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U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

BASHAR MOHAMMAD AHMAD AREEQ, Petitioner, vs. FRANCISCO AYALA, *ICE Assistant Field Office Director for Alabama;* CHRISTOPHER S. BULLOCK *ICE Field Office Director of the New Orleans;* TODD LYONS, *in his official capacity as Acting Director of Immigration and Customs Enforcement*; and MARKWAYNE MULLIN, *Secretary of Homeland Security; and* TODD BLANCHE, *U.S. Attorney General.* Respondents.	)	CASE NO.:

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. This habeas petition challenges the ongoing civil immigration detention of Petitioner BASHAR MOHAMMAD AHMAD AREEQ, A###-###-974, who is detained by U.S. Immigration and Customs Enforcement (ICE) at the Birmingham ICE office in Alabama. Petitioner was apprehended in the interior of the United States following a local traffic stop, nearly two years after his entry, and DHS is treating him as subject to mandatory detention despite his prior release by immigration authorities, without bond under 8 U.S.C. § 1225(b)(2)(A). Petitioner is believed, based on family confirmation,

to be detained at the Birmingham ICE office in Alabama. Counsel has been unable to verify his A-number or obtain confirmation through the ICE online locator, which did not display Petitioner's location minutes before filing. *See* Exhibit 1 (ICE Locator).

2. Binding Eleventh Circuit precedent forecloses that detention theory. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, --- F.4th ----, 2026 WL 1243395 (11th Cir. 2026), the Eleventh Circuit held that § 1225(b)(2)(A) does not impose no-bond mandatory detention on interior noncitizens who previously entered without inspection but were not seeking lawful entry when arrested.
3. The Eleventh Circuit held that § 1225(b)(2)(A) is limited to applicants for admission who are "seeking admission," and that neither petitioner there was seeking lawful entry when arrested after a traffic stop.
4. The Eleventh Circuit further explained that § 1226 generally governs the arrest and detention of noncitizens present in the country pending removal proceedings, while § 1225 governs arriving noncitizens seeking entry at the border or port of entry.
5. Petitioner is materially situated like the petitioners in *Hernandez Alvarez*: he entered without inspection years ago, was later encountered in the interior after a traffic stop, and is being denied bond based solely on DHS's erroneous application of § 1225(b)(2)(A).
6. The Seventh Circuit's decision in *Castañon-Nava v. U.S. Department of*

Homeland Security, --- F.4th ----, 2026 WL 1223250 (7th Cir. 2026), provides persuasive support for the same reading of the INA. In *Castañon-Nava*, the Seventh Circuit concluded that § 1225(b)(2)(A) applies to applicants for admission seeking lawful entry at the border or ports of entry, not to noncitizens living in the interior.

7. Respondents' principal detention theory is foreclosed by binding Eleventh Circuit precedent. Petitioner was apprehended in the interior of the United States years after entry and was not seeking lawful entry at a border, port of entry, or other inspection point when ICE assumed custody. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, --- F.4th ----, 2026 WL 1243395 (11th Cir. 2026), the Eleventh Circuit held that 8 U.S.C. § 1225(b)(2)(A) does not authorize no-bond mandatory detention for interior noncitizens who previously entered without inspection but were not "seeking admission" when arrested. Petitioner's custody therefore must proceed, if at all, under 8 U.S.C. § 1226, unless DHS proves that a specific mandatory-detention provision applies.

8. Independently, Petitioner challenges ICE's warrantless interior seizure and re-detention. Section 1226(a) authorizes arrest and detention "[o]n a warrant issued by the Attorney General," and § 1226(b) permits revocation and rearrest under the original warrant only where bond or parole was authorized under § 1226(a). 8 U.S.C. § 1226. On information and belief, ICE assumed custody without a warrant and without an individualized basis to

conclude that immediate warrantless arrest was necessary. This claim provides an independent basis for relief or, at minimum, for an order requiring Respondents to justify the arrest and custody basis. In *Castañon-Nava v. U.S. Department of Homeland Security*, --- F.4th ----, 2026 WL 1223250 (7th Cir. 2026), the Seventh Circuit recognized that release may be appropriate where an immigration arrest violates § 1357(a)(2), but emphasized the need for an individualized determination that the arrest was unlawful. Here, upon information and belief, Petitioner was already secured by local law enforcement when ICE assumed custody, and ICE had no individualized basis to conclude that he was likely to escape before a warrant could be obtained.

9. Petitioner seeks a writ of habeas corpus as well as declaratory, and injunctive relief, ordering Respondents to cease detaining him under § 1225(b)(2)(A), to treat his custody under § 1226, and to provide immediate release or, at minimum, a prompt bond hearing before an immigration judge under § 1226 and its implementing regulations. A detailed statement of facts and procedural history follows, supporting Petitioner's claims for relief.

II. JURISDICTION

A. This Court Has Jurisdiction Under 28 U.S.C. § 2241 and § 1331

10. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody and challenges the legal authority for his civil immigration detention.

11. This Court also has federal question jurisdiction under 28 U.S.C. § 1331 because Petitioner raises claims arising under the Constitution and laws of the United States.

12. In *Hernandez Alvarez*, the Eleventh Circuit reviewed § 2241 habeas petitions challenging detention under § 1225(b)(2)(A) and affirmed habeas relief where the district court concluded that § 1226 governed the petitioners' detention.

13. Petitioner challenges only the legal basis and procedures for his detention; he does not ask this Court to decide removability, terminate removal proceedings, or review any final order of removal.

14. Section 1252(f)(1) does not bar individualized relief for Petitioner. The Eleventh Circuit in *Hernandez Alvarez* affirmed habeas relief for two individual petitioners challenging their detention under § 1225(b)(2)(A).

15. To preserve this Court's habeas jurisdiction, Petitioner requests an order prohibiting Respondents from transferring him outside the Northern District of Alabama or changing his immediate custodian while this case is pending.

III. VENUE

16. Venue is proper in the United States District Court for the Northern District of Alabama because Petitioner is currently detained at the Birmingham ICE office, Alabama, under the custody of the Department of Homeland Security (DHS). Habeas petitions generally are filed in the district court with jurisdiction over the filer's place of custody, also known as the district of confinement, pursuant to 28 U.S.C. § 2241. Additionally, with respect to Petitioner's non-habeas claims seeking prospective declaratory and injunctive relief against federal officials (agencies and officers of the United States) sued in their official capacities, venue is proper under 28 U.S.C. § 1391(e)(1)(B) because a substantial part of the events or omissions giving rise to these claims, including the initial arrest and continued detention of Petitioner and the enforcement of the mandatory detention agency interpretation, occurred in this District. Furthermore, the Respondents are officers of United States agencies, the Petitioner is detained within this District, and there is no real property involved in this action.

IV. PARTIES

17. Petitioner, Bashar Mohammad Ahmad Areeq, is a 29-year-old noncitizen who entered the United States in or about May 2024. On or about May 21, 2026, Petitioner was stopped by local law enforcement in Birmingham, Alabama while driving a work truck for the moving company jointly owned and operated with his wife. He is currently detained in Birmingham, Alabama and, upon information and belief, is subject to imminent transfer to Louisiana. Petitioner has no criminal history, poses no danger to the community, and presents no meaningful risk of flight.

18. Respondent Francisco Ayala is the ICE Alabama Assistant Field Office Director. As such, Respondent Ayala is responsible for the operation of the Detention Center where Petitioner is detained and is the immediate custodian who is currently holding Petitioner in physical custody. Because ICE contracts with private and county-operated detention facilities to house immigration detainees, Respondent Francisco Ayala has immediate physical custody of the Petitioner and is sued in his official capacity.

19. Respondent Christopher S. Bullock is the New Orleans Field Office Director (FOD) for ICE. As such, Respondent Bullock is responsible for the oversight of ICE operations throughout Alabama. Respondent Bullock is being sued in his official capacity. He is the head of the ICE office responsible for Petitioner's arrest and continued detention. He is sued as the immediate *legal* custodian of Petitioner.

20. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (ICE). As such, Respondent Lyons is responsible for the oversight of ICE operations and the head of the federal agency responsible for all immigration enforcement in the United States. Respondent Lyons is being sued in his official capacity.

21. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Mullin is the cabinet-level official responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official capacity.

22. Respondent Todd Blanche is the Attorney General of the United States and is sued in his official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal cases and applications for bond and relief from removal do so as his designees at the Executive Office for Immigration Review (EOIR).

23. Petitioner names certain federal officials in their official capacities solely to preserve alternative, non-habeas avenues for prospective relief—such as as-applied declaratory and injunctive orders under 28 U.S.C. § 1331, the APA's waiver of sovereign immunity, 5 U.S.C. § 702, the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and the All Writs Act, 28 U.S.C. § 1651—necessary to enjoin enforcement of DHS regulations and their interpretation as applied to Petitioner, ensure compliance with DHS/EOIR custody

regulations, prevent transfer or removal of Petitioner, and effectuate any release the Court orders at the agency level where policy and implementation authority reside. See, e.g., *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682 (1949); *Dugan v. Rank*, 372 U.S. 609 (1963).

24. Petitioner acknowledges, consistent with *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that the proper respondent to the habeas claim is the immediate custodian, and does not rely on the federal officials as "habeas respondents." Rather, Petitioner names these federal officials in their official capacities solely to ensure that the Court can issue effective relief on non-habeas claims, such as declaratory and injunctive relief, and to direct agency action to those with actual authority to implement it. Should the Court find these officials improper as respondents to the habeas count, Petitioner respectfully requests that any dismissal be limited to that claim and without prejudice to their continued status as respondents for the non-habeas claims. Maintaining these officials as parties is necessary to ensure that, if relief is granted, the responsible agency officials cannot simply re-arrest Petitioner or otherwise frustrate the Court's order by invoking their erroneous interpretation of the INA. This approach is consistent with *Padilla* and ensures that the Court's orders are both effective and enforceable.

V. STATEMENT OF FACTS AND PROCEDURAL HISTORY

25. Petitioner, Bashar Mohammad Ahmad Areeq, is a 29-year-old noncitizen who entered the United States in or about May 2024 through the southern border and was subsequently released by immigration authorities into removal proceedings. Petitioner was released by DHS on an Order of Release on Recognizance (OREC) after Respondents found he is not a flight risk or a danger. See Exhibit 2 (OREC). Petitioner has continuously resided in the United States since that time and currently has removal proceedings pending before the Immigration Court, with his next hearing scheduled for October 27, 2027. *See* Exhibit 3 (EOIR). Upon information and belief, Petitioner has complied with all obligations related to his pending immigration proceedings since his release.

26. Petitioner married a U.S. citizen on April 8, 2026. His wife is currently pregnant with their child.

27. Petitioner currently works in Alabama. Petitioner and his wife jointly own and operate a moving company in Alabama and share financial accounts and other marital ties. Petitioner has no criminal history, no prior arrests, and no convictions. He has no history of violence or any conduct suggesting that he poses a danger to the community.

28. Earlier today on May 21, 2026, Petitioner was stopped by local law enforcement officers around Birmingham, Alabama while operating a work truck in connection with the moving business jointly operated with his wife.

According to information provided by Petitioner's wife, the stop appeared to be a routine commercial vehicle inspection. Petitioner was legally operating the truck since he possessed a valid New Jersey driver's license at the time of the stop and was not charged with any criminal offense or traffic violation. Nevertheless, because Petitioner does not speak English, local law enforcement officers contacted ICE, which thereafter assumed custody of Petitioner following the stop. From the description provided by Petitioner's wife, the stop and the seizures were unlawful.

29. Petitioner was initially detained at or near Birmingham, Alabama and, upon information and belief, is subject to imminent transfer to Pickens County, Alabama and thereafter to a detention facility in Louisiana. Since the moment of his arrest on or about May 21, 2026, Petitioner has been moved to the Birmingham, Alabama ICE Field Office located at 107 Frankfurt circle, Birmingham AL 35211, from where he called his wife. However the ICE locator does not show an exact location currently. See **Exhibit 1.**

30. At no point between the local traffic stop and ICE's assumption of physical custody was Petitioner released from detention. ICE officers assumed custody of Petitioner directly from local law enforcement officers following the stop and subsequent detention. ICE did not encounter Petitioner at the border, at a port of entry, or while he was attempting to seek admission into the United States. Rather, Petitioner was encountered in the interior of the

United States nearly two years after his entry and after having already been released into removal proceedings by immigration authorities.

31. DHS is detaining Petitioner as though he were subject to mandatory detention under 8 U.S.C. § 1225(b), despite the fact that Petitioner had previously been processed and released by immigration authorities and was residing in the interior of the United States with pending removal proceedings at the time of his arrest. Petitioner is not an arriving alien presently seeking admission into the United States, nor was he taking any step to obtain admission when he was seized by ICE.

32. Under *Hernandez Alvarez*, that factual posture places Petitioner outside § 1225(b)(2)(A)'s no-bond detention regime.

33. Under *Hernandez Alvarez*, Petitioner's detention is governed by § 1226 unless another specific mandatory detention provision applies.

34. Upon information and belief, Petitioner is not subject to mandatory detention under § 1226(c), and DHS has not identified any criminal conviction, terrorism-related ground, or other statutory basis requiring mandatory detention.

VI. EXHAUSTION OF REMEDIES

35. **No statutory exhaustion requirement applies to habeas cases.** Exhaustion is not required, or should be excused, because Petitioner presents a pure legal question controlled by binding Eleventh Circuit precedent: whether §

1225(b)(2)(A) authorizes his no-bond detention. In *Hernandez Alvarez*, the Eleventh Circuit resolved that issue on habeas review and affirmed relief for interior EWI petitioners detained under DHS's § 1225(b)(2)(A) theory. Any administrative bond request would be inadequate if DHS or EOIR treats Petitioner as categorically ineligible for bond under § 1225(b)(2)(A). To the extent Petitioner seeks procedural protections at any court-ordered § 1226(a) bond hearing, exhaustion should also be excused because that issue presents a constitutional due process question not within the BIA's authority to finally resolve.

36. Petitioner has exhausted administrative remedies to the extent required by law, and Petitioner's only remedy is by way of this judicial action.

VII. RESPONDENTS UNLAWFULLY RE-DETAINED PETITIONER WITHOUT A VALID REVOCATION OR CUSTODY DETERMINATION

37. Petitioner's detention is not the result of an initial custody determination but a re-detention following a prior release, executed without the custody process required by federal regulations and due process. Petitioner was previously released by immigration authorities on an Order of Release on Recognizance and has remained in pending removal proceedings. Respondents' current detention therefore required a lawful basis for revocation, a valid custody determination, and notice sufficient to permit review. Respondents' failure to provide those safeguards warrants release

or, at minimum, an order requiring Respondents to justify the arrest, revocation, and current custody classification.

A. The Revocation Violated Mandatory Regulations and Was Executed Without Lawful Authority

38. The authority to revoke a parole or an Order of Release on Recognizance (OREC) is strictly limited by regulation to a narrow group of officials. 8 C.F.R. § 236.1(c)(9) provides: "When an alien who, having been arrested and taken into custody, has been released, such release may be revoked at any time in the discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign), in which event the alien may be taken into physical custody and detained." This authority is exclusive, and DHS Delegation Order 7030.2 expressly prohibits its redelegation. Exhibit 4. Any revocation by an unauthorized official is therefore ultra vires and invalid.

39. When he was apprehended upon entry, Petitioner was released on an Order of Release on Recognizance (OREC), which documents a custody determination made under 8 U.S.C. § 1226(a) and its implementing regulation, 8 C.F.R. § 236.1. 8 U.S.C. § 1226(a) authorizes arrest and detention pending a removal decision and permits release on bond or conditional parole except where § 1226(c) applies.

40. Both federal courts and the Board of Immigration Appeals have repeatedly

recognized that an OREC constitutes a release under § 1226(a) pending removal proceedings. See, e.g., *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115–16 (9th Cir. 2007); *Cruz-Miguel v. Holder*, 650 F.3d 189, 191 (2d Cir. 2011); *Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 749 (BIA 2023).

41. Furthermore, the regulatory framework for changing a noncitizen's custody status requires a custody process capable of review. Under 8 C.F.R. § 236.1(d)(1), after an initial custody determination by the district director, the respondent may request review by an immigration judge at any time before the removal order becomes final, except as otherwise provided. The regulations also contemplate formal notice of a custody determination: under 8 C.F.R. § 236.1(g)(1), an immigration official may issue a Form I-286, Notice of Custody Determination, at the time of issuance of the Notice to Appear or later while removal proceedings remain pending. These are not mere formalities but substantive safeguards to ensure any deprivation of liberty is based on individualized information and subject to fair adjudication.

42. Here, none of these required procedures were followed. Petitioner was summarily arrested without being provided a new written custody determination, written revocation decision, statement of reasons, notice of custody rights, or identification of the official who ordered the revocation. Respondents should therefore be required to produce any Form I-286, Form I-200, revocation memorandum, custody determination, notice of custody

rights, and document identifying the official who authorized Petitioner's renewed detention. Failure to comply with these procedures renders the revocation invalid. See, e.g., *Santamaria Orellana v. Baker*, No. 1:25-cv-02841 (D. Md. Oct. 7, 2025); *J.U. v. Maldonado*, No. 25-CV-04836, 2025 WL 2772765, at 10 (E.D.N.Y. Sept. 29, 2025).

43. The absence of those documents is independently significant because § 1226 supplies the general framework for detention of interior noncitizens pending removal proceedings unless a specific mandatory-detention provision applies. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, No. 25-14065, No. 25-14075, 2026 WL 1243395 (11th Cir. May 6, 2026), the Eleventh Circuit held that § 1226, not § 1225(b)(2)(A), governs detention of interior noncitizens who were not seeking lawful entry when arrested. Petitioner is materially situated within that rule because he was arrested in the interior after a traffic stop and was not seeking lawful entry at a border, port of entry, or inspection point when ICE assumed custody. Respondents therefore cannot avoid the custody procedures applicable under § 1226 by reclassifying Petitioner as subject to mandatory no-bond detention under § 1225(b)(2)(A).

B. The Revocation Violated Petitioner's Fifth Amendment Right to Due Process

44. Because Petitioner had been released on an OREC, he acquired a protected liberty interest in his continued freedom. The summary revocation of that

liberty without notice, an individualized custody determination, or a meaningful opportunity for review violates the Fifth Amendment's Due Process Clause. The governing standard for procedural due process is the three-part balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976), which weighs the private interest, the risk of erroneous deprivation, and the government's interest.

45. First, Petitioner's private liberty interest is paramount. He has lived in the United States on supervised release, complied with his release obligations, and built substantial family and community ties. "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). The abrupt and unexplained deprivation of this liberty constitutes a profound intrusion.

46. Second, the risk of erroneous deprivation from the procedures used—which were no procedures at all—is exceptionally high. Detaining a compliant individual without advance notice, an individualized assessment, or an opportunity to be heard creates a near-certainty of error. The procedural safeguards required by regulation and affirmed by federal courts—notice, a hearing, and a decision by an authorized official—are the "substitute procedural safeguards" that would eliminate this risk. Their complete absence here makes the due process violation manifest. See, e.g., *J.U. v. Maldonado*, 2025 WL 2772765, at 10 (holding that "ongoing

detention of Petitioner with no process at all... violates his due process rights"); *Pinchi v. Noem*, No. 5:25-cv-05632-PCP, 2025 WL 2084921, at 5 (N.D. Cal. July 24, 2025); *Kelly v. Almodovar*, No. 25 Civ. 6448 (AT), 2025 WL 2381591, at *3 (S.D.N.Y. Aug. 15, 2025). The procedural safeguards required by regulation—notice, a custody determination, and review before an immigration judge—are the safeguards necessary to reduce that risk. 8 C.F.R. § 236.1(d)(1), (g)(1).

47. Third, the government's interest does not justify re-detention without process. While the government has an interest in detaining noncitizens who pose a flight risk or danger, Respondents previously released Petitioner on supervision and have not identified any new individualized basis showing that he is a danger or flight risk. The administrative burden of providing written notice, a custody determination, and a prompt opportunity for review is minimal compared to the severe harm of physical detention. Respondents' failure to provide these procedural protections before re-detaining Petitioner renders his continued detention unlawful and supports immediate release or, at minimum, prompt custody review under § 1226(a).

C. Respondents Should Not Be Permitted To Re-Characterize Petitioner's Detention Status To Avoid § 1226 Custody Procedures

48. By releasing Petitioner on an OREC, DHS previously treated Petitioner as eligible for discretionary release under the custody framework now

codified at 8 U.S.C. § 1226 and implemented by 8 C.F.R. § 236.1. Section 1226(a) permits release on bond or conditional parole except where § 1226(c) applies. Section 236.1(c)(9) governs revocation of release after arrest, custody, and release.

49. Respondents should not be permitted to re-characterize Petitioner's detention status to avoid those custody procedures. If DHS contends that Petitioner's prior release was revoked, it must identify the lawful authority for that revocation, the official who authorized it, and the documents supporting the new custody determination. If DHS instead contends that Petitioner is now subject to mandatory detention under § 1225(b)(2)(A), that position is foreclosed by *Hernandez Alvarez*, which held that § 1226 governs interior noncitizens who were not seeking lawful entry when arrested.

50. Petitioner relied on DHS's prior release determination, complied with the terms of his release, and remained in pending removal proceedings. To allow Respondents to disregard that prior custody posture without written notice, a valid revocation, or a new custody determination would undermine the regulatory process governing release and re-detention.

51. Accordingly, Respondents must be required to establish a lawful statutory and regulatory basis for Petitioner's re-detention. If they cannot produce a valid warrant, custody determination, revocation decision, notice of custody rights, and documentation identifying the authorized official responsible for the re-detention, Petitioner is entitled to release or, at

minimum, immediate custody process under § 1226(a).

52. If Respondents contend that Petitioner's prior release was revoked, they must identify the lawful authority for that revocation and the official who authorized it. Under 8 C.F.R. § 236.1(c)(9), release after arrest and custody may be revoked only in the discretion of specified officials, including the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge

VIII. ICE'S WARRANTLESS INTERIOR ARREST AND REDETENTION PROVIDE AN INDEPENDENT BASIS FOR RELEASE

53. Petitioner's detention is unlawful from its very inception because his arrest by police followed by ICE violated the clear and restrictive statutory framework established by Congress. The Immigration and Nationality Act (INA) provides only two potential authorities for a civil immigration arrest in the interior of the United States. The primary authority, 8 U.S.C. § 1226(a), explicitly requires that an arrest be conducted **"[o]n a warrant** issued by the Attorney General". The statute provides a narrow exception to this rule in 8 U.S.C. § 1357(a)(2), which permits a warrantless arrest only where an officer has reason to believe the individual is unlawfully present and is "likely to escape before a warrant can be obtained." Respondents satisfied neither of these statutory requirements, as further detailed above, rendering the seizure of Petitioner a legal nullity

from the outset.

54. The warrantless seizure of Petitioner was statutorily invalid because Respondents could not possibly meet the exigency requirement of 8 U.S.C. § 1357(a)(2). The "likely to escape" determination is a mandatory prerequisite, not mere surplusage. See *United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 878 (S.D. Ohio 2016). Here, it was a factual impossibility for Petitioner to pose a risk of escape, as he was secured in the custody of other law enforcement. Since the exception for a warrantless arrest is inapplicable, Respondents' only remaining authority was 8 U.S.C. § 1226(a), which required a warrant that Respondents did not possess. Having failed under both statutory provisions, the arrest was void ab initio.

55. In *Castañon-Nava v. U.S. Department of Homeland Security*, --- F.4th ----, 2026 WL 1223250 (7th Cir. 2026), the Seventh Circuit described § 1357(a)(2) as governing warrantless immigration arrests and requiring probable cause that the subject is likely to escape before a warrant can be obtained.

56. Petitioner was already secured by local law enforcement when ICE assumed custody, so there was no individualized basis to conclude that he was likely to escape before a warrant could be obtained. The absence of any warrant and the absence of exigency independently render Petitioner's seizure unlawful.

57. *Castañon-Nava* recognized release as an available remedy for class members whose warrantless arrests violated § 1357(a)(2), but it required an

individualized determination that the person was actually arrested contrary to the governing legal standard.

58. Because Respondents have not established a lawful basis for the arrest, re-detention, and current custody classification, Petitioner is entitled to release. At minimum, Respondents should be ordered to show cause and produce any Form I-200 warrant, Form I-286 custody determination, revocation memorandum, notice of custody rights, and written decision identifying the official who authorized Petitioner's renewed detention. If Respondents cannot establish a lawful basis for the arrest and continued custody, release is warranted; alternatively, Petitioner must receive immediate custody process under § 1226(a). *See Rosado v. Figueroa*, No. CV-25-02157-PHX DLR, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025). Law and justice require restoring the liberty that was unlawfully taken.

59. Petitioner's detention is thus unlawful under any statutory theory Respondents could possibly advance. Petitioner's detention was initiated under 8 U.S.C. § 1225, a statute district Courts around the country have repeatedly found inapplicable to interior apprehensions in dozens of cases involving similarly situated petitioners. Yet, even if Respondents had attempted to detain him under the correct statute for interior apprehensions, 8 U.S.C. § 1226(a), the arrest would still be void because they failed to obtain the prerequisite warrant that the statute unequivocally requires. These are not mere procedural missteps; an arrest conducted without any statutory

authority is an unreasonable seizure that violates the Fourth Amendment. Because the initial seizure and subsequent detention are unlawful *ab initio* under either statutory scheme, the only appropriate and constitutionally sufficient remedy is the one that restores the liberty that was illegally taken: immediate and unconditional release. A bond hearing under § 1226(a) is an inadequate remedy because it presupposes a lawful arrest under that statute—a condition that does not exist here.

IX. LEGAL FRAMEWORK AND ARGUMENT

A. Binding Eleventh Circuit precedent establishes that § 1225(b)(2)(A) does not govern Petitioner's detention

60. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, --- F.4th ----, 2026 WL 1243395 (11th Cir. 2026), the Eleventh Circuit rejected DHS's new interpretation of § 1225(b)(2)(A).

61. The Eleventh Circuit held that § 1225(b)(2)(A) limits no-bond detention to applicants for admission who are "seeking admission."

62. The Eleventh Circuit held that interior noncitizens who entered without inspection years earlier and were later arrested after traffic stops were not "seeking admission" when detained.

63. The Eleventh Circuit further held that seeking relief from removal or contesting removal proceedings is not the same as seeking admission under § 1225(b)(2)(A).

64. Petitioner's case falls within Hernandez Alvarez because Petitioner was arrested in the interior after a traffic stop and was not seeking lawful entry into the United States when seized.

65. Accordingly, DHS cannot lawfully deny Petitioner bond eligibility by classifying him as subject to mandatory detention under § 1225(b)(2)(A).

B. Section 1226 governs Petitioner's custody unless DHS proves a specific mandatory-detention provision applies

55. In *Hernandez Alvarez*, the Eleventh Circuit explained that § 1226 provides the general detention framework for noncitizens present in the United States pending removal proceedings.

56. The Eleventh Circuit also explained that § 1226(a) authorizes DHS either to continue detention or to release the noncitizen on bond or conditional parole, while § 1226(c) limits that discretion only for enumerated categories.

57. The Eleventh Circuit relied on *Jennings v. Rodriguez*, 583 U.S. 281 (2018), for the distinction between § 1225 detention of noncitizens seeking admission and § 1226 detention of noncitizens already present in the country.

58. The Eleventh Circuit also reasoned that DHS's reading would create serious redundancy with § 1226(c), including Congress's 2025 addition of § 1226(c)(1)(E) through the Laken Riley Act.

59. Petitioner is not alleged to fall within § 1226(c), so he must receive the custody process available under § 1226(a).

C. *Castañon-Nava* confirms the same statutory reading

60. In *Castañon-Nava v. U.S. Department of Homeland Security*, --- F.4th ----, 2026 WL 1223250 (7th Cir. 2026), the Seventh Circuit held that § 1225(b)(2)(A) applies to noncitizens seeking lawful entry at the border or ports of entry, not to noncitizens living in the interior.

61. The Seventh Circuit found that the text, statutory context, legislative history, and longstanding Executive practice supported that conclusion.

62. The Seventh Circuit also explained that Congress's 2025 amendment to § 1226(c) would be redundant if all interior EWI noncitizens were already subject to mandatory detention under § 1225(b)(2)(A).

63. Although *Castañon-Nava* is persuasive rather than binding in this Court, its reasoning accords with the now-binding rule of *Hernandez Alvarez*.

X. LEGAL FRAMEWORK FOR THE RELIEF SOUGHT

64. This Court has fundamental authority and a constitutional duty under 28 U.S.C. § 2241 to remedy Petitioner's unlawful detention. The Supreme Court has consistently affirmed that the Great Writ is the primary instrument for challenging the legality of civil immigration detention.

65. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *I.N.S. v. St. Cyr*, 533 U.S. 289, 314 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 285–86 (2018). As "perhaps the most important writ known to the constitutional law," habeas corpus is an equitable tool that empowers this Court not just to review custody, but

to "dispose of the matter as law and justice require" under 28 U.S.C. § 2243. *Fay v. Noia*, 372 U.S. 391, 400 (1963); *Schlup v. Delo*, 513 U.S. 298, 319 (1995). That power explicitly includes ordering a petitioner's immediate release. *Boumediene v. Bush*, 553 U.S. 723, 787 (2008). This Court's jurisdiction is secure, as the concept of "custody" is broad, attaching at the time of filing and persisting despite subsequent release due to the significant ongoing restraints on Petitioner's liberty. *See Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973).

66. The Court must grant the petition for writ of habeas corpus or order Respondent 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, Respondent must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

67. 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).

X. CAUSES OF ACTION AND CLAIMS FOR RELIEF

COUNT ONE
Unlawful Detention Under the INA and 28 U.S.C. § 2241

68. Respondents are detaining Petitioner under § 1225(b)(2)(A) even though he was arrested in the interior years after entry and was not seeking lawful entry when seized.

69. In *Hernandez Alvarez*, the Eleventh Circuit held that § 1225(b)(2)(A) does not authorize no-bond detention of similarly situated interior EWI petitioners who were not seeking admission when arrested.

70. Respondents' continued classification of Petitioner as subject to § 1225(b)(2)(A) is contrary to binding Eleventh Circuit law.

71. Petitioner's detention must instead proceed, if at all, under § 1226.

72. Petitioner is entitled to habeas relief requiring Respondents to cease detaining him under § 1225(b)(2)(A) and to provide release or a prompt custody hearing under § 1226.

COUNT TWO
Unlawful Warrantless Arrest and Re-Detention in Violation of the INA and Due Process (8 U.S.C. §§ 1226(a), 1357(a)(2))

73. Petitioner's seizure and detention are unlawful *ab initio* because his arrest violated the clear statutory framework established by Congress and the Fourth Amendment's prohibition on unreasonable seizures. The primary authority for a civil immigration arrest in the interior of the United States requires that it be conducted "**[o]n a warrant**." 8 U.S.C. § 1226(a). The narrow exception for a warrantless arrest under 8 U.S.C. § 1357(a)(2)

demands a showing that the individual is "likely to escape before a warrant can be obtained".

74. *Castañon-Nava* confirms that § 1357(a)(2) governs warrantless immigration arrests and requires an individualized likelihood-of-escape basis. Petitioner was already secured by local law enforcement when ICE assumed custody, so Respondents lacked a valid basis to conclude that he was likely to escape before a warrant could be obtained. Having failed to satisfy the statute's mandatory exigency requirement, Respondents' only lawful path to arrest Petitioner was to obtain a warrant under 8 U.S.C. § 1226(a), which they have failed to do.

75. An arrest conducted without any statutory authority is an unreasonable seizure in violation of the Fourth Amendment. Because the initial seizure was void, the government's custody over Petitioner's person is the direct "fruit of the poisonous tree" and is incurably tainted. A subsequent bond hearing cannot remedy a detention that never had a lawful beginning. Petitioner is entitled to an order requiring Respondents to show cause why his arrest and continued detention are lawful, to produce any warrant, revocation decision, custody determination, and written notice supporting the arrest and detention, and to release Petitioner unless Respondents establish a lawful statutory basis for custody. The most effective remedy for this fundamental statutory and constitutional violation is immediate and unconditional release.

COUNT THREE
Violation of the Fifth Amendment of the U.S. Constitution
Procedural and Substantive Due Process

76. Petitioner's detention is a profound offense to the Fifth Amendment, violating his rights to both substantive and procedural due process. It is axiomatic that the Due Process Clause applies to all persons within the United States, regardless of immigration status, and that "freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner has a protected liberty interest in freedom from physical detention. Respondents' actions trample upon this fundamental right.

77. Respondents have deprived Petitioner of liberty through a categorical no-bond detention regime that binding Eleventh Circuit law does not authorize. Because Petitioner is not subject to § 1225(b)(2)(A), continued detention without an individualized custody determination violates due process. At minimum, due process requires a prompt hearing at which the government must justify continued detention based on individualized evidence of flight risk or danger.

78. **Substantive Due Process:** The detention is substantively unconstitutional because it is arbitrary and serves no legitimate, non-punitive purpose. Civil immigration detention is permissible only to prevent flight or danger to the

community. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 846 (2018). As established, Petitioner is neither a flight risk nor a danger. Petitioner's mandatory detention, without any individualized assessment, bears no reasonable relation to any legitimate government purpose and is therefore arbitrary deprivation of liberty, excessive, and unconstitutional.

79. **Procedural Due Process:** Even if a legitimate purpose for detention existed, the procedures used to effectuate it are procedurally deficient. Due process demands a "meaningful opportunity to be heard at a meaningful time and in a meaningful manner" before a neutral decision-maker. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). The current scheme—whereby Respondents unilaterally subject Petitioner to mandatory detention based on an unlawful policy—entirely lacks these fundamental safeguards and fails the three-part balancing test set forth in *Mathews*:

80. **The Private Interest**: Petitioner's liberty interest is paramount; the risk of erroneous deprivation is extreme considering that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c), is not a flight risk, and does not pose a danger to the community. Being free from physical detention by one's own government "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The right to be free of detention of indefinite duration pending a bail determination, is "without question, a weighty one." *Landon v. Plasencia*. Petitioner is being held in jail in the same

conditions as criminal inmates, unable to work and is far from family. At minimum, the government must come forward with concrete, case-specific reasons that outweigh Petitioner's substantial liberty interest in continued release.

81. **The risk of erroneous deprivation** of liberty is extreme. The system lacks any neutral adjudicator, as ICE is acting as both prosecutor and judge, a structural defect that creates a constitutionally intolerable risk of wrongful deprivation, as highlighted in *Marcello v. Bonds*, 349 U.S. 302, 305-306 (1955). Respondents are effectuating prolonged detention based on their own self-serving interpretation of the law, with no check on their power. This risk is exacerbated by the coordinated actions of both DHS and EOIR, which operate under a unified approach that effectively denies bond to noncitizens in Petitioner's situation, thereby unilaterally depriving them of their liberty.

82. **The Government's Interest**: The government's interest in enforcing its detention policy is minimal, if not entirely illegitimate. There is no valid government interest in enforcing an interpretation of the law that is contrary to the plain text of the INA, that conflicts with its own regulations providing for bond hearings under 8 U.S.C. § 1226(a), and that is based on a policy (*Matter of Yajure Hurtado*) that has been judicially declared untenable. The government has no cognizable interest in violating the law or wasting taxpayer resources on the unnecessary detention of individuals who are neither dangerous nor flight risks.

83. All three *Mathews* factors weigh decisively in Petitioner's favor. The current scheme is fundamentally unfair, unconstitutional, and deprives Petitioner of liberty without the process that is, and has always been, due.

XII. REMEDIES

THE COURT SHOULD ORDER IMMEDIATE RELEASE

84. Respondents are detaining Petitioner under an unlawful custody theory. Section 1226(a) supplies the general detention framework for noncitizens arrested and detained pending a removal decision, and it permits release on bond or conditional parole unless § 1226(c) applies. 8 U.S.C. § 1226(a), (c). In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, No. 25-14065, No. 25-14075, 2026 WL 1243395 (11th Cir. May 6, 2026), the Eleventh Circuit held that § 1226, rather than § 1225(b)(2)(A), governed the detention of interior noncitizens who were not seeking lawful entry when arrested.

85. Federal courts possess broad equitable power under 28 U.S.C. § 2243 to "dispose of the matter as law and justice require," which includes ordering immediate release when the government's custody is illegal. See *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987); *Rosado v. Figueroa*, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025). Here, law and justice demand nothing less than Petitioner's release, as his detention is contrary to the INA, procedurally deficient, and unsupported by an individualized custody determination.

86. Because Petitioner was arrested in the interior and was not seeking lawful entry at a border, port of entry, or inspection point when ICE assumed custody, Respondents may not continue to detain him as categorically ineligible for bond under § 1225(b)(2)(A). If Respondents seek to continue detaining Petitioner, they must proceed under § 1226 and provide the custody process available under that statute and its implementing regulations.

87. Immediate release is warranted because Respondents have not identified a lawful statutory basis for mandatory no-bond detention and have not made an individualized showing that Petitioner is a danger to the community or a flight risk. In the alternative, the Court should order Respondents to provide Petitioner with a prompt bond hearing under § 1226(a), at which DHS bears the burden of justifying continued detention based on individualized evidence.

88. Petitioner's detention is unlawful at its core because the arrest itself was executed in open defiance of the Immigration and Nationality Act's clear commands. Whether viewed as an arrest under 8 U.S.C. § 1225 or 8 U.S.C. § 1226(a), the seizure was illegal. Respondents claim authority under § 1225, but that statute applies to arriving aliens at the border, not long-term interior residents like Petitioner. The correct statute for an interior apprehension, § 1226(a), unequivocally requires that an arrest be made **"[o]n a warrant."** Respondents had no such warrant.

89. Petitioner also seeks relief based on the defective arrest and re-detention process. Section 1226(b) authorizes revocation of bond or parole authorized under § 1226(a), rearrest under the original warrant, and detention. 8 U.S.C. § 1226(b). The governing regulation identifies the officials who may revoke release after a noncitizen has been arrested, taken into custody, and released. 8 C.F.R. § 236.1(c)(9). The regulation also provides for immigration judge review after an initial custody determination before the removal order becomes final. 8 C.F.R. § 236.1(d)(1).

90. A bond hearing is a wholly inadequate remedy for such a fundamental violation. The purpose of a bond hearing is to assess the propriety of *continued* detention following a *lawful* arrest. It presupposes that the government's custody was, at some point, legitimate. That is not the case here. To order a bond hearing would be to retroactively sanitize an illegal seizure and give the government a "pass for not securing a warrant." *Javier De Jesus Aguilar v. English*, No. 3:25-CV-898 DRL-SJF, 2025 WL 3280219 (N.D. Ind., Nov. 25, 2025). As that court correctly reasoned when ordering immediate release under similar facts, "[t]he simple matter is this: the government has not established a lawful basis for detention... and the government must live by the rules that Congress has instituted." *Id.*

91. Any release conditions should be individualized and reasonably related to a demonstrated risk of flight or danger. The Court should not permit Respondents to substitute physical detention with categorical or automatic

electronic monitoring absent an individualized determination that such a condition is necessary and appropriately tailored. This relief preserves the Court's ability to remedy unlawful detention while allowing Respondents to request lawful, case-specific conditions if they can support them with evidence.

92. A delayed or procedurally inadequate bond hearing would not fully remedy the ongoing deprivation of liberty. Respondents have not made an individualized showing that Petitioner is a danger or flight risk. If the Court orders a bond hearing instead of immediate release, the order should require a prompt hearing with meaningful procedural safeguards, including an individualized determination based on evidence.

If Court Grants Bond Hearing – Ensure Burdens Are Met

93. Should this Court nonetheless order a bond hearing as an alternative to immediate release, it is critical that the order contain specific procedural safeguards to make that remedy meaningful. There is a troubling trend of immigration judges denying bond after a habeas grant based on rote assertions of flight risk or danger, often without the government presenting any actual evidence. To counteract this and ensure Petitioner is afforded a constitutionally adequate hearing so we do not have to return to this Court, this Court should follow the sound reasoning of other Circuit Courts and due process mandates.

94. Section 1226(a) does not assign the burden of proof at a bond hearing; it

provides only that, pending a removal decision, the Attorney General may continue detention or release the noncitizen on bond or conditional parole. 8 U.S.C. § 1226(a). Although the regulations place the burden on the noncitizen to demonstrate that release would not pose a danger and that he is likely to appear, 8 C.F.R. § 1236.1(c)(8), that regulatory allocation does not resolve the constitutional question before this Court. After *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 412 (2024), the Court owes no deference to an agency's regulatory choice on a question of statutory meaning or constitutional adequacy; rather, the Court must exercise its independent judgment in deciding what process § 1226(a) and the Due Process Clause require. That independent judgment should place the burden on the Government because detention is the Government's requested deprivation of liberty, and because requiring Petitioner to prove that he is not dangerous and not a flight risk forces him to prove a negative. A constitutionally meaningful bond hearing should therefore require DHS to justify continued detention with individualized evidence, rather than require Petitioner to disprove speculative concerns that Respondents have not established in the first instance.

95. The 11th Circuit has not yet addressed this question specifically in relation to noncitizens detained pursuant to § 1226(a), however, the circuits who have addressed it all stated that the government bears the burden to prove that detention is warranted, i.e., that the noncitizen is either a danger to the

community or a flight risk. No circuit court to have addressed the issue has placed the burden on the noncitizen to prove that they are *not* a flight risk or a danger. The Second Circuit in *Velasco Lopez v. Decker*, 978 F.3d 842, 853–56 (2d Cir. 2020), also held that the government must prove a noncitizen is a danger to the community or a flight risk to deny bond under § 1226(a) (**both require clear and convincing evidence**). Furthermore, the First Circuit in *Hernandez-Lara v. Lyons*, 10 F.4th 19 (1st Cir. 2021), stated that a noncitizen must be released under § 1226(a) if the government cannot meet its burden of proving they are a danger or flight risk (the only difference is the standard: clear and convincing evidence for dangerousness or preponderance of the evidence for flight risk determinations). Similarly, in *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213–14 (3d Cir. 2020), even for criminal noncitizens who are mandatorily detained under 8 U.S.C. § 1226(c), once their detention becomes unreasonable, the Government bears the burden of proof at the bond hearing, and must justify continued detention by clear and convincing evidence that the noncitizen is a flight risk or a danger to the community. In any event, the government has not claimed that Petitioner is a danger nor a flight risk, let alone proved it. "Circuit courts considering the standard of proof in the immigration bond context have also adopted the clear and convincing standard. The 11th Circuit has not addressed who should carry the burden but *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1341 (M.D. Ga. 2020) squarely

puts it on the government. [1]

96. *D.Y.E.H. v. Warden, Irwin Detention Center*, No. 7:25-cv-201, 2026 WL 1230386 (M.D. Ga. Apr. 6, 2026) is particularly persuasive here because it arose within this Circuit and addressed the exact practical problem presented by this Petition: a court-ordered bond hearing is not an adequate remedy if the immigration judge may simply place the burden on the detained noncitizen and require him to disprove danger or flight risk while he remains in custody. In *D.Y.E.H.*, the court held that § 1226(e) does not bar habeas review of a constitutional challenge to the procedures used at a § 1226(a) bond hearing, because such a claim challenges the legality of the process rather than the immigration judge's discretionary custody determination. The court also excused exhaustion because the burden-allocation issue was a constitutional due process question and because the BIA lacks authority to decide constitutional challenges.

97. The *Mathews* factors support the same result here. In *D.Y.E.H.*, the court held that the private interest favored the petitioner because freedom from

[1] There is contrary out-of-circuit authority declining to place the burden on the Government in § 1226(a) bond proceedings. For example, *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022), reflects a contrary approach in the Ninth Circuit, while recognizing that other circuits have reached different conclusions under *Mathews*. Likewise, *Miranda v. Garland*, 34 F.4th 338 (4th Cir. 2022), upheld placing the burden on the noncitizen under § 1226(a). Those decisions are not binding here and are less persuasive in this case because Respondents have not shown lawful statutory authority for detention in the first instance. The better rule here is the one supported by *Lopez-Campos*'s recognition of the substantial liberty interest at stake, the high risk of erroneous detention, and the Government's lack of any legitimate interest in detaining a person it cannot show is dangerous or a flight risk.

detention is a fundamental liberty interest and § 1226(a) detention is civil rather than criminal. The court held that the risk of erroneous deprivation was substantial where the burden remained on the detained noncitizen, who faces practical barriers to gathering evidence, communicating with witnesses, and building a complete record while incarcerated. The court further held that the government has no legitimate interest in unnecessary detention of a noncitizen who is not shown to be dangerous or a flight risk, and that placing the burden on the government does not impose an undue administrative burden.

98. The Court should follow the burden of proof outlined in this case and the 3 circuit courts who have decided the issue and determine that the **government must prove, by clear and convincing evidence, that Petitioner is either a flight risk or a danger to the community**. The reason for that is the Congress's assumption was that for non-criminal noncitizens who are detained pursuant to § 1226(a) the default is release, not detention (in contrast to § 1226(c) that deals with mandatory detention for criminal aliens). **Therefore, to prevent a perfunctory and meaningless hearing that would only prolong Petitioner's unlawful detention, any order for a bond hearing must explicitly direct that the government bears the burden of establishing by clear and convincing evidence that Petitioner's detention is necessary.**

XIII. CONCLUSION AND PRAYER FOR RELIEF

99. The continued detention of Petitioner violates due process rights. But for intervention by this Court, Petitioner has no means of release from ICE custody. Petitioner faces ongoing and irreparable harm as a result of unlawful detention, including deprivation of liberty, loss of employment, and separation from family. These injuries cannot be remedied by monetary damages and will continue absent immediate judicial intervention. The balance of equities and the public interest strongly favor expedited consideration and equitable relief, including immediate release or a prompt bond hearing. Without such relief, Petitioner will continue to suffer irreparable harm, and the constitutional and statutory violations at issue will persist.

100. Given the egregious constitutional and statutory violations underlying Petitioner's arrest and continued detention, immediate release is warranted, or in the alternative, a prompt § 1226(a) bond hearing with constitutionally adequate procedures is required. Federal courts possess broad authority under 28 U.S.C. § 2243 to "dispose of the matter as law and justice require," which includes ordering immediate release when detention is found to be unlawful. See *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987).

WHEREFORE, Petitioner prays that this Court grant the following relief. Petitioner respectfully requests expedited consideration of this Petition due to the ongoing deprivation of liberty and irreparable harm:

(1) **Grant the Petition and order Respondents to release Petitioner** because § 1225(b)(2)(A) does not authorize his mandatory no-bond detention;

(2) **In the alternative**, order Respondents to provide Petitioner with a bond hearing before an Immigration Judge under 8 U.S.C. § 1226(a) within forty-eight (48) hours, at which DHS shall bear the burden of proving by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk; the Immigration Judge shall make an individualized determination based on the evidence presented; and the Immigration Judge shall consider non-bond alternatives to detention and, if setting bond, Petitioner's financial circumstances and ability to pay;

(3) Independently, order Respondents to show cause and produce all documents authorizing Petitioner's arrest, re-detention, revocation of release, and current custody classification, including any warrant, Form I-286, Form I-200, revocation memorandum, custody determination, or notice of custody rights;

(4) **Issue an Order to Show Cause** directing Respondents to file a

return within three (3) days, pursuant to 28 U.S.C. § 2243, justifying in fact and law why the writ should not be granted;

(5) Pending final resolution of this Petition, and consistent with the emergency relief requested in Section II above, issue a temporary order pursuant to 28 U.S.C. §§ 1651(a) and 2241 prohibiting Respondents from transferring Petitioner outside the Northern District of Alabama, or otherwise changing Petitioner's immediate custodian, and from removing Petitioner from the United States, absent prior leave of this Court, so as to preserve this Court's habeas jurisdiction under the district-of-confinement and immediate-custodian rule recognized in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004);

(6) **Award** Petitioner reasonable attorney's fees and costs including under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and any other applicable fee-shifting statute; and

(7) **Grant** such other and further relief as this Court deems just, proper or equitable under the circumstances.

Respectfully Submitted,

This 21st Day of May, 2026.

Karen Weinstock

Karen Weinstock
Attorney for Petitioner (pro hac vice)
Weinstock Immigration Lawyers, P.C.
1827 Independence Square
Atlanta, GA 30338
Phone: (770) 913-0800
Fax: (770) 913-0888
kweinstock@visa-pros.com

/s/ Amanda B. Cook (COO100)
Local Counsel
2740 Zelda Road Ste 400
Montgomery, Alabama 36106
(334) 356-7879; (334) 315-9399
amanda.cook@blackbeltlawyers.com

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's wife and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

This 21st Day of May, 2026.

/s/ Karen Weinstock

Karen Weinstock
Attorney for Petitioner (pro hac vice)
Weinstock Immigration Lawyers, P.C.
1827 Independence Square
Atlanta, GA 30338
Phone: (770) 913-0800
Fax: (770) 913-0888
kweinstock@visa-pros.com