

**UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

EDGAR URIEL MARTINEZ-SALAMANCA,)

Petitioner,)

v.)

JUAN BALTAZAR, Warden, Aurora ICE)
Processing Center;)

DAVID VENTURELLA, Acting Director of)
U.S. Immigration and Customs Enforcement;)

MARKWAYNE MULLIN, Secretary of the U.S.)
Department of Homeland Security; and)

TODD BLANCHE, Acting Attorney General of)
the United States)

in their official capacities,)

Respondents.)
_____)

Case No. 26-cv-2410

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

VERIFIED PETITION FOR HABEAS CORPUS

INTRODUCTION

1. This case challenges the unlawful arrest and mandatory immigration detention of Edgar Uriel Martinez Salamanca ("Petitioner" or "Edgar"), who has no criminal history and arrived in the United States ("U.S.") at the age of 18 on September 1, 2022, near Laredo, Texas.

2. Edgar was detained by Immigration and Customs Enforcement ("ICE") on January 13, 2026, after an encounter with immigration officials during a worksite raid where he and his boss were taken into custody.
3. Prior to being detained Edgar applied for Special Immigrant Juvenile Status ("SIJS"), a humanitarian immigration protection for young people who have suffered parental abuse, neglect, or abandonment, created by Congress to give these juveniles the opportunity to remain safely and permanently in the United States. This application was approved on July 28, 2025. Unfortunately, given the numerical limitation and current visa backlog under 8 U.S.C. § 1153(b)(4), Edgar is not eligible to apply for a visa and/or adjustment of status to a Lawful Permanent Resident ("LPR") at this moment.
4. While in immigration custody, Edgar filed an application for asylum and withholding of removal ("Form I-589") with the Executive Office of Immigration Review ("EOIR") on April 7, 2026.
5. While in immigration custody, immigration judge ("IJ") Allison Kane entered an order requesting Edgar's SIJS application be considered "expeditiously" for deferred action.
6. To date, Petitioner remains in the physical custody of Respondents at the Aurora ICE Processing Center ("AIPC"). Petitioner faces unlawful detention because the Department of Homeland Security ("DHS") and the EOIR maintain that Petitioner is an applicant for admission under 8 U.S.C. § 1225(b)(2), even though Petitioner entered the U.S. over three years ago and the DHS initiated removal proceedings on January 13, 2026.
7. The Due Process Clause of the Fifth Amendment forbids arbitrary and prolonged detention. Respondents have never justified Petitioner's continued detention at a hearing before a

neutral decisionmaker with evidence of danger or flight risk, and, as such, Petitioner's detention is arbitrary and prolonged.

8. Petitioner brings this action for injunctive, habeas, and declaratory relief and requests an order for Respondents to release him.

PARTIES

9. Petitioner Edgar Uriel Martinez-Salamanca is a citizen of Mexico. Petitioner is currently detained at AIPC and in custody and under the direct control of Respondents and their agents.
10. Respondent Juan Baltazar is the Warden of the AIPC, and he has immediate physical custody of Petitioner pursuant to the facility's contract with ICE to detain noncitizens. Thus, Respondent Juan Baltazar is a legal custodian of Petitioner.
11. Respondent Todd Lyons is named in his official capacity as the Acting Director of ICE. Respondent Todd Lyons is a legal custodian of Petitioner and has authority to release him.
12. Respondent Markwayne Mullin is named in his official capacity as the Secretary of the DHS. In this capacity, Respondent Markwayne Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act ("INA"), and oversees ICE, the agency responsible for Petitioner's detention. Respondent Markwayne Mullin is a legal custodian of Petitioner.
13. Respondent Todd Blanche is named in his official capacity as the Acting Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the EOIR, which administers the immigration courts and the Board of Immigration Appeals. Respondent Todd Blanche is a legal custodian of Petitioner.

JURISDICTION AND VENUE

14. This Court has jurisdiction under the U.S. Constitution. U.S. Const. art. I § 9, cl. 2 (“The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require.”).
15. The Court also has jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (the All Writs Act); and 28 U.S.C. § 2241 (habeas corpus).
16. This Court has additional remedial authority under 28 U.S.C. §§ 2201-02 (the Declaratory Judgment Act), to grant injunctive and declaratory relief.
17. Venue is proper in the District of Colorado under 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 giving rise to these claims occurred in this District. Venue is also proper under 28 U.S.C. § 2241(d) because Edgar was arrested and detained by Respondents and is in custody in violation of the U.S. Constitution and the laws of the U.S. 28 U.S.C. § 2241(a).
18. Administrative exhaustion is unnecessary because it would be futile: it is Respondents’ position that noncitizens in Edgar’s situation are subject to mandatory detention without access to a bond hearing, so he has no meaningful administrative remedies to exhaust.

LEGAL FRAMEWORK

19. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.
20. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and

imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

21. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment, from government custody, detention, or other forms of physical restraint, lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention.”). This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious”).
22. Due process requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. 26.
23. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Immigration detention is a form of civil confinement that “constitutes a

significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

24. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993). The INA establishes various procedures through which individuals may be detained pending a decision on whether the noncitizen is to be removed. 8 U.S.C. § 1226(a).
25. Removal proceedings described in section 240 of the INA are used to determine whether individuals, such as Petitioner, should be removed from the United States. *See* 8 U.S.C. § 1229a.
26. In 1990, Congress created Special Immigrant Juvenile Status ("SIJS") to protect a category of vulnerable immigrant juveniles and provide them a pathway to citizenship. Immigration Act of 1990, Pub. L. No. 101-649, § 153, 104 Stat. 4978 (1990) (amending various sections of the INA). SIJS “alleviates hardships experienced by some dependents of United States juvenile courts by providing qualified [noncitizens] with the opportunity to apply for special immigrant classification and lawful permanent resident status, with [the] possibility of becoming citizens of the United States in the future.” Special Immigrant Status, 58 Fed. Reg. 42843, 43844 (Aug. 12, 1993). Since 1990, Congress has amended the INA multiple times to expand the protections of SIJS, most recently in 2008, through the TVPRA, Pub. L. 110-457, § 235(d), 122 Stat. 5044 (2008).
27. To be granted SIJS, youths must first “satisf[y] a set of rigorous, congressionally defined eligibility criteria.” *Osorio-Martinez v. U.S. Att’y Gen.*, 893 F.3d 153, 163 (3d Cir. 2018). Specifically, to be eligible for SIJS, a noncitizen youth must be present in the United States and obtain judicial determinations in a state juvenile court order that they are dependent on

the juvenile court or placed by the court under the custody of a state agency or an individual; cannot be reunified with one or both parents because of abuse, neglect, abandonment, or other similar basis; and that it is not in their best interest to return to their country of origin. 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(c).

28. The application process for SIJS includes submitting a Form I-360 SIJS Petition to USCIS, along with the state juvenile court order and other evidence. *See* 8 C.F.R. § 204.11(b). USCIS then considers whether to exercise its statutory “consent function” to approve the petition. *See* 8 U.S.C. § 1101(a)(27)(J)(iii). By doing so, the agency recognizes the state juvenile court’s determinations, including that the child’s return to their country of origin would be contrary to their best interests. 8 U.S.C. § 1101(a)(27)(J)(iii).
29. The main benefit of SIJS is that it confers on vulnerable young people the right to seek lawful permanent status, while remaining in the United States, through a process called adjustment of status. *See* 8 U.S.C. § 1255(h). To facilitate this process, Congress has removed numerous barriers to adjustment of status for SIJS beneficiaries. Typically, a noncitizen seeking to adjust to LPR status in the United States must show they are admissible under immigration law and have entered the country with inspection or parole by an immigration officer. But Congress exempted SIJS youth from many inadmissibility grounds, made them eligible for adjustment regardless of their actual manner of entry into the United States, and created a generous waiver of other non-exempted inadmissibility grounds. 8 U.S.C. § 1255(h). Congress also explicitly provided that certain grounds for removal “shall not apply” to SIJS beneficiaries. 8 U.S.C. § 1227(c). Accordingly, the SIJS statute “show[s] a congressional intent to assist a limited group of abused children to remain safely in the country with a means to apply for LPR status.” *Garcia v. Holder*, 659

F.3d 1261, 1271 (9th Cir. 2011) (abrogated on other grounds).

30. Although SIJS renders youth eligible to apply for adjustment to LPR status, they can only do so when a visa is immediately available to them. 8 U.S.C. § 1255(h). However, there is an annual limit on visas available to SIJS beneficiaries. 8 U.S.C. § 1153(b)(4). And since 2016, the number of SIJS beneficiaries has surpassed the supply of available visas for most countries. Nonetheless, the government takes the position that SIJS youth in the visa backlog remain subject to removal for their purported lack of lawful immigration status in the United States while they wait for the ability to apply for LPR status. So, in March 2022, to address the harms being caused by the SIJS visa backlog, USCIS announced that all young people granted SIJS would also be considered for a discretionary grant of deferred action, meaning that they would be protected from deportation and eligible for work authorization while waiting for a visa to become available. In enacting this policy, USCIS acknowledged that “Congress likely did not envision that SIJ petitioners would have to wait years before a visa became available. . . .”¹
31. On June 6, 2025, USCIS abruptly rescinded the 2022 SIJS deferred action policy.² Accordingly, Petitioner does not assert that deferred action was conferred; rather, Petitioner relies on the approved SIJS classification as a pathway to lawful permanent residence.

RELEVANT FACTS AND PROCEDURAL HISTORY

32. Petitioner is a 22-year-old native and citizen of Mexico who entered the U.S. without

¹ USCIS Policy Alert, PA-2022-10, “Special Immigrant Juvenile Classification and Deferred Action” (March 7, 2022), <https://perma.cc/8CTL-QAQY> (“2022 USCIS Policy Alert”).

² In November 2025, a federal court stayed the government’s decision to rescind the SIJS deferred action policy, thus restoring the 2022 policy during the litigation’s pendency. *A.C.R. v. Noem*, No. 25-CV-3962, 2025 WL 3228840 (E.D.N.Y. Nov. 19, 2025).

inspection on or about September 1, 2022. *See* Exh. 1, NTA.

33. The DHS placed Edgar in removal proceedings on or about January 13, 2026, by filing the NTA with the EOIR, alleging that Petitioner is removable pursuant to 8 U.S.C. §1182 (a)(6)(A)(i) as an alien present in the U.S. without being admitted or paroled, or who arrived in the U.S. at any time or place other than designated by the Attorney General. *Id.*
34. After receiving the appropriate predicate order, Edgar filed a Petition for SIJS, Form I-360, on March 10, 2025, requesting a visa pursuant to 8 U.S.C. § 1101(a)(27)(J). This petition was approved on July 28, 2025. *See* Exh. 2, I-360 Approval Notice. However, given the numerical limitation and current visa backlog under 8 U.S.C. § 1153(b)(4), discussed above, Edgar is not eligible to apply for a visa and/or adjustment of status to LPR. *Id.* Additionally, because Edgar received approval for SIJS after the rescission of the 2022 USCIS policy, he was not granted deferred action. *Id.*
35. On January 13, 2026, Edgar encountered ICE officers during a worksite enforcement raid conducted at his workplace. Petitioner and his boss were arrested and taken into custody.
36. Upon information and belief, there was no warrant for Edgar's arrest. Edgar was not accused of violating any vehicle or traffic law. Edgar had no prior arrests, he had a stable address, and a path to permanent status. He did not run or try to evade officers. Nonetheless, ICE arrested Edgar and transferred him to the AIPC.
37. On March 23, 2026, IJ Alison R. Kane issued an order requiring DHS to request expedited consideration for deferred action on Petitioner's case based on his approved I-360. *See* Exh. 3, IJ Kane order. No notification regarding this order has been issued to date.
38. Edgar filed an application for asylum and withholding of removal, Form I-589, on April 7, 2026, with the EOIR in Aurora, Colorado.

39. On April 7, 2026, Petitioner, appeared at a master calendar hearing at the EOIR Aurora Immigration Court. Petitioner did not ask for a custody determination due to the current framework that IJs are following pursuant to *Matter of Yajure Hurtado*, in which IJs are denying bond hearings on the grounds of “lack of jurisdiction” for all noncitizens who entered without inspection, a wrongful interpretation of detention authority under 8 U.S.C. § 1225 and § 1226.

CLAIMS FOR RELIEF

COUNT I

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution Substantive Due Process

40. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.
41. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). And “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.
42. Because “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception,” the government may imprison people as a preventive measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)).

43. Immigration detention is civil detention and must “bear a reasonable relation to the purpose for which the individual was committed” so that it remains “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690 (citation modified); *see also Schall v. Martin*, 467 U.S. 253, 264-69 (1984) (finding detention must be a proportional—not excessive—response to a legitimate state objective).
44. To satisfy substantive due process under the Fifth Amendment, a noncitizen’s detention must be tied to flight risk or a danger to the community. *Zadvydas*, 533 U.S. at 690.
45. Neither purpose is served by Edgar’s detention. Respondents have made no claim that Edgar presents a flight risk or a danger to the community, nor could they.
46. Since his entry in September 2022, Edgar’s ties to this country have only grown stronger. He has built his entire life here, and he has been granted SIJS, which gives him a path to citizenship and safe and meaningful future. *See Osorio*, 893 F. 3d at 173-75.
47. Edgar has a fundamental interest in liberty and being free from official restraint, such as detention at the AIPC.
48. Edgar has been deprived of the meaningful procedural protections necessary to justify restraint on his liberty and violates the Due Process Clause.
49. Because the government is detaining Edgar without a legitimate interest in protecting against danger or flight risk, his detention violates substantive due process under the Fifth Amendment, and this Court should order his immediate release.

COUNT II

Violation of the Due Process Clause of the Fifth Amendment to the US. Constitution Procedural Due Process

50. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.
51. Even “[w]hen government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner.” *Salerno*, 481 U.S. at 746.
52. Courts use the three-factor *Mathews v. Eldridge* test to determine what process is due to noncitizens challenging detention. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). The *Mathews* factors assess: (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.” *Id.* at 335.
53. The first *Mathews* factor weighs heavily in Edgar’s favor. Edgar has a strong liberty interest considering his valid grant of SIJS. First, because he has been present in the United States for over three years, has no criminal record and is not a flight risk, Edgar possessed a weighty interest in his continued liberty. Second, to be approved for SIJS, Edgar had to meet stringent eligibility criteria, and he was promised that, in return, he would be given a meaningful path to LPR status in this country. That came with the expectation that he could build a life here without risking arbitrary arrest, detention, and removal that would strip him of the very permanency Congress created SIJS to provide vulnerable youth like him. This is precisely what Edgar did, building a home with his family friend, with whom a juvenile court found it to be in his best interests to remain; working and contributing to his community; and making plans for the future.

54. The second *Mathews* factor also favors Edgar. Edgar is neither a danger nor a flight risk, and his detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, make the risk of erroneous deprivation of liberty not just high, but certain. Edgar's detention is the direct result of insufficient safeguards and lack of procedure. Under these circumstances, the risk of erroneous deprivation of his liberty is high and the second factor weighs heavily in his favor.
55. The third factor favors Edgar, as well. Edgar's erroneous detention imposes high fiscal and administrative burdens on Respondents. Releasing Edgar and requiring the government to provide a pre-deprivation hearing before detaining him stands to save the government money and effort wasted on erroneous detention. And unlawful detention and violation of noncitizens' constitutional rights disserve the public interest.
56. Respondents violated procedural due process by re-detaining Edgar without adequate procedural protections before or after deprivation of his liberty. Therefore, this Court should order Edgar's release without any restraints on his liberty and prohibit any re-detention absent pre-deprivation process.

COUNT III

**Violation of the Fourth Amendment to the U.S. Constitution
8 U.S.C. § 1357(a)(2), and 8 C.F.R. § 287.3(d)
Unlawful Arrest & Detention**

57. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.
58. The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV. Immigration arrests and detentions are seizures within the meaning of the Fourth Amendment. *INS v. Lopez-*

Mendoza, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the “seizure” of the person).

59. As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). “Probable cause requires a ‘substantial probability; based on facts related to the individual.’ *Ramirez Ovando v. Noem*, No. 1:25-CV-03183-RBJ, 2025 WL 3293467, at *15 (D. Colo. Nov. 25, 2025) (quoting *Storey v. Taylor*, 696 F.3d 987, 992 (10th Cir. 2012) (finding probable cause for immigration arrests lacking).
60. That determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* It must, however, occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstance. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).
61. There is a strong preference that immigration arrests be based on warrants. *See Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The INA thus provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). Specifically, an officer must have probable cause to believe the person is violating the immigration laws *and* that the person “is likely to escape before a warrant can be obtained,” *i.e.*, is a flight risk *Id.*; *see also Ramirez Ovando*, 2025 WL 3293467, at *2. Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).
62. Edgar's warrantless arrest occurred without probable cause that he was a flight risk. “Courts have ... made the self-evident finding that the likelihood of escape is lower when the individual has resided in the country for a lengthy period of time and has strong community

ties.” *Escobar Molina v. U.S. Dep’t of Homeland Sec.*, No. CV 25-3417 (BAH), 2025 WL 3465518, at *13 (D.D.C. Dec. 2, 2025) (collecting cases). At the moment of his seizure, Edgar (a) had an approved I-360, which provided him a path to LPR status, (b) was living at a stable home address, of which the government was fully aware, and (c) had been in the United States for over three years and built strong ties to his community. Therefore, no officer could have probable cause that Edgar was likely to escape before a warrant could be obtained.

63. Without a statutory basis to arrest, Respondents were required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Edgar. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57. He received no such judicial determination, and his detention continued well beyond 48 hours, rendering it presumptively unconstitutional.
64. Regulations also provide that noncitizen arrested without a warrant must receive a custody determination within 48 hours of the arrest, unless there is “an emergency or other extraordinary circumstance” that requires “an additional reasonable period of time” to make the custody determination. 8 C.F.R. § 287.3(d). During that custody determination, the immigration officer must make findings as to whether “release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.” 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8). Similarly, upon information and belief, Edgar has received no such custody determination.
65. Thus, under the Fourth Amendment, the government cannot arrest someone without probable cause. *See Carlson v. Landon*, 342 U.S. 524, 546-47 (1952) (holding that re-arrest

for immigration detention required a new warrant after previous release from immigration detention on bail).

66. Respondents' warrantless arrest of Edgar without changed circumstances, and their refusal to provide a prompt (or any) probable cause determination, violated the Fourth Amendment, the INA, and implementing regulations. Thus, this Court should order his release.

COUNT IV

Violation of the Immigration and Nationality Act and Procedural Due Process

67. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.
68. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings. First, 8 U.S.C. § 1226 "authorizes the Government to detain certain [noncitizens'] already in the country pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Individuals detained under Section 1226(a) are generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). However, noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention under Section 1226(c). *See* 8 U.S.C. § 1226(c). Second, the INA provides for brief mandatory detention of noncitizens with final orders of removal. *See* 8 U.S.C. § 1231. Third, the INA also provides for mandatory detention of two groups of noncitizens encountered "at the Nation's borders and ports of entry." *Jennings*, 583 U.S. at 288. The first group consists, generally, of those who are subject to expedited removal for being apprehended upon arrival near the border or for being unable to show that they have been physically present in the United States for

more than two years until a determination has been made as to whether they have a credible fear of persecution. 8 U.S.C. § 1225(b)(1). The second group subject to mandatory detention consists of anyone alleged to be an “applicant for admission” who is “seeking admission” and whom an “examining immigration officer determines . . . is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A).

69. Respondents claim that Edgar is mandatorily detained under 8 U.S.C. § 1225(b)(2)(A). But this statute does not apply to Edgar, who was in the country for over three years prior to his arrest. The Warrant for Arrest of Alien (Form I-200) dated January 13, 2026, that ICE used to arrest Edgar upon encounter clearly invokes the discretionary authority for detention by Immigration officials under section 236 of the Immigration and Nationality Act, 8 USC § 1226, as opposed to §1225, as DHS asserts. Likewise, the order of release does not invoke the provisions of § 1225, nor defines the Petitioner as an “applicant for admission”.
70. The DHS placed the Petitioner in § 1229(a) removal proceedings and charged the Petitioner with inadmissibility pursuant to 8 U.S.C. § 1182. As such, if the DHS had a lawful reason to detain Edgar, the DHS should have detained him pursuant to § 1226(a) because he has been present and residing in the U.S. for more than two years and is not subject to any mandatory detention provisions under 1226(c). Detention under § 1226(a) requires access to a custody redetermination hearing by an IJ.
71. Additionally, a person with SIJS cannot be detained under § 1225(b)(2)(A). Because “the INA defines a ‘special immigrant’ as ‘an immigrant who is present in the United States,’” an award of SIJS confirms that a noncitizen is not “arriving” or “seeking admission.” *Rodriguez*, 747 F. Supp. 3d at 916 (concluding that a noncitizen who had entered the United

States years earlier as an “arriving alien” but had then been granted SIJS was not detained under § 1225(b)(2)(A) (citing 8 U.S.C. § 1101(a)(27)(J)); *see also Sarmiento*, 2025 WL 3091140, at *3 (similar). Moreover, SIJS status “‘bespeak[s] a substantial legal relationship between [SIJS beneficiaries] and the United States—a relationship far more significant than’ the relationship possessed between an initial entrant into this country.” *Del Cid Del Cid v. Bondi*, No. 3:25-CV-00304, 2025 WL 2985150, at *16 (W.D. Pa. Oct. 23, 2025).

72. Third and more broadly, courts across the United States have overwhelmingly concluded that noncitizens like Edgar who entered the United States without inspection and are detained by ICE for removal proceedings while they are residing in the United States are detained under 8 U.S.C. § 1226, not § 1225(b)(2)(A)—and thus entitled to a bond hearing. *See, e.g., Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *13–14 (S.D.N.Y. Nov. 26, 2025) (tallying more than 350 cases reaching the same conclusion, and only 12 going the other way); *Nava Hernandez v. Baltazar, et. Al.*, 1:25-cv-03094-CNS, p.9, *Lopez Benitez*, 2025 WL 2371588, at *3.
73. As this renders his detention unlawful from its inception, he should be released forthwith. *See Nava Hernandez v. Baltazar, et. Al.*, 1:25-cv-03094-CNS, p.9, *Lopez Benitez*, 2025 WL 2371588, at *3.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;

- (3) Declare that Petitioner's arrest and detention violates the Due Process Clause of the Fifth Amendment; the Fourth Amendment; and the INA and implementing regulations;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or schedule a bond hearing before an immigration judge and, at such hearing, require the government to justify continued detention by clear and convincing evidence and, if it cannot, afford Petitioner release on bond or conditional parole;
- (5) Order that Respondents cannot re-detain Petitioner without notice and a pre-deprivation hearing before this Court where the government bears the burden of justifying re-detention by clear and convincing evidence;
- (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Leanne Reetz Hightower
Leanne Reetz Hightower

Counsel for Petitioner

Dated: June 1, 2026

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

I represent Petitioner, Edgar Martinez Salamanca, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: June 1, 2026

s/ Leanne Reetz
Leanne Reetz, Esq.