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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Brayan Reyes Luna,

Petitioner,

v.

John Cantu, Field Office Director of Enforcement and Removal Operations, Phoenix Field Office, Immigration and Customs Enforcement;
Markwayne Mullin, Secretary, U.S. Department of Homeland Security;
U.S. Department of Homeland Security;
Todd Blanche, Acting U.S. Attorney General;
Executive Office for Immigration Review;
Luis J. Rosa, Jr., Warden of Central Arizona Florence Correctional Complex,

Respondents.

File No. 26-CV-_____

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Brayan REYES LUNA, is in the physical custody of Respondents at the Florence Detention Facility in Florence, Arizona. He now faces unlawful detention because the Department of Homeland Security ("DHS") and the Executive Office of Immigration Review ("EOIR") have concluded Petitioner is subject to mandatory detention.

2. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. See 8 U.S.C. § 1182(a)(6)(A)(i).

3. Based on this allegation in Petitioner's removal proceedings, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act ("INA"). Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such

individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

6. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

7. Furthermore, Petitioner was previously in removal proceedings that were dismissed by the Immigration Judge. In light of this, Respondents detained him without taking the steps necessary to ensure that his detention comports with procedural due process under the Fifth Amendment.

8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately released from custody or, in the alternative, that Respondents provide a bond hearing under § 1226(a) within seven days.

JURISDICTION

9. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Central Arizona Florence Correctional Complex located in Florence, Arizona.

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

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

VENUE

12. 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 District of Arizona, the judicial district in which Petitioner currently is detained.

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

REQUIREMENTS OF 28 U.S.C. § 2243

14. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

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

PARTIES

16. Petitioner Brayan Reyes Luna is a citizen of Mexico who has been in immigration detention since March 18, 2026. After arresting Petitioner in Phoenix, Arizona, ICE did not set bond and Petitioner is unable to obtain review of his custody by an Immigration

Judge, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

17. Respondent John Cantu is the Director of the Phoenix Field Office of ICE's Enforcement and Removal Operations division. As such, John Cantu is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is sued in his official capacity.

18. 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. Respondent Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

19. Respondent Department of Homeland Security ("DHS") is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

20. Respondent Todd Blanche is the Acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

21. Respondent Executive Office for Immigration Review ("EOIR") is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

22. Respondent Luis J. Rosa Jr. is employed by CoreCivic, Inc. as Warden of the Central Arizona Florence Correctional Complex, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

STATEMENT OF FACTS

23. Petitioner has resided in the United States since approximately September 1997, when he entered as a young child at approximately three years of age, and has lived continuously in Phoenix, Arizona for over twenty-eight years.

24. Petitioner was educated entirely in the Arizona public school system. He attended Bethune Elementary School, Edison Elementary School, and Shaw Elementary School in the Phoenix Elementary School District and graduated from Carl Hayden Community High School in the Phoenix Union High School District on May 24, 2012.

25. On July 21, 2015, U.S. Citizenship and Immigration Services granted Petitioner deferred action under the Deferred Action for Childhood Arrivals ("DACA") program (Receipt No. [redacted]).

26. Petitioner was previously placed into removal proceedings in the Phoenix, Arizona Immigration Court in 2020. He was not detained while these proceedings were conducted, and these proceedings were dismissed by the Immigration Judge on May 8, 2024. See Exhibit A.

27. On March 18, 2026 Petitioner was taken into ICE custody after attending a scheduled court hearing at the Maricopa County Superior Court in Phoenix, Arizona. Petitioner is now detained at the Central Arizona Florence Correctional Complex in Florence, Arizona.

28. DHS placed Petitioner in removal proceedings before the Florence Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, inter alia, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

29. Petitioner is neither a flight risk nor a danger to the community. Petitioner has lived in the United States since the age of three, has been continuously employed for over six years, and is engaged to be married to a United States citizen, who is a career firefighter for the White Mountain Apache Tribe with twenty years of public service. Petitioner has substantial family and community ties in Arizona, including his United States citizen sister and his extensive church community in Phoenix, where he has attended since 1999. Petitioner's community ties are documented through numerous letters of support from neighbors, employers, friends, and clergy.

30. Following Petitioner's transfer into ICE custody, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions

31. As a result, Petitioner remains in detention. Without relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his fiancée, his sister, and his community.

LEGAL FRAMEWORK

I. Petitioner's Detention Violates the INA.

32. The Fifth Amendment to the United States Constitution guarantees that no person shall be deprived of liberty without due process of law. This protection extends to all

persons within the United States, including noncitizens. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."). The Supreme Court has long recognized that "[f]reedom 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." *Id.* at 690.

33. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

34. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge. See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).

35. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

36. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. See 8 U.S.C. § 1231(a)–(b).

37. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

38. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub.

L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended in 2025 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

39. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

40. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an Immigration Judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

41. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice.

42. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A).

The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

43. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

44. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. *See, e.g.*, *Vazquez v. Bostock*, 802 F. Supp. 3d 1297 (W.D. Wash. 2025); *Guerrero Orellana v. Moniz*, 802 F. Supp. 3d 297 (D. Mass. 2025); *Alvarez Ortiz v. Freden*, 808 F. Supp. 3d 579 (W.D.N.Y. 2025); *Zapata v. Kaiser*, 801 F. Supp. 3d 919 (N.D. Cal. 2025). Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

45. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

46. In addition, numerous federal courts have rejected ICE and EOIR's interpretation of the INA's detention provisions, holding that § 1226(a), rather than § 1225(b)(2), governs the detention of noncitizens who entered without inspection and have been residing in the

United States. See, e.g., *Vazquez v. Bostock*, 802 F. Supp. 3d 1297, 1336 (W.D. Wash. 2025) (granting summary judgment and declaring that bond-denial class members "are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2)"); *Guerrero Orellana v. Moniz*, 802 F. Supp. 3d 297 (D. Mass. 2025); *Alvarez Ortiz v. Freden*, 808 F. Supp. 3d 579 (W.D.N.Y. 2025); *Zapata v. Kaiser*, 801 F. Supp. 3d 919 (N.D. Cal. 2025); *Vazquez v. Feeley*, 805 F. Supp. 3d 1112 (D. Nev. 2025); *Salgado v. Mattos*, 809 F. Supp. 3d 1123 (D. Nev. 2025); see also *Gomes v. Hyde*, No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025); *Maldonado v. Olson*, 795 F. Supp. 3d 1134 (D. Minn. 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH) (S.D.N.Y. Aug. 13, 2025); *Palma Perez v. Berg*, No. 8:25CV494 (D. Neb. Sept. 3, 2025).

47. Furthermore, the Central District of California vacated *Matter of Yajure Hurtado* on February 18, 2026. *Lazaro Maldonado Bautista et al. v. Ernesto Sanchez Jr et al.*, No. 25-CV-01873-SSS-BFM (C.D. Cal. Feb. 18, 2026). This vacatur was stayed by the Ninth Circuit pending appeal on March 6, 2026. *Lazaro Maldonado Bautista et al. v. U.S. Department of Homeland Security et al.*, No. 26-1044 (9th Cir. Mar. 6, 2026). While Immigration Judges and the BIA may continue to argue that this vacatur does not apply outside of the Central District of California, this decision, combined with the above-mentioned District Court decisions, supports the position that the government's reliance on § 1225(b)(2) is erroneous in cases involving those whose immigration status lawfully falls under § 1226(a).

48. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text

of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

49. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

50. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Vazquez v. Feeley*, 805 F. Supp. 3d 1112 (D. Nev. 2025) (rejecting reading of § 1225(b)(2) that would render § 1226(c)'s exceptions "superfluous or meaningless"); *Salgado v. Mattos*, 809 F. Supp. 3d 1123 (D. Nev. 2025) (same). Indeed, "a court must interpret the statute as a whole, giving effect to each word and making every effort not to interpret a provision in a manner that renders other provisions of the same statute inconsistent, meaningless or superfluous." *Shulman v. Kaplan*, 58 F.4th 404, 410–11 (9th Cir. 2023).

51. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

52. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

53. Moreover, the Laken Riley Act amended 8 U.S.C. § 1225 to apply mandatory detention to certain noncitizens who entered the United States without inspection. Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). This amendment further demonstrates that Section 1225(b) was never intended to apply to noncitizens in the interior of the United States who are not seeking admission.

54. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States for over twenty-eight years at the time they were apprehended.

II. Petitioner's Continued Detention Is Arbitrary and Violates the Due Process Clause of the Fifth Amendment.

55. The Fifth Amendment's Due Process Clause prohibits the government from imposing arbitrary detention. "[G]overnment detention violates that Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections, or, in certain special and 'narrow' non-punitive 'circumstances,' where a special justification, such as harm-threatening mental illness, outweighs the 'individual's constitutionally

protected interest in avoiding physical restraint.'" *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citations omitted); *see also Wong Wing v. United States*, 163 U.S. 228, 238 (1896) ("It must be concluded that all persons within the territory of the United States are entitled to the protection guaranteed by [the Fifth Amendment], and that even [noncitizens] shall not . . . be deprived of life, liberty, or property without due process of law."); *Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1079 (N.D. Cal. 2004) ("Substantive due process protections from arbitrary confinement apply to aliens, notwithstanding their residency status."). "In the context of immigration detention, it is well-settled that . . . due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011)). "[D]etention [incidental to removal must] bear[a] reasonable relation to [its] purpose." *Zadvydas*, 533 U.S. at 690.

56. Courts analyze procedural due process claims in two steps: "the first asks whether there exists a [protected] liberty . . . interest" under the Due Process Clause, and "the second examines the procedures" necessary to ensure any deprivation of that interest accords with the Constitution. *Kentucky Dep't of Corrections v. Thompson*, 490 U.S. 454, 460 (1989).

57. Petitioner here has resided in the United States since the age of three—nearly his entire life—and was previously granted Deferred Action for Childhood Arrivals by USCIS in 2015. Petitioner's prior grant of DACA, his continuous employment, dismissal of his prior immigration proceedings, and his decades of unbroken residence create a powerful liberty interest in his continued freedom from custody. *See Doe v. Becerra*, 787 F. Supp.

3d 1083, 1094 (E.D. Cal. 2025). Immigration laws have long recognized that noncitizens have an interest in an individualized hearing prior to detention in connection with immigration proceedings. *See Yamataya v. Fisher*, 189 U.S. 86, 101 (1903).

58. Having determined that Petitioner has a protected liberty interest in continued release having been released previously, the court proceeds to determine the procedures necessary to ensure any deprivation of that protected liberty interest accords with the Constitution. To make that determination, the court applies the test established in *Mathews v. Eldridge*, 424 U.S. 319 (1976). The *Mathews* test considers three factors: (1) the private interest affected; (2) the risk of an erroneous deprivation; and (3) the government's interest. 424 U.S. at 335.

59. All three *Mathews* factors weigh decisively in Petitioner's favor. Considering the first *Mathews* factor, Petitioner has a private interest in remaining free from detention. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690. Further, courts have held that the first *Mathews* factor is strongly satisfied where a petitioner is "locked up in jail" and "[can] not maintain employment or see his family or friends or others outside normal visiting hours." *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). Petitioner's prior grant of DACA, dismissal of prior removal proceedings, and his decades of lawful presence in the community create a powerful interest for him in his continued liberty. *See Doe v. Becerra*, 787 F. Supp. 3d 1083, 1094 (E.D. Cal. 2025).

60. The second *Mathews* factor, the risk of erroneous deprivation to petitioner, also weighs in his favor. Civil immigration detention is "nonpunitive in purpose and effect" and is justified only when a noncitizen presents as a danger to the community or a risk of flight. *Zadvydas*, 533 U.S. at 690; *Padilla v. United States Immigr. & Customs Enf't*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023). Courts have found that the risk of erroneous deprivation of rights is high when a petitioner is held without an individualized hearing. *Alfonzo-Mujiuca v. Thompson*, Case No. SA-26-CA-00457-XR (W.D. Tx. Mar. 13, 2026). "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews* 424 U.S. at 333. Thus, "the probable value of additional procedural safeguards" including a bond hearing—which should have occurred before his re-detention—is high. *A.E.*, 2025 WL 1424382, at *5.

61. As for the third *Mathews* factor, while the government has an interest in the steady enforcement of its immigration laws, the government's interest in detaining Petitioner without any procedural protections is substantially "low." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019); *Doe v. Becerra*, 787 F. Supp. 3d at 1094. Custody hearings in immigration court are routine and impose a "minimal" cost on the government. *Doe*, 787 F. Supp. 3d at 1094. "If the government wishes to re-arrest [petitioner] at any point, it has the power to take steps toward doing so; but its interest in doing so without [any procedural protections] is low." *Ortega*, 415 F. Supp. 3d at 970. An individualized analysis of procedural due process ensures that the purpose of detention is not punitive. *Alfonzo-Mujiuca* at 23. This factor weighs against continued detention.

62. On balance, all three *Mathews* factors favor Petitioner and demonstrate that due process requires, at a minimum, that he be provided a prompt and individualized bond hearing. *See Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) (the government "has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future immigration proceedings can be reasonably ensured by a lesser bond or alternative conditions").

63. "[N]on-punitive detention in the immigration context violates the Due Process Clause unless 'a special justification . . . outweighs the individual's constitutionally protected interest in avoiding physical restraint.'" *Padilla v. United States Immigr. & Customs Enf't*, 704 F. Supp. 3d 1163, 1174 (W.D. Wash. 2023) (quoting *Zadvydas*, 533 U.S. at 690). The Supreme Court has recognized only two such justifications: "ensur[ing] the appearance of aliens at future immigration proceedings" and "prevent[ing] danger to the community." *Zadvydas*, 533 U.S. at 690; *see also Zapata v. Kaiser*, 801 F. Supp. 3d 919 (N.D. Cal. 2025) ("Civil immigration detention is permissible only to prevent flight or protect against danger to the community."). Neither justification exists here. Petitioner has a fixed residence, a U.S. citizen fiancée, a U.S. citizen sister, and a long-tenured employer in Phoenix; he has only one misdemeanor conviction (for which he served a single day) and no felony convictions; and he has appeared at every immigration proceeding to date.

64. "Regardless of the reason for Petitioner's detention, the Government remains subject to an obligation to 'effectuate [his] detention in a manner that comports with due process.'" *P.T. v. Hermosillo*, 2025 WL 3294988, at *2 n.1 (W.D. Wash. Nov. 26, 2025). The government has failed to meet that obligation here.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

65. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

66. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

67. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA

COUNT II

Violation of Due Process

68. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

69. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "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*, 533 U.S. at 690.

70. Petitioner has a fundamental interest in liberty and being free from official restraint.

71. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the District of Arizona while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

e. Declare that Petitioner's detention is unlawful;

f. Award Petitioner attorney's fees and costs and grant any other and further relief that this Court deems just and proper.

RESPECTFULLY SUBMITTED this 24th day of April, 2026.

By: /s/ Lisa L. Elkin

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