 25-16792, 2025 WL 3158490 (D.N.J. Nov. 12, 2025); *J.Y.L.C. v. Bostock*, No. 25-cv-02083, 2025 WL 3169865 (D. Ore. Nov. 12, 2025); *Quinapanta v. Bondi*, No. 25-cv-795, 2025 WL 3157867 (W.D. Wis. Nov. 12, 2025); *Marin v. Andrews*, No. 25-cv-01422, 2025 WL 3171484 (E.D. Cal. Nov. 13, 2025); *Calel v. LaRose*, No. 25-cv-02883, 2025 WL 3171898 (S.D. Cal. Nov. 13, 2025); *Cabrera v. Noem*, No. 25 C 12160, 2025 WL 3171288 (N.D. Ill. Nov. 13, 2025); *Serrano v. Salazar*, No. 25 C 13170, 2025 WL 3171354 (N.D. Ill. Nov. 13, 2025); *Delgado Avila v. Crowley*, No. 25-cv-00533, 2025 WL 3171175 (S.D. Ind. Nov. 13, 2025); *Caguana-Caguana v. Moniz*, No. 25-cv-13142, 2025 WL 3171043 (D. Mass. Nov. 13, 2025); *Anselmo v. Moniz*, No. 25-cv-13309, 2025 WL 3171137 (D. Mass. Nov. 13, 2025); *Singh v. Noem*, No. 25-cv-1251, 2025 WL 3170855 (W.D. Mich. Nov. 13, 2025); *Hernandez v. Noem*, No. 25-cv-1307, 2025 WL 3170872 (W.D. Mich. Nov. 13, 2025); *Lara v. Noem*, No. 25-cv-1332, 2025 WL 3170876 (W.D. Mich. Nov. 13, 2025); *Gonzalez v. Noem*, No. 25-cv-1315, 2025 WL 3170879 (W.D. Mich. Nov. 13, 2025); *Rueda Torres v. Francis*, No. 25 Civ. 8408, 2025 WL 3168759 (S.D.N.Y. Nov. 13, 2025); *Cantu-Cortes v. O'Neill*, No. 25-cv-6338, 2025 WL 3171639 (E.D. Pa. Nov. 13, 2025); *Ramandi v. Field Off. Dir., ICE ERO San Francisco*, No. 25-CV-01462, 2025 WL 3182732 (E.D. Cal. Nov. 14, 2025); *Barreno v. Baltasar*, No. 25-cv-03017, 2025 WL 3190936 (D. Colo. Nov. 14, 2025); *Villa v. Normand*, No. 25-cv-89, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025); *Rodriguez Loredo v. Forestal*, No. 25 C 12758, 2025 WL 3187319 (N.D. Ill. Nov. 14, 2025); *Quinonez v. Olson*, No. 25 CV 13524, 2025 WL 3190598 (N.D. Ill. Nov. 14, 2025); *Beltrand v. Mattos*, No. 25-cv-01430, 2025 WL 3205283 (D. Nev. Nov. 14, 2025); *Pu Sacvin v. Anda-Ybarra*, No. 25-cv-01031, 2025 WL 3187432 (D.N.M. Nov. 14, 2025); *Cuy Comes v. Deleon*, No. 25 Civ. 9283, 2025 WL 3206491 (S.D.N.Y. Nov. 14, 2025); *Chavez v. Dir. of Detroit Field Off.*, No. 25-cv-2061, 2025 WL 3187080 (N.D. Ohio Nov. 14, 2025); *Kashranov v. Jamison*, No. 25-cv-05555, 2025 WL 3188399 (E.D. Pa. Nov. 14, 2025); *Cruz Gutierrez v. Thompson*, No. 25-4695, 2025 WL 3187521 (S.D. Tex. Nov. 14, 2025); *Cardona-Lozano v. Noem*, No. 25-CV-1784, 2025 WL 3218244 (W.D. Tex. Nov. 14, 2025); *Morillo v. Albarran*, No. 25-cv-01533, 2025 WL 3190899 (E.D. Cal. Nov. 15, 2025); *Faizyan v. Casey*, No. 25-cv-02884, 2025 WL 3208844 (S.D. Cal. Nov. 17, 2025); *Aguilar v. Noem*, No. 25 C 12731, 2025 WL 3204568 (N.D.

Ill. Nov. 17, 2025); *Soto-Garcia v. Olson*, No. 25-cv-13736, 2025 WL 3204594 (N.D. Ill. Nov. 17, 2025); *Ayala v. Olson*, No. 25 C 13317, 2025 WL 3210398 (N.D. Ill. Nov. 17, 2025); *Lara v. Olson*, No. 25 C 13110, 2025 WL 3210403 (N.D. Ill. Nov. 17, 2025); *Balderas v. Olson*, No. 25 C 12749, 2025 WL 3210422 (N.D. Ill. Nov. 17, 2025); *Garcia v. Olson*, No. 25 C 13621, 2025 WL 3210425 (N.D. Ill. Nov. 17, 2025); *Alvarez v. Olson*, No. 25 C 13410, 2025 WL 3210461 (N.D. Ill. Nov. 17, 2025); *Alarcon v. Moniz*, No. 25-cv-13294, 2025 WL 3204553 (D.Mass. Nov. 17, 2025); *Gonzalez v. Raycraft*, No. 25-13502, 2025 WL 3218242 (E.D. Mich. Nov. 17, 2025); *Orellana v. Noem*, No. 25-cv-1333, 2025 WL 3198685 (W.D. Mich. Nov. 17, 2025); *Cardona v. Unknown Party*, No. 25-cv-1287, 2025 WL 3200682 (W.D. Mich. Nov. 17, 2025); *Sevilla v. Noem*, No. 25-cv-1325, 2025 WL 3200698 (W.D. Mich. Nov. 17, 2025); *Guerra v. Noem*, No. 25-cv-1341, 2025 WL 3204289 (W.D.Mich. Nov. 17, 2025); *Escobar Salgado v. Mattos*, No. 25-cv-01872, 2025 WL 3205356 (D. Nev. Nov. 17, 2025); *Sandoval v. Rokosky*, No. 25-17229, 2025 WL 3204746 (D.N.J. Nov. 17, 2025); *Yupangui v. Hale*, No. 25-cv-884, 2025 WL 3207070 (D. Vt. Nov. 17, 2025); *Castillo v. Wamsley*, No. 25-cv-02172, 2025 WL 3204370 (W.D. Wash. Nov. 17, 2025); *Diaz v. Albarran*, No. 25-cv-09837, 2025 WL 3214972 (N.D. Cal. Nov. 18, 2025); *Torres v. Bondi*, No. 25-cv-02457, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Ruiz v. LaRose*, No. 25-cv-02714, 2025 WL 3214975 (S.D. Cal. Nov. 18, 2025); *Sanchez v. Noem*, No. 25-CV-3068, 2025 WL 3214987 (S.D. Cal. Nov. 18, 2025); *Perez v. Olson*, No. 25 C 13731, 2025 WL 3213967 (N.D.Ill. Nov. 18, 2025); *Lopez v. Olson*, No. 25-cv-654, 2025 WL 3217036 (W.D. Ky. Nov. 18, 2025); *Mendez v. Raycraft*, No. 25-cv-1323, 2025 WL 3214100 (W.D. Mich. Nov. 18, 2025); *Eshdavlatov v. Arnott*, No. 25-cv-00844, 2025 WL 3217838 (W.D. Mo. Nov. 18, 2025); *Rodriguez v. Arnott*, No. 25-cv-00836, 2025 WL 3218553 (W.D. Mo. Nov. 18, 2025); *Cornejo-Mejia v. Bernacke*, No. 25-cv-02139, 2025 WL 3222482 (D. Nev. Nov. 18, 2025); *Sarmiento Guerrero v. Noem*, No. 25-CV-5881, 2025 WL 3214787 (E.D.N.Y. Nov. 18, 2025); *Guzman Cardenas v. Almodovar*, No. 25-CV-9169, 2025 WL 3215573 (S.D.N.Y. Nov. 18, 2025); *Villegas ex. rel. Guzman Andujar v. Francis*, No. 25-cv-09199, 2025 WL 3215597 (S.D.N.Y. Nov. 18, 2025); *Demirel v. Fed. Det. Ctr. Philadelphia*, No. 25-5488, 2025 WL 3218243 (E.D. Pa. Nov. 18, 2025); *Cortina v. Anda-Ybarra*, No. 25-CV-00523, 2025 WL 3218682 (W.D. Tex. Nov. 18, 2025); *Singh v. Andrews*, No. 25-cv-01543, 2025 WL 3248059 (E.D. Cal. Nov. 19, 2025); *W.V.S.M. v. Wofford*, No. 25-cv-01489, 2025 WL 3236521 (E.D. Cal. Nov. 19, 2025); *Elias v. Knight*, No. 25-cv-00594, 2025 WL 3228262 (D. Idaho Nov. 19, 2025); *Esparza v. Knight*, No. 25-cv-00601, 2025 WL 3228282 (D. Idaho Nov. 19, 2025); *Rodriguez v. Knight*, No. 25-cv-00600, 2025 WL 3228285 (D. Idaho Nov. 19, 2025); *Cordoba v. Knight*, No. 25-cv-00605, 2025 WL 3228945 (D. Idaho Nov. 19, 2025); *Ibarra v. Knight*, No. 25-cv-00597, 2025 WL 3228968 (D. Idaho Nov. 19, 2025); *Arredondo v. Hollinshead*, No. 25-cv-00609, 2025 WL 3228972 (D. Idaho Nov. 19, 2025); *Esparza v. Hollinshead*, No. 25-cv-00599, 2025 WL 3228974 (D. Idaho Nov. 19, 2025); *Gonzalez v. Knight*, No. 25-cv-00602, 2025 WL 3228975 (D. Idaho Nov. 19, 2025); *Hernandez v. Bondi*, No. 25-cv-00615, 2025 WL 3228976 (D. Idaho Nov. 19, 2025); *Martinez v. Knight*, No. 25-cv-00610, 2025 WL 3228987 (D. Idaho Nov. 19, 2025); *Casarez v. Thompson*, No. 25-cv-00596, 2025 WL 3228988 (D. Idaho Nov. 19, 2025); *Lopez v. Anderson*, No. 25-cv-00621, 2025 WL 3228997 (D.Idaho Nov. 19, 2025); *Camacho v. Hollinshead*, No. 25-cv-00593, 2025 WL 3228998 (D. Idaho Nov. 19, 2025); *Rangel v. Knight*, No. 25-cv-00607, 2025 WL 3229000 (D. Idaho Nov. 19, 2025); *Serrato v. Anderson*, No. 25-cv-00603, 2025 WL 3229001 (D. Idaho Nov. 19, 2025); *Elias v. Knight*, No. 25-cv-00604, 2025 WL 3229013 (D. Idaho Nov. 19, 2025); *Ramirez v. Noem*, No. 25 C 13651, 2025 WL 3227341 (N.D.Ill. Nov. 19, 2025); *Lobera v. Noem*, No. 25 CV 13593, 2025 WL 3228984 (N.D. Ill. Nov. 19, 2025); *Gonzalez v. Olson*, No. 25 C 13439, 2025 WL 3237190 (N.D. Ill. Nov. 19, 2025); *Del Villar v. Noem*, No. 25-CV-00137, 2025 WL 3231630 (W.D. Ky. Nov. 19, 2025); *Ibarra v. Noem*, No. 25-cv-1335, 2025 WL 3223765 (W.D. Mich. Nov. 19, 2025); *Ortiz v. Raycraft*, No. 25-cv-1328, 2025 WL 3223771 (W.D. Mich. Nov. 19, 2025); *Martinez v. Unknown Party*, No. 25-cv-1298, 2025 WL 3223774 (W.D. Mich. Nov. 19, 2025); *Pastor v. Raycraft*, No. 25-cv-1301, 2025 WL 3223777 (W.D. Mich. Nov. 19, 2025); *Hernandez Franco v. Raycraft*, No. 25-cv-1274, 2025 WL 3223780 (W.D. Mich. Nov. 19, 2025); *Orozco-Martinez v. Lynch*, No. 25-cv-1353, 2025 WL 3223786 (W.D. Mich. Nov. 19, 2025); *Francisco T. V. Bondi*, No. 25-CV-03219, 2025 WL 3236513 (D. Minn. Nov. 19, 2025); *Mairena-Munguia v. Arnott*, No. 25-cv-3318, 2025 WL 3229132 (W.D. Mo. Nov. 19, 2025); *Ortiz v. Bernacke*, No. 25-cv-01833, 2025 WL 3237291 (D. Nev. Nov. 19, 2025); *Sales v. Mattos*, No. 25-cv-01819, 2025 WL 3237366 (D. Nev. Nov. 19, 2025); *Duran v. Bernacke*, No. 25-cv-02105, 2025 WL 3237451 (D. Nev. Nov. 19, 2025); *Perez v. Lyons*, No. 25-cv-17186, 2025 WL 3238540 (D.N.J. Nov. 19, 2025); *Ndiaye v. Jamison*, No. 25-6007, 2025 WL 3229307 (E.D. Pa. Nov. 19, 2025); *Figueroa v. Hermosillo*, No. 25-cv-02228, 2025 WL 3230466 (W.D. Wash. Nov. 19, 2025); *Manzanarez v. Bondi*, No. 25-cv-01536, 2025 WL 3247258 (E.D. Cal. Nov. 20, 2025); *Flores v. Noem*, No. 25-cv-03011, 2025 WL 3240807 (S.D. Cal. Nov. 20, 2025); *Boffill v. Field Off. Dir.*, No. 25-cv-25179, 2025 WL 3246868 (S.D. Fla. Nov. 20, 2025); *Rusu v. Noem*, No. 25 C 13819, 2025 WL 3240911 (N.D. Ill. Nov. 20, 2025); *Salinas v. Woosley*, No. 25-cv-121, 2025 WL 3243837 (W.D. Ky. Nov. 20, 2025); *Curillo v. Noem*, No. 25-cv-1340, 2025 WL 3235737 (W.D. Mich. Nov.

statutory structure enacted by Congress and the longstanding regulatory distinction between applicants for admission and individuals arrested within the United States. Petitioner's continued detention without access to a custody redetermination therefore rests on an error of law that warrants relief.

2. Petitioner is entitled to an individualized determination of his custody status under the Fifth Amendment to the United States Constitution.

The legal arguments supporting Petitioner's claims under the Fifth Amendment have been expressly and thoughtfully set out by the Honorable Kathleen Cardone in her Opinion and Order in *Erazo Rojas v. Noem et al*, EP-25-CV-443-KC (WD. Tx. Oct. 30, 2025), which will be repeated here with absolute agreement.[3]

To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976)." *Martinez v.*

20, 2025); *Beltran v. Raycraft*, No. 25-cv-1352, 2025 WL 3237429 (W.D. Mich. Nov. 20, 2025); *Sanchez v. Noem*, No. 25-cv-1361, 2025 WL 3237435 (W.D. Mich. Nov. 20, 2025); *Melgar v. Noem*, No. 25-cv-1377, 2025 WL 3240058 (W.D. Mich. Nov. 20, 2025); *Cabrera-Cortes v. Knight*, No. 25-cv-01976, 2025 WL 3240971 (D. Nev. Nov. 20, 2025); *Sandhu v. Tsoukaris*, No. 25-14607, 2025 WL 3240810 (D.N.J. Nov. 20, 2025); *Lucero v. Soto*, No. 25-16737, 2025 WL 3240895 (D.N.J. Nov. 20, 2025); *Sun v. Almodovar*, No. 25-cv-9262, 2025 WL 3241268 (S.D.N.Y. Nov. 20, 2025); *Escarcega v. Olson*, No. CIV-25-1129, 2025 WL 3243438 (W.D. Okla. Nov. 20, 2025); *Patel v. McShane*, No. 25-5975, 2025 WL 3241212 (E.D. Pa. Nov. 20, 2025); *Plascencia v. Bondi*, No. CV-25-04140, 2025 WL 3250914 (D. Ariz. Nov. 21, 2025); *Padilla v. Bowen*, No. 25-cv-10780, 2025 WL 3251368 (C.D. Cal. Nov. 21, 2025); *Singh v. Bowen*, No. 25-cv-03034, 2025 WL 3251437 (C.D. Cal. Nov. 21, 2025); *Juarez v. Noem*, No. 25-cv-02972, 2025 WL 3251658 (C.D. Cal. Nov. 21, 2025); *Velasquez v. LaRose*, No. 25-CV-3137, 2025 WL 3251373 (S.D. Cal. Nov. 21, 2025); *Diaz-Villatoro v. LaRose*, No. 25-CV-3087, 2025 WL 3251377 (S.D. Cal. Nov. 21, 2025); *Santos v. LaRose*, No. 25-cv-3009, 2025 WL 3251575 (S.D. Cal. Nov. 21, 2025); *Marroquin v. LaRose*, No. 25-cv-3013, 2025 WL 3251579 (S.D. Cal. Nov. 21, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022, 2025 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Garcia v. Raycraft*, No. 25-cv-13407, 2025 WL 3252286 (E.D. Mich. Nov. 21, 2025); *Delcid v. Noem*, No. 25-cv-1366, 2025 WL 3251139 (W.D. Mich. Nov. 21, 2025); *Oropeza v. Noem*, No. 25-cv-1343, 2025 WL 3251140 (W.D. Mich. Nov. 21, 2025); *Delgado v. Noem*, No. 25-cv-1249, 2025 WL 3251144 (W.D. Mich. Nov. 21, 2025); *Velasquez-Gomez v. Soto*, No. 25-17327, 2025 WL 3251443 (D.N.J. Nov. 21, 2025); *Valerio v. Joyce*, No. 25-17225, 2025 WL 3251445 (D.N.J. Nov. 21, 2025); *Gomez v. Bondi*, No. C25-2248, 2025 WL 3251157 (W.D. Wash. Nov. 21, 2025); *Ramos v. Hermosillo*, No. 25-cv-02273, 2025 WL 3251159 (W.D. Wash. Nov. 21, 2025); *Padilla v. Galovich*, No. 25-cv-863, 2025 WL 3251446 (W.D. Wis. Nov. 21, 2025).

[3] To be certain, there are District Courts in jurisdictions throughout the nation that have also found a due process violation in the circumstances presented in the instant case. In the interest of avoiding a battle of string cite length, a representative sample is provided: *Carmona-Torres v. Tindall et. al*, No. 3:26-cv-00130-RGJ (W.D. Ky. March 4, 2026); *Dokvadze v. Lowe, et al.*, No. 3:26-cv-00361-RDM (M.D. Pa., Mar. 3, 2026); *Diallo v. Noem, et al*, No. 1:26-cv-00318-JPW (M.D. Pa., Feb. 27, 2026); *Flores-Lazo v. Noem, et al*, No. 2:26-cv-00149-SMD-KRS (D. N.M., Feb. 20, 2026); *Hassan Mohamed v. Noem, et al*, No. 5:26-cv-04001-CJW (N.D. Iowa, February 12, 2026) (fn. 8); *Solano v. Mason et al*, 2:26-cv-00045 (S.D. W.V., Feb. 4, 2026); *N-E-M-B v. Wamsley, et al*, No. 3:25-cv-00989-SI (D. Ore., Dec. 9, 2025); *Barco Mercado v. Francis, et al*, No. 1:25-cv-06582-LAK (S.D. N.Y., Nov. 26, 2025); *Jacobo Ramirez, et al. v. Noem, et al*, No. 2:25-cv-02136-RFB (D. Nev., Nov. 24, 2025); *Verdugo Lopez v. Anderson, et al*, No. 1:25-cv-00621-BLW (D. Id. Nov. 19, 2025); *Faizyan v. Casey et al*, No. 3:25-cv-02884-RBM (S.D. Cal., Nov. 17, 2025); *Hernandez Marcelo v. Trump, et al*, No. 25-cv-00094 (S.D. Iowa Sept. 10, 2025); *Reynosa Jacinto v. Trump et al*, 25-cv-03161-JFB (D. Neb., Aug. 19, 2025).

Noem ("Martinez II"), No. 5:25-cv-1007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025). Those factors are: (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." *Mathews*, 424 U.S. at 335. "The essence of procedural due process is that a person risking a serious loss be given notice and an opportunity to be heard in a meaningful manner and at a meaningful time." *M.S.L. v. Bostock*, No. 25-cv-1204, 2025 WL 2430267, at *8 (D. Or. Aug. 21, 2025) (citing *Mathews*, 424 U.S. at 348).

a. Private Interest

As to the first element, "'[t]he interest in being free from physical detention' is 'the most elemental of liberty interests'." *Martinez II*, 2025 WL 2598379, at *2 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). Respondents' position can only be justifiable if Petitioner does not acquire a liberty interest until his detention becomes unreasonably prolonged, because he is mandatorily detained under § 1225(b) and does not have a statutory right to a bond hearing. However, once released from immigration custody, noncitizens acquire "a protectable liberty interest in remaining out of custody on bond." *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025, WL 2691828, at *12 (W.D. Tex. Sept. 22, 2025), at *10–11 (quoting *Diaz v. Kaiser*, No. 25-cv-5071, 2025 WL 1676854, at *2 (N.D. Cal. June 14, 2025)); accord *M.S.L.*, 2025 WL 2430267, at *8 ("Just as people on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen released from immigration detention] have a liberty interest in remaining out of custody on bond.") (quoting *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019)).

Because he was released from immigration custody and spent almost four years at liberty in the United States, Petitioner possesses a strong interest in his continued freedom from detention.

b. Risk of Erroneous Deprivation

Under the second *Mathews* factor, the Court considers "whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Martinez II*, 2025 WL 2598379, at *3

(quoting *Gunaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. May 21, 2025)). Regardless of whether or not Petitioner has previously had a custody determination hearing, such a request would be futile because in recent cases, IJs have "declined to exercise jurisdiction, finding that [the petitioner was] subject to mandatory detention under § 1225." *Lopez-Arevelo*, 2025 WL 2691828, at *11 (quoting *Espinoza v. Kaiser*, No. 25-cv-1101, 2025 WL 2581185, at *11 (E.D. Cal. Sept. 5, 2025)). Thus, there is a high risk that Petitioner will continue to be erroneously deprived of his liberty.

Respondents may argue that the process afforded to Petitioner in his removal proceedings is sufficient due process. As discussed above, insofar as those procedures relate to Petitioner's removal and not his detention, they do not ameliorate the risk that he will be erroneously deprived of his liberty while his removability is assessed. Any appeal to the humanitarian parole process, which is "sparsely granted in only the most extenuating circumstances," does not provide a constitutionally adequate vehicle to seek his release. *Id.* at 12. Deficiencies in the humanitarian parole process, including the lack of a neutral arbiter, a statement of reasons, or an appeal process, create a high risk that a noncitizen will be erroneously deprived of their liberty. *See Santiago*, 2025 WL 2792588, at *11.

In terms of available alternatives and their probable benefits, agency decisionmakers regularly "conduct[] individualized custody determinations . . . consider[ing] flight risk and dangerousness." *Velesaca v. Decker*, 458 F. Supp. 3d 224, 242 (S.D.N.Y. 2020) (citation omitted); *see also* 8 C.F.R. §§ 236.1(c)(8), 1003.19(h)(3). Indeed, under "decades of DHS's own practices" prior to 2025, noncitizens "who are present without having been admitted or paroled" just like Petitioner, received bond hearings. *Chogllo Chafla v. Scott*, Nos. 25-cv-437, -438, -439, 2025 WL 2688541, at *8 (D. Me. Sept. 22, 2025) (citations omitted). This is precisely the type of proceeding that would give Petitioner an opportunity to be heard and to receive a meaningful assessment of whether he is dangerous or likely to abscond, and it would greatly reduce the risk of an erroneous deprivation of his liberty. Therefore, the second *Mathews* factor weighs in favor of Petitioner.

c. Government's Interest

Respondents do not have an interest in detaining Petitioner without a bond, other than perhaps their general interest in enforcing the INA as they interpret it. But again, assuming Respondents' interpretation of the statute is correct, Petitioner's constitutional interest in his

liberty exists above and apart from the INA. *See A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) ("[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.") (citation omitted). Certainly, the Government has an interest in ensuring that noncitizens appear for their removal hearings and do not pose a danger to the community. But the decision to release Petitioner four years ago while his removal proceedings were initiating, in and of itself, "reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), aff'd 905 F.3d 1137 (9th Cir. 2018). While there is no evidence in the record indicating that Petitioner would be a flight risk or a danger to the community, if any such concerns exist, they would be squarely addressed through a bond hearing. *See Martinez II*, 2025 WL 2598379, at *4. Thus, the third *Matthews* factor also weighs in favor of Petitioner.

Since all *Mathews* factors support Petitioner's position, the Court should find that his detention without an individualized assessment of flight risk and dangerousness deprives him of his constitutional right to procedural due process under the Fifth Amendment of the United States Constitution. Thus, he is entitled to a bond hearing. *See, e.g., Lopez-Arevelo*, 2025 WL 2691828, at *13.

The importance of vindicating these rights can never be overstated:

> . . . [F]or a person deprived of their liberty without due process, it can be the most important thing in their life, and its denial the worst that has ever happened to them. Everyone is entitled to due process, but, unfortunately, not everyone has received it.
>
> . . . [D]ue process requires adequate notice and a meaningful hearing to determine whether a seizure is legally correct and based on accurate facts. If the government may simply seize someone without due process, there is no check on its ability to seize anyone.
>
> One might say, "I don't care because that only happens to THOSE people." Perhaps. But what if someone here legally, or even a United States citizen, is afforded no due process after being seized by mistake? *Or by a choice*?
>
> Fortunately, our Constitution demands more, including the rule of law, as opposed to the rule of unchecked executive fiat.

Solano v. Mason et al, 2:26-cv-00045, pp. 1-2. (S.D. West Virginia, Feb. 4, 2026).

3. Respondents are not exempt from the Fifth Amendment to the United States Constitution.

Respondents behave as if they alone have been given the authority, unique amongst all manner of state actors, to unilaterally deny any process to non-citizens when they seek to detain

them in the various processing centers, detention centers, local jails, and private prisons they have enlisted across the country. The constitutional infirmity in the position taken by Respondents is best illustrated by the following situation that may be hypothetical but is also most certainly not extraordinary in any way.

A non-citizens father and his non-citizen teenage son are at liberty in the United States. Even a cursory review of the numerous *habeas corpus* cases pending in the District Courts throughout the country will reveal the myriad ways that this circumstance may arise and result in years spent while such non-citizens attempt to negotiate their way through the maze and slog through the muck that is Respondents' immigration system. This particular father and son are on their way to the son's local public high school because he is in danger of suspension due to poor grades, attendance or conduct, or any combination of the three. They must go see the school administration because there is no doubt that the Constitution requires that they be provided due process before the school can impose discipline such as a suspension. *See*, *Goss v. Lopez*, 419 U.S. 565 (1975) (due process provides a property right for students in their education, so a hearing is required before they are deprived of it).

If the non-citizen father by chance should run a red light on his way to the school and be stopped by a local police officer, the officer can give him a traffic ticket that provides an opportunity to go before a magistrate and contest his guilt and the appropriateness of any penalty. No one would suggest the officer has the authority to tear up his driver's license or to remove funds from his wallet to pay a fine. Again, the Constitution requires that the non-citizen be given due process.

However, Respondents argue that, if in the course of localized enforcement activity, Respondents' agents come upon the scene and encounter this father and son, they can be immediately taken into custody and are subject to indefinite detention without the possibility of review by anyone. Neither an Immigration Judge nor a District Court Judge has any say on the matter. This cannot be correct. As recently stated by Hon. Roy Bale Dalton Jr. in the Middle District of Florida: "If you're living in the United States, and armed men take you off the street when you've done nothing wrong, a judge must decide whether you're dangerous before the Government can keep you indefinitely locked up, separated from your family, deprived of your livelihood, and stripped of your dignity and purpose, until it gets around to deciding whether to deport you." *Guiaiquire v. Quinones et al*, No. 6:26-cv-169-RBD-RMN (M.D. Fla. Feb. 3,

2026). Petitioner respectfully suggests that the focus not be solely on what the Constitution guarantees Petitioner; but what is just as important is what it prohibits Respondents from doing.

CLAIMS FOR RELIEF

Count One

Denial of Custody Redetermination Based on Legal Error

Petitioner realleges and incorporates the preceding allegations. Petitioner is detained during the pendency of removal proceedings and is not subject to any statutory provision mandating custody. Petitioner is detained under the statutory framework set forth in 8 U.S.C. § 1226(a), which authorizes discretionary release on bond and assigns immigration judges authority to conduct custody redeterminations.

Notwithstanding these findings, the Immigration Judge declined to adjudicate custody based solely on a legal conclusion that Petitioner is subject to mandatory detention as an applicant for admission under 8 U.S.C. § 1225(b).

Where continued detention is based solely on misapplication of the governing statute, habeas corpus is the appropriate means to correct the classification and requires the agency to conduct a custody redetermination or release Petitioner from custody.

Count Two

Violation of the Fifth Amendment of the United States Constitution

Petitioner realleges and incorporates the preceding allegations. Petitioner is detained during the pendency of removal proceedings and is not subject to any statutory provision mandating custody. Petitioner has a right under the Fifth Amendment of the United States Constitution and its guarantee of due process to an individualized determination of his custody while his status in the United States is determined by the immigration courts.

The Immigration Judge's decision to deny bond based on lack of jurisdiction is depriving Petitioner of his freedom and subjecting him to custody in violation of the Fifth Amendment of the United States Constitution.

Where continued detention is based on a violation of constitutional protections, habeas corpus is the appropriate means to address the violation and requires the agency to provide an individualized custody determination or release Petitioner from custody altogether.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue an order to show cause under 28 U.S.C. § 2243 ordering Respondents to answer within 3 days;

c. Issue a writ of habeas corpus directing Respondents to release Petitioner from custody; or in the alternative, to release Petitioner from custody subject to appropriate supervision; or in the alternative, to provide a custody redetermination hearing under § 1226(a) within seven days;

d. Enjoin Respondents from continuing to detain Petitioner without providing a custody redetermination consistent with Section 1226(a) and;

e. Award costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and

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

Respectfully submitted on this 30th day of March, 2026.

ALEJANDRO BADIA MARTINEZ

By his attorney:

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VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Executed this 30th day of March, 2026.

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