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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

JUAN ANGEL HERNANDEZ SOTO Petitioner, v. **WARDEN,** Liberty County Sheriff's Office; **GARRETT J. RIPA,** Director of Miami Field Office, U.S. Immigration and Customs; Enforcement; **TODD LYONS**, Acting Director of U.S. Immigration and Customs Enforcement, In his official capacity; **MARKWAYNE, MULLIN,** Secretary of the U.S. Department of Homeland Security; and **PAM BONDI,** Attorney General of the United States, in their official capacities, Respondents.	Case No. 4:26-cv-148 **PETITION FOR WRIT OF HABEAS CORPUS** **ORAL ARGUMENT** REQUESTED

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

I. INTRODUCTION

1. Petitioner, Juan Angel Hernandez Soto, a national of Honduras, is unlawfully detained indefinitely in the physical and legal custody of Respondents at the Liberty County Sheriff's Office Detention Center in Bristol, Florida.

2. Petitioner entered the United States through the southern border without inspection in March of 2006. He has an affirmative asylum application pending with USCIS.

3. The Petitioner was detained by Respondents in Traffic stop on or about March 7, 2026, and has remained in unlawful indefinite mandatory detention in violation of the Immigration and Nationality Act and of his Fourth and Fifth Amendment Due Process Rights under the U.S. Constitution. Accordingly, to vindicate Petitioner's constitutional and statutory rights this court should grant the instant petition for writ of habeas corpus.

4. The Department of Justice's Executive Office of Immigration Review has issued precedential decisions of the board of Immigration Appeals that purport to unlawfully subject the Petitioner to indefinite mandatory detention in violation of his Due Process rights under the constitution and in violation of the Immigration and Nationality Act.

5. To the extent that the Respondents intend the subject to the Petitioner to indefinite mandatory detention throughout the remainder of all his proceedings in the United states based on the FBI's recent presidential decisions in *Matter of Q.Li*, 29 I. & N. Dec. 66, 69 (BIA 2025) (holding that "all non-citizens who fall within this scope of 8 U.S.C. § 1225 (b)(1) (arriving aliens) must be detained under that section and are 'ineligible for any subsequent release on bond' under § 1226(a)" and to oppose bond before the Immigration Judge (IJ) pursuant to *Matter of Yahure Hurtado*, 29 I & N Dec. 216, 229 (BIA) (holding that IJ's have no jurisdiction to consider bond for

persons charged as "arriving aliens" in removal proceedings), Petitioner's detention is unlawful, in violation of his Due Process rights and the INA.

6. Any characterization of Petitioner status as an "arriving alien" or "applicant for admission" pursuant to 8 U.S.C. § 1225(b) and detention without bond by ICE, an agency within DHS is in violation of 8 U.S.C. § 1226(a). Further, the Petitioner is eligible as a class member in the *Maldonado Bautista* class action because he is a noncitizen in the United states without lawful status who: (1) entered the United States without inspection; (2) was not apprehended upon arrival; and (3) is not subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination. See *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Dec. 18, 2025).

7. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioner asks this Court: (a) to find that Respondents' attempts to detain and transfer Petitioner are arbitrary and capricious and in violation of the law; (b) to immediately issue an order preventing Petitioner's transfer out of this district; and, (c) to order the Respondent's immediate release from detention, or in the alternative, to hold that he is entitled to a prompt bond hearing before the Immigration Judge where DHS has the clear and convincing burden of justifying dangerousness or flight risk. Petitioner further requests that his Court orders the Respondents to show cause in writing within three (3) days why the writ of habeas corpus and other relief requested in the petition should not be granted.

II. JURISDICTION

8. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

9. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101-1537, regulations implementing the INA, the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701-706, and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

10. 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, and the Immigration and Nationality Act, 8 U.SC. § 1252(e)(2).

11. The federal government has waived its sovereign immunity and permitted judicial review of agency action under 5 U.S.C § 702. In addition, sovereign immunity does not bar claims against federal officials that seek to prevent violations of federal law (rather than provide monetary relief).

III. VENUE

12. Venue is proper because Petitioner is detained at Liberty County Sheriff's Office in Bristol, Florida, which is within the jurisdiction of this District. The federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of the immigration detention. See e.g. *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

13. Venue is further proper because Respondents are employees, officers, and agencies of the United States and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Florida.

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

IV. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

15. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

16. There is no statutory exhaustion requirement in 28 U.S.C § 2241. In the absence of a statutory exhaustion requirement prudential exhaustion may be judicially required. Whether or not to require prudential exhaustion falls within the Honorable Courts sound judicial discretion provided that such discretionary requirement complies with statutory schemes and the intent of Congress. See *Leonardo v. Crawford*, 646 F.3d 1157 (9th Cir. 2011), citing *McCarthy v. Madigan*, 503 U.S. 140, 146-49 (1992), superseded by statute on other grounds as stated in *Booth v. Churner*, 532 U.S. 731 (2001); *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007).

17. As noted above the presidential decisions issued by the BIA in *Matter of Q. Li* and *Matter of Yajure-Hurtado* stand for the proposition that the Petitioner is subject to indefinite mandatory detention and is ineligible for a bond hearing before an immigration judge.

18. The BIA's presidential decisions serve as precedents in all proceedings involving the same issue or issues. 8 C.F.R. §§ 1003.1(g)(2), (d)(1). Therefore, requiring the Petitioner to seek a bond hearing and when denied, appeal that denial to the BIA will certainly result in a holding that anyone who is deemed "[a]n alien present in the United States without being admitted or paroled" will be subjected to mandatory detention without bond under 8 U.S.C. § 1225(b)(2).

19. Moreover, the fundamental question presented by this petition is whether 8 U.S.C. § 1225 or 8 U.S.C. § 1226 applies to the Petitioner's detention which is a purely legal question of

statutory interpretation which would not be impacted by any administrative record developed in immigration or an appeal to the BIA.

20. This Honorable Court is not bound by and is not required to give deference to any agency interpretation of a statute. *See Loper Bright v. Raimondo*, 603 U.S. 369, 413 (2024) (holding that federal judges are not required to, and pursuant to the Administrative Procedure Act (the "APA"), are not to defer to an agency interpretation of the law simply because a statute is ambiguous as that is the role of the federal courts).

21. Finally, the Petitioner's constitutional challenge to his detention does not require exhaustion. The Ninth Circuit has noted that Due Process challenges such as the one raised by Petitioner here generally does not require exhaustion because the BIA cannot review constitutional challenges. *Singh v. Holder*, 638 F.3d 1196, 1202 (9th Cir. 2011)

22. Thus, requiring prudential exemption is a futile exercise and will only result in the extended unlawful detention of the Petitioner.

23. The Court must grant the Petition for Writ of Habeas Corpus or issue an Order to Show Cause (OSC) to the Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an Order to Show Cause is issued, the Court must require Respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

24. The Petitioner is in custody for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

V. PARTIES

25. Petitioner **Juan Angel Hernandez Soto** is a pending applicant for asylum pursuant to 8 U.S.C § 1158 and is a citizen and national of **Honduras.** Petitioner entered the United States

through the southern border and without inspection in March of 2006. In 2024, Petitioner filed his application for asylum and appeared for his asylum interview in February. At the time of his unlawful arrest, Petitioner's asylum case was still pending with USCIS. Petitioner is present within the Northern District of Florida as of the time of filing of this petition and is currently detained at the Liberty County Sheriff's Office.

26. Respondent is the Warden of Liberty County Sheriff's Office and has immediate physical custody of the Petitioner pursuant to the facilities contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

27. Respondent, **GARRETT J. RIPA**, is the Director of the Miami Field Office of ICE's Enforcement and Removal Operations Division, a component of the Department of Homeland Security. As such he is Petitioner's immediate custodian for purposes of habeas and is responsible for Petitioner's detention and removal. He is sued in his official capacity.

28. Respondent **TODD LYONS** is the Acting Director of U.S. Immigration and Customs Enforcement, the federal agency responsible for implementing and enforcing the INA including the detention and removal of non-citizens and a component agency of the Department of Homeland Security.

29. Respondent **MARKWAYNE MULLIN** is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act ("INA") and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

30. Respondent **PAM BONDI** is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice. In that capacity she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration

Review ("EOIR") which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

VI. STATEMENT OF FACTS

31. Petitioner is a 35-year-old citizen of the Honduras. [Exhibit 1, Petitioner's passport]. He arrived in the US in March of 2006 at the age of approximately 15 years old. He has lived in the United States for approximately twenty (20) years and has built a life here. He has strong community ties within his community including family members such as his children, partner, and others that he helps in the community as a construction worker. He also has a long-standing community of friends considering that he has lived in the community for many years.

32. Petitioner was arrested pursuant to a charge in traffic stop on 03/07/2026, which is still pending. Petitioner was then transferred by the Respondents from Walton County Jail to the Liberty County Sherriff's Office Detention Center after his family paid for his bond out of the county jail. There are no allegations of damages to persons or property as part of his arrest. He has no other criminal history, other than a prior arrest in 2010 for driving without a driver's license, and has participated fully and actively in pursuing relief under the laws of this country.

33. At the time of his arrest and detention, Petitioner had a pending affirmative asylum application and had his asylum interview in February 2026. He did not have an immigration court hearing date when he was detained because he was not in removal proceedings. He also had a current Employment Authorization Document "EAD" [Exhibit 2, EAD]. The Petitioner has complied with everything required of him by the government since his initial entry into the United States.

34. The Petitioner is the father of four U.S. Citizen children ages 13, 9, 6, and 8 months. The infant has heart conditions that require constant medical attention. [Exhibit 3, Birth Certificates for his 3 older children][1]

VII. LEGAL FRAMEWORK

A. Petitioner is a Member of the *Maldonado Bautista* Certified Class

35. Petitioner is a member of the class certified by the United States District Court for the Central District of California in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM. In its Class Certification Order, as clarified and reduced to final judgment on December 18, 2025, the court certified a nationwide 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 at the time the Department of Homeland Security makes an initial custody determination."

Petitioner squarely satisfies each element of this class definition.

B. Petitioner Entered the United States Without Inspection and Was Not Apprehended Upon Arrival

36. Petitioner entered the United States without inspection in or about March of 2006, as a minor, and was not apprehended at or near the border. He thereafter lived continuously in the United States for an extended period of time, building deep family and community ties, and was never treated by DHS as an arriving alien or applicant for admission until his sudden detention.

37. These facts place Petitioner precisely within the population the *Maldonado Bautista* court identified as being "already in the country," not seeking admission, and therefore governed by 8 U.S.C. § 1226(a), not § 1225(b). See *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

[1] A DNA test was conducted demonstrating paternity, but the infant's birth certificate has not been amended yet.

C. Petitioner Is Not Subject to Mandatory Detention Under §§ 1226(c), 1225(b)(1), or 1231

38. At the time DHS made its initial custody determination:

a. Petitioner was not subject to § 1226(c) mandatory detention. He has no qualifying criminal convictions and is not alleged to fall within any category enumerated under that statute.

b. Petitioner is not subject to § 1225(b)(1). He was not subject to expedited removal, was not apprehended shortly after entry, and had been physically present in the United States for nearly two decades.

c. Petitioner is not subject to § 1231 because no final order of removal exists.

Accordingly, Petitioner meets the third and dispositive criterion for inclusion in the Bond Eligible Class.

D. The *Maldonado Bautista* Court Held DHS's Policy of Treating Long-Present Noncitizens as "Applicants for Admission" Is Unlawful

39. In granting partial summary judgment and entering final judgment, the *Maldonado Bautista* court expressly rejected DHS's position—identical to the position asserted here—that noncitizens who entered without inspection and were later arrested inside the United States are subject to mandatory detention under § 1225(b).

40. The court held that class members are not "applicants for admission" and therefore may not be subjected to mandatory detention without bond, declaring DHS's contrary policy unlawful and vacating it under the Administrative Procedure Act.

E. DHS and EOIR Have Continued to Deny Bond Hearings to Class Members in Defiance of the Court's Ruling

41. Critically, the *Maldonado Bautista* court found that, even after class certification and declaratory relief, DHS and EOIR continued nationwide practices of denying bond hearings

to class members, often invoking "flight risk" or lack of jurisdiction without individualized findings. The court documented widespread denials across multiple states and noted that immigration judges were instructed to continue following *Yajure-Hurtado* notwithstanding the federal court's ruling.

42. These findings are directly relevant here. On information and belief, if Petitioner were to be afforded a bond hearing, DHS would either (1) assert that the Immigration Judge lacks jurisdiction, or (2) argue flight risk in a conclusory manner without individualized evidence—precisely the unlawful practices identified by the *Maldonado Bautista* court.

F. As a Class Member, Petitioner Is Entitled to a Bond Hearing With the Proper Burden of Proof

43. As a member of the *Maldonado Bautista* Bond Eligible Class, Petitioner is entitled to custody redetermination under 8 U.S.C. § 1226(a). Any continued detention without a prompt bond hearing violates both the INA and the Fifth Amendment.

44. Moreover, consistent with Due Process, DHS bears the burden of proving by clear and convincing evidence that Petitioner poses either a danger to the community or a risk of flight. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Generalized assertions, reliance on the manner of entry, or boilerplate "flight risk" findings—without specific, individualized analysis—are constitutionally insufficient.

G. Respondents' Change in Policy Regarding Indefinite, Mandatory Detention

45. In general, under federal immigration law, two statutes govern the detention of noncitizens in removal proceedings – 8 U.S.C. §§1225 and 1226. Section 1225 applies to "applicants for admission" – noncitizens who are either "present in the United States who ha[ve] not been admitted" or who "arrive[] in the United States." 8 U.S.C. §1225(a)(1).

46. Applicants for admission fall under either §1225(b)(1) or §1225(b)(2). *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). "Section 1225(b)(1) applies to aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation" as well as "certain other aliens designated by the Attorney General in his discretion." Id. (citations omitted). Section 1225(b)(2) serves as a "catchall provision that applies to" almost all other applicants for admission not covered by §1225(b)(1). Id. at 289.

47. The mandatory detention statute at issue here, Section §1225(b)(2)(A), provides that "a [noncitizen] seeking admission, [who] is not clearly and beyond a doubt entitled to be admitted . . . shall be detained for a proceeding under 8 U.S.C. §1229a." 8 U.S.C. §1225(b)(2)(A) (emphasis added).

48. On July 8, 2025, ICE issued interim guidance instructing all ICE employees to consider anyone charged with inadmissibility under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention. The July 8, 2025, DHS policy memorandum states it was issued "in coordination with the Department of Justice (DOJ)." [Exhibit 4, July 8, 2025, ICE Guidance Regarding Detention Authority for Applications for Admission] ("July 8 ICE Policy Memo"). The July 8 ICE Policy Memo states that it was issued in coordination with the Department of Justice ("DOJ"). EOIR is an agency within the DOJ.

49. On September 5, 2025, the BIA adopted this same position in *Matter of Yajure Hurtado*. There, the BIA held that all noncitizens who entered the United States without inspection or parole are considered "applicants for admission" and are therefore ineligible for IJ bond hearings.

50. Therefore, based on the Respondents' July 8, 2025, ICE Guidance, the Petitioner

is purportedly subject to indefinite, mandatory detention. However, whether or not Respondents are correct turns on what provision of law governs Petitioner's detention.

51. As this Honorable Court has jurisdiction over this Petition for a Writ of Habeas Corpus, it must next determine whether the Petitioner's detention is governed by the mandatory detention provisions in 8 U.S.C. § 1225(b)(1) or the discretionary detention provisions in 8 U.S.C. § 1226(a).

52. Noncitizens detained under Section 1225(b)(2) must remain in custody for the duration of their removal proceedings, while those detained under Section 1226(a) are entitled to a bond hearing before an IJ at any time before entry of a final removal order." *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1247 (W.D. Wash. 2025). In short, 8 U.S.C. §1225 allows ICE to detain certain noncitizens seeking admission into the United States and §1226 authorizes the government to detain noncitizens already in the country pending the outcome of removal proceedings. *Jennings*, 583 U.S. at 289 (emphasis added).

53. Since July 8, 2025, Respondents have begun widespread arrests and detentions of persons such as the Petitioner, who entered the U.S. without inspection and have been present for years. Respondents now take the position that persons in Petitioner's situation are "applicants for admission" and therefore subject to indefinite, mandatory detention under 8 U.S.C. § 1225(b)(1). To the contrary, the Petitioner is detained pursuant to 8 U.S.C. § 1226(a).

54. 8 U.S.C. § 1225(a)(1) provides that a noncitizen "present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission." The statute defines an "applicant for admission" as "[a]n alien present in the United States who has not been admitted or who arrives in the United State" 8 U.S.C. § 1225(a)(1).

55. The Respondents have argued to various courts around the United States that persons such as the Petitioner are subject to § 1225(b)(2), which provides that, "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A).

56. By contrast, § 1226(a) sets forth "the default rule" for detaining noncitizens "already present in the United States." *Jennings*, 583 U.S. at 303. Section 1226(a) provides that, "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a).

57. The Respondents have taken the position in courts across the country that § 1226(a), and the possibility of release on bond, only applies to individuals who are present in the country with lawful status but are in removal proceedings. However, section 1226(a) does not contain a requirement of lawful status, and "courts are not free to read into the language [of a statute] what is not there." *See O'Hara v. Nika Techs., Inc.*, 878 F.3d 470, 475 (4th Cir. 2017). *Id.*

58. Presumably, the Respondents will take the position that the Petitioner in this case is detained pursuant to § 1225(b)(2) because he entered this country without inspection, making him inadmissible under 8 U.S.C. § 1182(a). This argument fails for several reasons. Applying § 1225 to all persons who have not been admitted into the United States would conflict with the statute's broader structure, the Supreme Court's traditional understanding of the relationship between §§ 1225(b) and 1226(a), and decades of immigration practice. "[O]ne of the most basic canons" of statutory interpretation is that "a statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant." *Corley v. United States*, 556 U.S. 303, 314 (2009) (quoting *Hibbs v. Winn*, 542 U.S. 88, 101 (2004)) (internal

brackets omitted).

59. By contrast, the Respondents' position that § 1225(b) applies to all persons who have not been admitted into the United States would render multiple provisions of § 1226 superfluous. For instance, § 1226(c)(1)(A), (D), and (E) already require mandatory detention of certain categories of inadmissible noncitizens. Indeed, Congress added § 1226(c)(1)(E)—which requires detention for certain inadmissible noncitizens charged with crimes including burglary, theft, and larceny—just this year through the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these provisions would be meaningless.

60. The Respondents' theory also conflicts with the Supreme Court's previous interpretation of the relationship between §§ 1225(b) and 1226(a). In *Jennings*, the Supreme Court explained that § 1225(b) governs noncitizens "seeking admission into the country," whereas § 1226(a) governs noncitizens "already in the country" who are subject to removal proceedings. *Jennings*, 583 U.S. at 289. That interpretation is consistent with the core logic of our immigration system. "[O]ur immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.

61. In the latter instance the Court has recognized additional rights and privileges not extended to those in the former category who are merely "on the threshold of initial entry." *Leng May Ma*, 357 U.S. at 187 (*quoting Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953)); *accord Zadvydas*, 533 U.S. 678, 693 (2001) ("The distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law."). Given this precedent, it is doubtful that Congress intended § 1225(b)(2) to

apply to individuals like the Petitioner who were detained after being present in the U.S. for an extended period of time and who were fully compliant with all immigration requirements.

62. Respondents' position is at odds with DHS's own historic understanding of the statute's meaning. DHS's longstanding interpretation of § 1226 "like any other interpretive aid—can inform a court's determination of what the law is." *Hasan v. Crawford*, No. 1:25-cv-1408, 2025 WL 2682255 at *9 (E.D. Va. Sept. 19, 2025) (*quoting Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024)). "DHS's long-standing interpretation has been that § 1226(a) applie[d] to those who have crossed the border between ports of entry and are shortly thereafter apprehended." *Id.* (quoting Transcript of Oral Argument at 44:24–45:2, *Biden v. Texas*, 597 U.S. 785 (2022) (No. 21-954)); *see also Benitez v. Francis*, No. 25-cv-5937, 2025 WL 2371588 at *8 (S.D.N.Y. Aug. 13, 2025) (observing that DHS's "novel position would expand § 1225(b) far beyond how it has been enforced historically").

63. DHS's historic practice reinforces § 1226(a)'s application to noncitizens in the Petitioner's position who are arrested well after arriving to this country. When the Petitioner was detained on or about March 7, 2026, he was not seeking admission. Therefore, he was not at that time an "applicant for admission" subject to mandatory detention under § 1225(b). He has been present in the United States for twenty (20) years. He is clearly detained under § 1226(a) which governs noncitizens "already in the country" who are subject to removal proceedings. *Jennings*, 583 U.S. at 289.

E. Asylum and Refugee Law

64. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to apply for asylum to individuals seeking safe haven in the United States. The purpose of the Refugee Act is to enforce the "historic policy of the United States to respond to the urgent

needs of persons subject to persecution in their homelands." Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

65. The "motivation for the enactment of the Refugee Act" was the United Nations Protocol Relating to the Status of Refugees, "to which the United States had been bound since 1968." *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a legislative purpose "to give 'statutory meaning to our national commitment to human rights and humanitarian concerns.'" *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).

66. The Refugee Act established the right to apply for asylum in the United States and defines the standards for granting asylum. It is codified in various sections of the INA.

67. The INA gives the Attorney General or the Secretary of Homeland Security discretion to grant asylum to noncitizens who satisfy the definition of "refugee." Under that definition, individuals generally are eligible for asylum if they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion and if they are unable or unwilling to return to and avail themselves of the protection of their homeland because of that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).

68. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen "who is physically present in the United States or who arrives in the United States[.]" 8 U.S.C. § 1158(a)(1).

69. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993). Noncitizens who are applicants for asylum are entitled to a full hearing in immigration court before they can be removed from the United States. 8 U.S.C. § 1229a. Consistent with Due Process, noncitizens may

seek administrative appellate review before the Board of Immigration Appeals of removal orders entered against them and judicial review in federal court upon a petition for review. 8 U.S.C. § 1252(a) *et seq.*

VIII. CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process

70. The allegations in the above paragraphs are realleged and incorporated herein.

71. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without Due Process of law." U.S. Const. Amend. V. Due Process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

72. To determine whether a civil detention violates a detainee's Fifth Amendment procedural Due Process rights, courts apply the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852 (6th Cir. 2020) (applying the *Matthews v. Eldridge* test in the context of immigration).

73. *Matthews v. Eldridge* requires a court to consider the following three factors: "(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures entail." *See Lopez-Campos v. Raycraft, et al.*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) at *9 (*citing Mathews*, 424 U.S. at 335).

74. The Petitioner was detained without a warrant, based on no individualized circumstances applicable to him and in violation of 8 U.S.C. § 1357(a)(2) and ICE's Broadcast Statement of Policy. Further, the Petitioner was detained based upon the Administration's novel

interpretation of existing law, and without notice or any opportunity to contest the redetermination of his custody. All of the foregoing violates his Due Process rights.

75. Subjecting the Petitioner to indefinite, mandatory detention on the flimsy legal pretext of the July 8, 2025, ICE guidance violates his Due Process rights.

76. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO
Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), the Immigration and Nationality Act – 8 U.S.C. § 1226, and Federal Regulations Not in Accordance with Law and in Excess of Statutory Authority Unlawful Detention

77. The allegations in the above paragraphs are realleged and incorporated herein.

78. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A). An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

79. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

80. By categorically detaining the Petitioner and transferring Petitioner away from the district in which he resides or the district in which he lives without consideration of Petitioner's individualized facts and circumstances, Respondents have violated the INA, implementing

regulations, and the APA.

81. On information and belief, Respondents have made no finding that Petitioner is a danger to the community or a flight risk.

82. By detaining and transferring the Petitioner categorically, Respondents have further abused their discretion because, since the agency made its initial determination to release the Petitioner into the United States, on information and belief, there have been no changes to Petitioner's facts or circumstances that support detention.

83. Respondents have already considered Petitioner's facts and circumstances and determined that Petitioner was not a flight risk or danger to the community when they initially released him into the United States. On information and belief, there have been no changes to the facts that justify his detention.

84. For these reasons, Petitioner's detention violates 5 U.S.C. § 706(2)(A).

COUNT THREE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority Violation of 8 C.F.R. § 239.2(c)

85. The allegations in the above paragraphs are realleged and incorporated herein.

86. Under the APA, a court "shall . . . hold unlawful . . . agency action" that is "not in accordance with law;" "contrary to constitutional right;" "in excess of statutory jurisdiction, authority, or limitations;" or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A)-(D).

87. Under the APA, an agency must provide "reasoned explanation for its action" and "may not depart from a prior policy *sub silentio* or simply disregard rules that are still on the books." *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). *see also Dep't of*

Homeland Sec. v. Regents of the Univ. of California, 591 U.S. 1, 24-33 (2020) (holding that rescission of immigration policy without considering "particular reliance interests" is arbitrary and capricious in violation of the APA).

IX. CONCLUSION

88. Petitioner Juan Angel Hernandez Soto is a man who entered this country as a minor, built a life here over two decades, has three U.S. Citizen children, complied fully with every immigration requirement asked of him, and was pursuing lawful asylum relief when Respondents suddenly arrested and detained him without individualized justification, bond hearing, or constitutional process. His continued detention is not merely procedurally deficient, it is unlawful.

89. The constitutional and statutory violations at issue here are clear. Respondents have subjected Petitioner to indefinite mandatory detention by misclassifying him as an "applicant for admission" under 8 U.S.C. § 1225(b), a classification that is contrary to decades of immigration law, the Supreme Court's holding in *Jennings v. Rodriguez*, DHS's own longstanding enforcement practice, and the binding class certification order in *Maldonado Bautista v. Santacruz*. As an eligible member of the *Maldonado Bautista* Bond Class, Petitioner is entitled by statute and the Fifth Amendment to a bond hearing at which DHS must bear the burden of proving by clear and convincing evidence that he poses a danger or a risk of flight. That hearing has been unlawfully denied.

90. The July 8, 2025, ICE Policy Memorandum and the BIA's precedential decisions in *Matter of Yajure-Hurtado* and *Matter of Q. Li* do not and cannot override the INA, the Fifth Amendment, or a federal court's class certification order. Under *Loper Bright v. Raimondo*, this Court is not required to defer to the agency's novel statutory interpretation, and it should not. The agency's position would render multiple provisions of § 1226 superfluous, contradict the Supreme

Court's own construction of the statute, and authorize the indefinite, warrantless detention of millions of people who have been present in this country for years or decades without any individualized determination of dangerousness or flight risk. The Fifth Amendment forbids it.

91. Every day Petitioner remains detained is a day his liberty is unlawfully restrained, his family is separated, and his rights are put at risk. The Great Writ exists precisely for this moment. As the Supreme Court recognized in *Fay v. Noia*, habeas corpus affords "a swift and imperative remedy in all cases of illegal restraint." This is such a case.

92. For all the foregoing reasons, Petitioner respectfully urges this Court to grant the Petition for Writ of Habeas Corpus, to order his immediate release or, in the alternative, a prompt bond hearing at which the Government bears the burden of proof, and to enjoin any transfer outside this District pending resolution of this action.

93. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the Petition for Writ of Habeas Corpus and order the following relief:

a) Assume jurisdiction immediately under 28 U.S.C. § 2241 to remedy Petitioner's ongoing unlawful restraint of liberty;

b) Order Respondents to show cause immediately, and no later than three (3) days from the Court's order, why Petitioner should not be released, as required by 28 U.S.C. § 2243;

c) Enjoin Respondents from transferring Petitioner out of this District or otherwise interfering with this Court's jurisdiction during the pendency of this action;

d) Declare that Petitioner's continued detention is unlawful because he is a member of the *Maldonado Bautista* Bond Eligible Class and is not subject to mandatory detention under 8 U.S.C. § 1225(b), § 1226(c), or § 1231;

e) Declare that Respondents lack statutory authority to detain Petitioner without bond, and that their reliance on 8 U.S.C. § 1225(b), *Matter of Yajure-Hurtado*, *Matter of Q. Li*, or any related agency guidance violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment;

f) Issue the Writ of Habeas Corpus forthwith, ordering Respondents to immediately release Petitioner from custody, as no lawful basis exists for his continued detention;

g) Enjoin Respondents from re-detaining Petitioner or otherwise restricting his liberty absent a new, lawful custody determination consistent with 8 U.S.C. § 1226(a) and constitutional due process;

h) Alternatively, and only if the Court declines to order immediate release, order Respondents to provide Petitioner with a prompt bond hearing within no more than seven (7) days, before an Immigration Judge with jurisdiction, at which:

   a. The Department of Homeland Security bears the burden of proof, by clear and convincing evidence, that Petitioner poses a danger to the community or a risk of flight;

   b. Any denial of release must be supported by specific, individualized findings based on the evidentiary record; and

   c. Petitioner may not be detained based on categorical reasoning, generalized flight-risk assertions, or his manner of entry alone;

i) Prohibit Respondents from invoking lack of jurisdiction or any agency precedent inconsistent with federal court rulings to deny Petitioner a bond hearing or continued liberty;

j) Award Petitioner attorneys' fees and costs pursuant to the Equal Access to Justice Act and any other applicable authority; and

k) Grant any further relief necessary to effectuate the purpose of the writ and fully restore Petitioner's liberty.

Dated: April 1, 2026

Respectfully submitted,

/s/ Michelle M. Reyes
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Counsel for Petitioner

Exhibit List

Exhibit 1	Petitioner's passport
Exhibit 2	EAD
Exhibit 3	Birth Certificates for his 3 older children
Exhibit 4	July 8 ICE Policy Memo

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, **Juan Angel Hernandez Soto,** and submit this verification on his behalf because the Petitioner is currently detained and because of the urgent nature of the relief requested. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge. I am authorized to make this verification as the legal representative of the Petitioner, **Juan Angel Hernandez Soto.**

Dated this 1 April 2026

/s/ Michelle M. Reyes
Michelle M. Reyes, Esq.