UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Marco Angel Vasquez Reyes,

Petitioner,

v.

Raul MALDONADO JR., in his official capacity as Warden of Metropolitan Detention Center; Judith ALMODOVAR, in her official capacity as Field Office Director of Enforcement and Removal Operations, New York Field Office, Immigration and Customs Enforcement; Markwayne MULLIN, in his official capacity as Secretary, U.S. Department of Homeland Security; Todd BLANCHE, in his official capacity as Acting U.S. Attorney General; Daren K. MARGOLIN, in his official capacity as Director, Executive Office for Immigration Review,

Respondents.

Case No. 2:26-cv-02907

FIRST AMENDED VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Marco Angel Vasquez Reyes ("Mr. Vasquez Reyes") is a 25-year-old national of Peru who fled his home country after enduring physical beating and violent threats from criminal gang members. He has lived in the United States, primarily in Suffolk County, New York, since 2023.

2. Since he arrived in the United States more than 3 years ago, Mr. Vasquez Reyes has supported himself by working as a mechanic. His arrest record includes a single conviction under the New York Vehicle and Traffic Law ("VTL") for

which he was not sentenced to any jail time.

3. Nonetheless, for nearly 3 months, immigration authorities have imprisoned Mr. Vasquez Reyes in a correctional facility in Brooklyn, New York. The Respondents have subjected Mr. Vasquez Reyes to mandatory detention, without an individualized determination or the possibility of a bond hearing, based on a novel and erroneous interpretation of the government's detention authority under 8 U.S.C. § 1225(b) that classifies Mr. Vasquez Reyes who has resided in New York for 3 years and was apprehended in the national interior—as though he were attempting an initial entry at the border.

4. Mr. Vasquez Reyes's detention is unlawful as it was initiated and has continued for months without individualized review, based on a misclassification by the Department of Homeland Security ("DHS") and the Executive Office for Immigration Review ("EOIR"), which erroneously determined that Mr. Vasquez Reyes is subject to mandatory detention based on an abrupt departure from decades of settled agency precedent and an incorrect interpretation of the applicable statutes and regulations in the Immigration and Nationality Act ("I.N.A."). In fact, the Second Circuit expressly rejected the Respondents' interpretation of the relevant statutory provisions in *Barbosa da Cunha v. Freden*, No. 25-3141-pr, 2026 WL 1146044 (2d Cir. 2026).

5. Accordingly, under binding Circuit precedent, the basis for Mr. Vasquez Reyes's detention was unlawful at inception. Indeed, the Respondents' decision to detain Mr. Vasquez Reyes based on a legal misclassification, depriving Mr. Vasquez

Reyes of the individualized pre-detention review which both the statute and the Constitution require, was unlawful from the outset. Mr. Vasquez Reyes therefore seeks a writ of habeas corpus ordering that he be released from detention immediately based on his unlawful detention and in violation of his constitutional right to due process.

JURISDICTION

6. Mr. Vasquez Reyes is in the physical custody of the Respondents, detained by Immigration and Customs Enforcement ("ICE") at the Metropolitan Detention Center in Brooklyn, New York.

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

8. This Court may grant relief pursuant to 28 U.S.C. §§ 2241, 2243, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

9. 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 Eastern District of New York, the judicial district in which Mr. Vasquez Reyes is currently detained.

10. Venue is 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 Eastern District of New York.

REQUIREMENTS OF 28 U.S.C. § 2243

11. 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.*

12. 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

13. Petitioner, Mr. Vasquez Reyes, is a national of Peru who has been detained by the Respondents since on or about February 20, 2026. He is currently held at the Metropolitan Detention Center in Brooklyn, New York. He lived in Deer Park, New York prior to his detention by the Respondents.

14. Respondent Raul Maldonado, Jr. is employed by the Bureau of Prisons ("BOP") as Warden of the Metropolitan Detention Center, where Petitioner Mr.

Vasquez Reyes is detained. He has immediate physical custody of Mr. Vasquez Reyes He is sued in his official capacity.

15. Respondent Judith Almodovar is the Director of the New York Field Office of ICE's Enforcement and Removal Operations Division. As such, Field Office Director Judith Almodovar is Petitioner's immediate custodian and is responsible for Mr. Vasquez Reyes's detention and removal. She is named in her official capacity.

16. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the I.N.A., and oversees ICE, which is responsible for Petitioner's detention. Secretary Mullin has ultimate custodial authority over Mr. Vasquez Reyes and is sued in his official capacity.

17. 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 ("EOIR") and the immigration court system it operates is a component agency. He is sued in his official capacity.

18. Respondent Daren K. Margolin is the Director of EOIR. He is responsible for ensuring the implementation and adherence to the I.N.A. in removal proceedings, including for custody redeterminations in bond hearings. He is sued in his official capacity.

STATEMENT OF FACTS

19. Mr. Vasquez Reyes has resided in the United States since his arrival in or around January of 2023. Prior to arriving in the United States, he lived in Peru.

20. Mr. Vasquez Reyes fled Peru after enduring physical beating and violent threats from criminal gang members. Mr. Vasquez Reyes has lived primarily in Suffolk County, New York since his arrival in 2023. While living in New York, Mr. Vasquez Reyes has supported himself by working as a mechanic.

21. Since his arrival in the United States, Mr. Vasquez Reyes's record of encounters with law enforcement consists of a single conviction on September 29, 2025 under N.Y. V.T.L. § 1192.01(1) for operating a motor vehicle while under the influence of alcohol, for which he was sentenced to a 90-day license suspension, fines/surcharges, and a conditional discharge with community service and a rehabilitation program. Subsequently, Mr. Vasquez Reyes completed his community service hours and rehabilitation program.

22. Mr. Vasquez Reyes was also arrested on or about May of 2025 after being traffic-stopped while allegedly driving a vehicle with a broken taillight. Charges arising from this arrest incident remain pending. While Mr. Vasquez Reyes remains in detention, he has been unable to resolve this matter.

Apprehension by Immigration Authorities and Removal Proceedings

23. On or about February 20, 2026, Mr. Vasquez Reyes was apprehended by ICE officers in Farmingdale, New York. Upon information and belief, ICE personnel ran a check of Mr. Vasquez Reyes's vehicle's license plate and believed he was a different, similarly named individual sought by ICE. After determining that Mr. Vasquez Reyes was not that individual, ICE officers detained Mr. Vasquez Reyes anyway.

24. Subsequently, Mr. Vasquez Reyes was detained in the custody of ICE at the Metropolitan Detention Center in Brooklyn, New York. He remains there to this day.

25. On or about February 20, 2026, after arresting and detaining Mr. Vasquez Reyes, DHS initiated his removal proceedings by issuing a notice to appear ("NTA"), charging Mr. Vasquez Reyes as removable under 8 U.S.C. § 1182(a)(6)(A), as a noncitizen "present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General." *See* Exh. A, Notice to Appear.

26. Initially, Mr. Vasquez Reyes requested a grant of voluntary departure from the immigration judge. However, upon further reflection, Mr. Vasquez Reyes subsequently sought to retract his request of voluntary departure and submitted an application for asylum, withholding of removal, and protection under the U.N. Convention Against Torture as relief from removal.

27. On or about April 27, 2026, the immigration judge excluded Mr. Vasquez Reyes's application for asylum, withholding of removal, and protection under the Convention Against Torture; denied Mr. Vasquez Reyes's original request for voluntary departure; and ordered Mr. Vasquez Reyes. removed.

28. On or about May 4, 2026, Mr. Vasquez Reyes appealed the immigration judge's decisions to the Board of Immigration Appeals. *See* Exh. B., BIA Receipt Notice. Mr. Vasquez Reyes's appeal remains pending.

LEGAL FRAMEWORK

I. Petitioner Was Unlawfully Detained Pursuant to a Statutory Misclassification as Recognized by the Second Circuit.

29. At the time of Mr. Vasquez Reyes's arrest, and at all times continuing to this date, Respondents claim authority to detain M.A.V.R. without individualized review under 8 U.S.C. § 1225(b). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216, 228 (BIA 2025) (holding that noncitizens who enter the United States without inspection or admission are subject to mandatory detention under 8 U.S.C. § 1225(b) and thus ineligible for bond hearings).

30. Yet Respondents' detention of Mr. Vasquez Reyes violates the plain language of the I.N.A., whose mandatory detention provision applies only to individuals "seeking admission"—not individuals such as Mr. Vasquez Reyes, who entered the country several years ago and have resided here since then. Individuals like Mr. Vasquez Reyes —who were present within the country at the time of ICE arrest and detention—have consistently been processed under 8 U.S.C. § 1226(a), which requires ICE to conduct an individualized, discretionary assessment before detaining a noncitizen and permits the noncitizen's release on their own recognizance or a bond.

31. In *Barbosa da Cunha v. Freden*, the Second Circuit joined the overwhelming majority of courts around the country, including in this District, which have ruled that the Respondents' statutory interpretation is wrong. *See* 2026 WL 1146044 at *23 (concluding that the detention of the petitioner, who entered the United States years ago without admission or inspection, is governed under 8 U.S.C. § 1226(a), not § 1225(b)); *see also, e.g.*, *Inestroza Carbajal v. Frazier*, 26-cv-2778-SJB,

2026 WL 1309265 at *1 (E.D.N.Y. May 12, 2026) ("In the hundreds of habeas petitions filed in this District over the last year, Respondents have taken the position that individuals have been detained pursuant to 8 U.S.C. § 1225(b)(2) . . . . That legal position . . . was rejected by the Second Circuit."); *Vasquez-Lopez v. Bondi*, 26-cv-1369 (OEM), 2026 WL 710088 at *2 (E.D.N.Y. Mar. 13, 2026) ("[T]his Court joins the majority of courts in finding that detention of the nature at issue here cannot be upheld under § 1225."); *Molina Lara v. Genalo*, 2:26-cv-1424 (PKC), 2026 WL 764539 at *2 (E.D.N.Y. Mar. 18, 2026) ("The overwhelming majority of courts in this District and across the country have found that noncitizens like Petitioner—who were detained by ICE after living in the United States for years—are not 'seeking admission' and therefore cannot be detained pursuant to Section 1225(b)(2)(A)."); *Hyppolite v. Noem*, 808 F.Supp.3d 474, 484, 490 (E.D.N.Y. Oct. 6, 2025) ("[T]he Court now joins the broad consensus among Article III courts to date, and finds that § 1225(b)(2)(A) does *not* apply to a noncitizen like [the petitioner], who has been living in the United States for years, and that his detention can only be authorized if the procedures followed comply with 8 U.S.C. § 1226(a).") (emphasis in original).

32. Accordingly, under binding Circuit precedent, the mandatory detention provision of § 1225(b)(2)(A) does not apply to Mr. Vasquez Reyes, who already entered and had been residing in the United States for years at the time he was detained by ICE. The applicable statute of detention is 8 U.S.C. § 1226(a), which requires an individualized, discretionary assessment prior to a noncitizen's detention and the possibility of release on recognizance or bond. *See Inestroza Carbajal*, 2026 WL

1309265 at *2 ("The ICE policy that led to [the petitioner's] initial detention is 'defined by its systematic denial' of notice and an opportunity to be heard. Had Respondents first proceeded under 1226(a), [the petitioner] would have been entitled to an individualized custody determination, the ability to seek bond before an immigration judge, and further appellate process[.]").

33. Because Respondents detained Mr. Vasquez Reyes under an inapplicable statute and deprived him of the requisite procedures, Petitioner's detention was unlawful and his immediate release is the appropriate remedy.

II. Respondents' Detention of Petitioner Without Individualized Review Violates Due Process and Was Unlawful from the Outset.

34. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prevents the government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. amend. V.

35. "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). A person's liberty cannot be infringed upon without "adequate procedural protections." *Id.* at 690–91.

36. Here, the Respondents' erroneous incarceration of Mr. Vasquez Reyes under an inapplicable statute of detention violated his right to due process as guaranteed by the U.S. Constitution. Indeed, by subjecting Mr. Vasquez Reyes to an inapplicable statute of mandatory detention, Respondents failed to provide him *any* of the procedural safeguards required under law.

37. Importantly, detention of noncitizens pursuant to 8 U.S.C. § 1226(a) is *discretionary*. As recognized in this District, "the discretionary authority in § 1226(a) requires an individualized bond determination before a noncitizen may be taken into custody." *Hyppolite*, 808 F.Supp.3d at 485 (citing *Velesaca v. Decker*, 458 F.Supp.3d 224, 241 (S.D.N.Y. 2020) (noting that the government "do[es] not dispute that 8 U.S.C. § 1226(a) and its implementing regulations require ICE officials to make an individualized custody determination")); *see also Lopez Benitez v. Francis*, 795 F.Supp.3d 475, 494 (S.D.N.Y. Aug. 13, 2025) ("[I]t is clear that § 1226(a) requires some exercise of discretion when determining whether or not to detain a noncitizen in the first instance."). Thus, § 1226(a) requires the Respondents to exercise discretion on an individualized basis *prior* to detaining noncitizens such as Mr. Vasquez Reyes.

38. By subjecting Mr. Vasquez Reyes to detention under an inapplicable mandatory detention statute, Respondents failed to exercise discretion altogether. *See Lopez Benitez*, 795 F.Supp.3d at 495 (noting that an assertion that detention is mandatory is "precisely the *opposite* of an exercise of discretion") (emphasis in original); *Barco Mercado v. Francis*, 811 F.Supp.3d 487, 504 (S.D.N.Y. 2025) ("Acting automatically is the opposite of exercising discretion.").

39. As courts in this District and others have recognized, such actions by Respondents, in detaining Mr. Vasquez Reyes "pursuant to the wrong statute, without any individualized custody determination, prior notice, or opportunity to be heard . . . [violate] Petitioner's procedural due process rights." *Molina Lara*, 2026 WL 764539 at *3; *see also Barco Mercado*, 811 F.Supp.3d at 504 (holding that a

petitioner's detention "pursuant to the wrong statute violated due process"); *Yao v. Almodovar*, 813 F.Supp.3d 461, 476 (S.D.N.Y. Dec. 17, 2025) ("ICE's discretion-free detention of [the petitioner] abridged his rights under § 1226 and violated due process."); *Inestroza Carbajal*, 2026 WL 1309265 at *1 ([T]he ostensible reason [of using the § 1225(b) detention authority] was to avoid the procedural protections provided to a noncitizen under 8 U.S.C. § 1226.").

40. Notably, the facts of the present case, as relevant to detention, are nearly identical to the recent decision arising in this District in *Molina Lara v. Genalo*, where the District Court granted habeas relief and released the petitioner immediately from custody. *See* 2026 WL 764539 at *1, *3. In *Molina Lara*, the petitioner was a citizen from El Salvador who entered the United States without inspection in 2022. *See id.* at *1. After living in the United States for several years, the petitioner was apprehended by ICE in Brentwood, New York and held without individualized review pursuant to the Respondents' erroneous application of § 1225(b) in the Metropolitan Detention Center. *See id.* Based on this, the court found that "Respondents detained Petitioner pursuant to the wrong statute, without any individualized custody determination, prior notice, or opportunity to be heard." *Id.* at *3. Accordingly, the court held that the government had violated the petitioner's right to due process. *See id.* The court further noted the petitioner's minimal criminal record and held that immediate release was the proper remedy. *See id.* at *4.[1]

[1] Notably, the court in *Molina Lara* acknowledged that "there might be evidence that Petitioner presents a risk of danger to the community that warrants his detention during his removal proceedings. However, that is a determination that must be made,

41. Despite these baseline due process requirements, Respondents detained Mr. Vasquez Reyes without notice or opportunity to respond, and without any individualized determination prior to detention. Because Mr. Vasquez Reyes has been detained unlawfully and deprived of liberty without due process of law, his immediate release must be ordered.

42. Although civil immigration detention is authorized by statute, the detention may only serve two legitimate purposes: (1) mitigating flight risk; and (2) preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *Velasco Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir. 2020).

43. The Second Circuit has held that the *Matthews v. Eldridge* balancing test is applicable to determine the adequacy of process in the context of civil immigration confinement. *See Velasco Lopez*, 978 F.3d at 851 (applying *Mathews* factors), *see also, J.U. v. Maldonado*, 805 F.Supp.3d 482, 497 (E.D.N.Y. Sep. 29, 2025) (same); *Artiga v. Genalo*, 25-cv-5208 (OEM), 2025 WL 2829434 at *8 (S.D.N.Y. Dec. 26, 2025) (same). This test requires sufficient process to mitigate the risk of an erroneous deprivation of a liberty interest. *See id.*; *see also Mata Velasquez v. Kurzdorfer*, 794 F.Supp.3d 128 (W.D.N.Y. Jul. 16, 2025) (applying *Mathews* test to find that re-detention without notice likely violated due process); *Kiareldeen v. Reno*, 71 F. Supp. 2d 402, 414 (D.N.J. Oct. 20, 1999) ("The [legacy Immigration and

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if ever, by Respondents using the proper procedure, which is an individualized custody determination pursuant to Section 1226(a) . . . ." 2026 WL 764539 at *4 n.9. Because the government violated the petitioner's due process rights by failing to follow the proper statutory procedure at the outset of the petitioner's detention, the court ordered the petitioner's immediate release.

Naturalization Service ("INS")] procedures patently failed the *Mathews* test of constitutional sufficiency. And the court finds this failure to be sufficient basis to grant the petitioner's writ of habeas corpus and direct his release from custody.").

44. As set forth in *Mathews*, this Court must consider three factors to determine what procedural protections the Constitution requires: (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." 424 U.S. 319, 335 (1976).

45. *First*, the "importance and fundamental nature" of an individual's liberty interest is well-established. *See United States v. Salerno*, 481 U.S. 739, 750 (1987) *Salerno*; *see also Chavez-Alvarez v. Warden York Cnty. Prison*, 783 F.3d 469, 475 (3d Cir. 2015) ("[T]he burden to [a noncitizen's] liberty outweighs a mere presumption that the [noncitizen] will flee and/or is dangerous.") (abrogated in part on other grounds). Weighing this factor in *Velasco Lopez*, the Second Circuit found the private interest to be "on any calculus, substantial." 978 F.3d at 851–52. This is because "[f]reedom from imprisonment . . . lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690; *see also Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) ("Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action.").

As the Second Circuit has noted, "case after case instructs us that in this country liberty is the norm and detention 'is the carefully limited exception.'" *Velasco Lopez*, 978 F.3d at 851 (citing *Salerno*, 481 U.S. at 755).

46. *Second*, there is a tremendous risk of an "erroneous deprivation" of liberty through the current procedures. Indeed, as set forth *supra*, the Second Circuit has already recognized that Respondents' current procedures deprive noncitizens of liberty on an erroneous statutory classification. *See Barbosa da Cunha*, 2026 WL 1146066 at *23. Recently, a court in this District noted that "the ostensible reason" of Respondents' misuse of § 1225(b) detention authority "was to avoid the procedural protections provided to a noncitizen under 8 U.S.C. § 1226(a)." *Inestroza Carbajal*, 2026 WL 1309265 at *1. Such procedural safeguards include, *inter alia*, notice, an opportunity to be heard, and an individualized custody determination prior to detention. *See id.* at *2; *see also Lopez Benitez*, 795 F.Supp.3d at 492-93 ("[B]efore the Government may exercise such discretion to detain a person, § 1226 and its implementing regulations require ICE officials to make an individualized custody determination."); *id.* at 495 ("The purpose of requiring an exercise of discretion prior to the decision to detain a noncitizen who is not subject to mandatory detention is to prevent an erroneous deprivation of liberty."). Using the current procedures, however, Respondents failed to exercise *any* discretion or conduct any individualized review prior to detaining Mr. Vasquez Reyes. Rather, Respondents incarcerated Mr. Vasquez Reyes *solely* on the basis of their mistaken application of an inapplicable statute that erroneously subjected the Petitioner to mandatory detention without discretion or

individualized review of any dangerousness to the community or risk of flight he might pose.

47. *Third*, the proposed procedures—namely, that ICE exercise discretion prior to detaining a noncitizen on an individualized basis, as required by the applicable statute—do not prejudice the government's interest in mitigating danger and risk of flight during removal proceedings. *See Zadvydas*, 533 U.S. at 690. Indeed, the government's interest supports such procedures, because the government has an interest in "minimizing the enormous impact of incarceration in cases where it serves no purpose." *Velasco Lopez*, 978 F.3d at 854; *see also Hernandez-Lara v. Lyons*, 10 F.4th 19, 33 (1st Cir. 2021) (noting that "limiting the use of detention to only those noncitizens who are dangerous or a flight risk may save the government, and therefore the public, from expending substantial resources on needless detention"). Additionally, "unnecessary detention imposes substantial societal costs. . . . The needless detention of [noncitizens] thus separates families and removes from the community breadwinners, caregivers, parents, siblings and employees. Those ruptures in the fabric of communal life impact society in intangible ways that are difficult to calculate in dollars and cents." *Hernandez-Lara*, 10 F.4th at 33 (citation and internal quotation marks omitted); *Black v. Decker*, 103 F.4th 133, 154 (2d Cir. 2024) ("Where the noncitizen poses no danger and is not a flight risk, all the government does in requiring detention is separate[ ] families and remove[ ] from the community breadwinners, caregivers, parents, siblings and employees.") (internal quotations and citations omitted). In this case, Respondents would not have been

prejudiced by having to conduct such individualized review before detaining Mr. Vasquez Reyes, as the statute already requires and which Respondents failed to do. *See Barbosa da Cunha*, 2026 WL 1146044 at *23; *Inestroza Carbajal*, 2026 WL 1309265 at *1 ("[The petitioner's] arrest and detention was illegal when it was initiated."). And as the District Court in *Molina Lara* recognized, the proper method of securing the government's interest in minimizing flight risk and preventing danger to the community is to follow the duly authorized, statutorily required procedures, *i.e.*, by conducting an individualized, discretionary review *prior* to detention. *See* 2026 WL 764539 at *4 n.9.

48. Respondents violated Mr. Vasquez Reyes's right to due process and immediate release is the appropriate remedy, with an order preventing re-detention until and unless Respondents provide notice and the opportunity to respond to any intent to re-detain. *See Molina Lara*, 2026 WL 764539 at *4 (ordering the immediate release of a petitioner who had been erroneously detained in the first instance under § 1225(b), and rejecting the Respondents' contention that a bond hearing is an appropriate remedy); *Colindres v. Tellez*, 26-cv-0663 (PKC), 2026 WL 509493, at *3 (E.D.N.Y. Feb. 23, 2026) ("Given that Petitioner was not afforded due process prior to his re-detention, the appropriate remedy is release, not an order directing Respondents to give Petitioner a bond hearing."); *Yao*, 813 F.Supp.3d at 477 ("A bond hearing after the fact, by definition, would not and cannot cure [the] constitutional violation. Although [the petitioner's] release today cannot cure his loss of liberty . . . this remedy, relative to the procedural one of ordering a bond hearing, is the one that

comes closest to doing so."); *Y-C- v. Genalo*, No. 25-cv-6558 (NCM), 2025 WL 3653496 at *7 (E.D.N.Y. Dec. 17, 2025) ("To remedy petitioner's deprivation of due process . . . no relief short of petitioner's immediate release would be appropriate or sufficient in this case.").

CLAIMS FOR RELIEF

COUNT I

Violation of the Immigration and Nationality Act

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

50. The mandatory detention provision of § 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 Petitioner, who previously entered the country and has 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.

51. The application of § 1225(b)(2) to Petitioner unlawfully mandates his detention and violates the I.N.A.

52. Petitioner is entitled to immediate release.

COUNT II

Violation of Due Process

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

54. 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.

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

56. Respondents' detention of Petitioner without individualized consideration of whether he is a flight risk or danger to others and without notice or opportunity to respond and without individualized review, violates his right to due process of law.

57. Due to these violations of his constitutional right to due process, Petitioner is entitled to immediate release.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Eastern District of New York 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, 28 U.S.C. § 2243;

d. Issue a Writ of Habeas Corpus requiring that Respondents immediately release Petitioner;

e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

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

Dated: May 14, 2026

Respectfully submitted by:

/s/ Jordan C. Manalastas
Jordan Calazan Manalastas
THE LEGAL AID SOCIETY
49 Thomas Street, Fifth Floor
New York, New York 10013
(212) 298-3182
jmanalastas@legal-aid.org

Counsel for Petitioner

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

I am submitting this verification on behalf of Marco Angel Vasquez Reyes because I am one of his attorneys at the Legal Aid Society, I have represented Mr. Vasquez Reyes in his immigration court proceedings, I have reviewed his case materials, and I have communicated extensively with Mr. Vasquez Reyes. On information and belief, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

Dated: May 14, 2026

Respectfully submitted by:

/s/ Nusrat Hussain

Nusrat Hussain
THE LEGAL AID SOCIETY
49 Thomas St., Fifth Floor
New York, New York 10013
(212) 298-5253
nhussain@legal-aid.org