UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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FILEMON HERNANDEZ SANCHEZ
*Petitioner,*



v.

KEN GENALO, New York Field Office Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement;
DAVID J. VENTURELLA, Senior Official Performing the Duties of Director, U.S. Immigration and Customs Enforcement;
MARKWAYNE MULLIN, Secretary of the U.S. Department of Homeland Security;
TODD BLANCHE, Attorney General of the United States; and
RAUL MALDONADO, JR., Warden, MDC Brooklyn
*Respondents.*

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

PRELIMINARY STATEMENT

1. Petitioner Filemon Hernandez Sanchez, by counsel, petitions for a writ of habeas corpus under 28 U.S.C. § 2241 and moves by Emergency Order to Show Cause and Temporary Restraining Order. This application is filed on an emergency basis to prevent unlawful transfer or removal, preserve this Court's habeas jurisdiction, require Respondents to certify the true statutory and factual cause of detention, and secure Petitioner's release from unlawful custody.

2. As of today, June 30, 2026, Petitioner is detained at the Metropolitan Detention Center in Brooklyn, New York.

3. Petitioner has not had adequate access to counsel since his arrest. Counsel has not yet had a meaningful opportunity to confer fully with Petitioner, obtain the administrative record, review all arrest and custody paperwork, examine any warrant or Notice to Appear, determine whether DHS claims custody under 8 U.S.C. § 1225, § 1226(a), § 1231, or another provision, or review the full Immigration Court record relating to any present or future removal proceedings.

4. The facts alleged herein are based on the limited information presently available to counsel, including information provided by Petitioner's partner and family contact,

available intake records, publicly available detention and Immigration Court information, and counsel's preliminary investigation.

**Respondents Alone Possess The Record Needed To Justify Custody**

5. Because this Petition is being filed on an emergency basis while Petitioner remains in federal immigration custody, and because the material arrest, custody, warrant, charging, detention, removal, and immigration records are exclusively in Respondents' possession, custody, or control, certain allegations are necessarily pleaded on information and belief.

6. Counsel has conducted an inquiry reasonable under the emergency circumstances, and the factual allegations so pleaded either have evidentiary support based on the information presently available to counsel or are likely to have evidentiary support after Respondents produce the complete necessary record.

7. Petitioner reserves the right to supplement, amend, or conform this Petition once Respondents certify the true cause of detention and produce the records required for meaningful habeas review.

8. No allegation pleaded on information and belief, in the alternative, or under emergency conditions should be construed as a concession that Respondents had lawful authority to arrest, detain, transfer, or remove Petitioner.

**Petitioner Pleads In The Alternative Until Respondents Disclose The True Basis For Detention**

9. Petitioner does not presently know under which statutory provision DHS claims authority to detain him.

10. DHS has not produced the full custody documents, administrative-warrant records, arrest records, A-file, custody determination, proof of service, appeal waiver, appeal history, or contemporaneous paperwork sufficient to determine whether DHS purports to proceed under 8 U.S.C. § 1225, § 1226(a), § 1231, or another provision.

11. Petitioner therefore pleads in the alternative until Respondents produce the record required for meaningful habeas review.

12. Alternative pleading is expressly permitted and is especially appropriate where, as here, the Government has not disclosed the legal theory it claims justifies custody. See Fed. R. Civ. P. 8(d)(2)–(3); *Henry v. Daytop Vill., Inc.*, 42 F.3d 89, 95–96 (2d Cir. 1994); *Riverwoods Chappaqua Corp. v. Marine Midland Bank, N.A.*, 30 F.3d 339, 343 (2d Cir. 1994).

## THE FACTS

## PETITIONER IS A LONG-PRESENT NEW YORK RESIDENT, FATHER, WORKER, AND SUPERVISED ISAP PARTICIPANT

13. Petitioner Filemon Hernandez Sanchez is a native and citizen of Mexico.

14. Petitioner is 46 years old and was born in 1980.

15. Petitioner's Alien Registration Number is [redacted].

16. Before his arrest and detention, Petitioner resided at [redacted].

17. Petitioner is a longtime resident of the Bronx, New York.

18. Petitioner is the father of six children.

19. Two of Petitioner's children reside in the United States.

20. Petitioner has family and community ties in New York.

21. Petitioner's partner, Natalia Ramirez, is a United States citizen.

22. Ms. Ramirez is assisting Petitioner and his family following his arrest and detention.

23. Petitioner also has a potential United States citizen sponsor, Sol Hernandez, who is the widow of Petitioner's late brother.

24. Before his detention, Petitioner was employed as an electrician. Petitioner worked in White Plains, New York.

25. Petitioner briefly traveled to Mexico in 2025 only to bury his brother who died tragically by drowning in a river. He dealt with the funeral arrangements and returned to the US.

26. Most recently, Petitioner was reportedly on his way to work when immigration officers arrested him on June 17, 2026.

27. Petitioner was not hiding from immigration authorities.

28. Petitioner was not a fugitive.

29. Petitioner was not attempting to flee.

30. Petitioner was not arrested at an airport, port of entry, border, or place suggesting imminent departure from the United States.

31. Petitioner was living openly at his Bronx residence.

32. Petitioner was working openly in New York.

33. Petitioner was under immigration supervision before his arrest.

34. Petitioner was enrolled in ISAP supervision.

35. Petitioner was wearing an electronic ankle monitor.

36. The ankle monitor allowed immigration authorities or their contractors to monitor Petitioner's location electronically.

37. Petitioner was therefore already subject to one of the most restrictive noncustodial forms of immigration supervision available to the Government.

38. Petitioner had an upcoming ICE/ISAP appointment in the Bronx on June 22, 2026.

39. The reporting location previously provided to Petitioner was 4777 Park Avenue, Bronx, New York 10458.

40. The June 22, 2026 appointment concerned Petitioner's ankle monitor and ISAP supervision.

**UPON INFORMATION AND BELIEF, ICE USED PETITIONER'S ANKLE MONITOR TO LOCATE AND ARREST HIM BEFORE HIS SCHEDULED ISAP APPOINTMENT WITHOUT A VALID WARRANT OR A CONTEMPORANEOUS CUSTODY DETERMINATION**

41. Before the scheduled appointment date arrived, immigration officers detained Petitioner on June 17, 2026.

42. According to information provided by Ms. Ramirez, immigration officers appeared to locate Petitioner through the GPS locator or electronic ankle monitor on his ankle.

43. Instead of waiting for Petitioner's scheduled reporting date, immigration officers went to locate and arrest him before the appointment.

44. Petitioner was detained while traveling to work.

45. Petitioner had not failed to appear for the June 22, 2026 appointment because that date had not yet arrived.

46. The arrest occurred five days before the scheduled appointment.

47. The Government already knew where Petitioner lived.

48. The Government already knew how to contact Petitioner through ISAP.

49. The Government already had Petitioner under electronic supervision.

50. The Government already had a scheduled opportunity to address any alleged reporting issue on June 22, 2026.

51. Nevertheless, officers arrested Petitioner on June 17, 2026.

52. On information and belief, the arrest was carried out without a valid judicial warrant.

53. On information and belief, the arrest was carried out without a valid administrative warrant supported by a contemporaneous individualized determination that Petitioner was likely to escape before a warrant could be obtained.

54. On information and belief, immigration officers did not make any contemporaneous individualized finding that Petitioner was likely to escape before a warrant could be obtained.

55. No known facts supported any such finding.

56. Petitioner was already subject to GPS monitoring.

57. Petitioner had a known address.

58. Petitioner had a known partner and family contact.

59. Petitioner had known telephone numbers.

60. Petitioner had known employment.

61. Petitioner had an upcoming ISAP appointment.

62. Petitioner was not encountered by chance.

63. Petitioner was not arrested during an unfolding emergency.

64. Petitioner was not apprehended while fleeing.

65. Petitioner was not attempting to evade immigration authorities.

66. Petitioner was not attempting to leave the United States.

67. Petitioner's location was apparently known because of the Government's own electronic supervision system.

68. These facts are inconsistent with any good-faith claim that Petitioner was likely to escape before a warrant could be obtained.

69. Petitioner's arrest instead appears to be an arrest-first, paperwork-later detention.

70. Petitioner's arrest also appears to have converted an existing ISAP supervision arrangement into physical custody without the procedural protections required by statute, regulation, and due process.

71. Petitioner had been instructed to report in person to the ISAP office at 4777 Park Avenue, Bronx, New York 10458.

72. Petitioner was advised to comply with all reporting requirements and maintain communication with ISAP.

73. Petitioner had an upcoming reporting appointment on June 22, 2026.

74. The Government did not provide Petitioner with a meaningful pre-detention custody determination.

75. The Government did not provide Petitioner with a meaningful individualized determination that detention was necessary.

76. The Government did not determine, before arresting him, that no less restrictive alternative to detention would suffice.

77. The Government did not explain why ISAP, GPS monitoring, reporting obligations, and a scheduled appointment were inadequate.

78. The Government did not explain why Petitioner suddenly required incarceration when he was already under supervision and electronically monitored.

79. The Government did not explain why Petitioner could not remain on ISAP pending immigration proceedings.

80. The Government did not explain why Petitioner could not report on June 22, 2026 as scheduled.

81. The Government did not provide Petitioner with a prompt and meaningful post-arrest custody review that considered his actual circumstances.

82. The Government did not provide Petitioner with a meaningful opportunity to submit evidence of his family ties, employment, residence, supervision history, and availability for less restrictive alternatives.

83. The Government did not provide Petitioner with a neutral and individualized custody determination before taking him from the community and placing him in detention.

84. After his arrest, Petitioner was placed in immigration detention.

85. According to available detention information, Petitioner is currently detained at the Metropolitan Detention Center in Brooklyn, New York.

86. EOIR Automated Case Information reflects docket court dates at the Immigration Court in Manhattan.

87. EOIR lists Petitioner's immigration case as pending.

88. EOIR currently lists no future hearing date.

89. Petitioner therefore remains detained without having received a meaningful custody determination justifying incarceration.

90. Petitioner's detention separates him from his family, his partner, his children, his work, and his community.

91. Petitioner's detention also interferes with his ability to gather records, communicate with counsel, and pursue immigration relief.

**IMMIGRATION HISTORY AND FEAR-BASED RELIEF**

92. Petitioner previously had an asylum application pending with USCIS based on fear of persecution and harm in Mexico.

93. Petitioner is from Tlaxco, Tlaxcala, Mexico.

94. Petitioner's asylum claim involved fear in Mexico and evidence concerning the deaths of two brothers in Mexico.

95. Petitioner believes those deaths may be connected to threats previously received by the family in Tlaxco, Tlaxcala, Mexico.

96. Petitioner continues to fear harm in Mexico.

97. Petitioner's fear claim requires factual development, access to records, and access to counsel.

98. Petitioner's detention makes that factual development more difficult.

**PETITIONER IS A CRIME VICTIM AND NEEDS ACCESS TO COUNSEL, RECORDS, AND LAW ENFORCEMENT COOPERATION**

99. Petitioner also has been the victim of a serious criminal incident in New York.

100. On February 5, 2026, at approximately 5:00 p.m., Petitioner was driving on Jerome Avenue in the Bronx.

101. Petitioner was traveling in the right lane, which was partially blocked by parked vehicles.

102. As Petitioner attempted to make a right turn, the driver in the adjacent lane became upset.

103. When the traffic light turned red, the other driver exited his vehicle and approached Petitioner aggressively.

104. Petitioner lowered his window.

105. The other individual verbally confronted Petitioner.

106. The confrontation escalated into a verbal argument.

107. The individual struck Petitioner in the face.

108. The aggressor then returned to his vehicle.

109. Petitioner exited his vehicle to address the assault.

110. At that point, the individual retrieved what was reported as a semi-automatic handgun from his vehicle and pointed or displayed it toward Petitioner.

111. Petitioner immediately stepped back.

112. The individual then re-entered his vehicle and attempted to flee.

113. Petitioner followed the vehicle while calling the police.

114. Petitioner obtained the license plate number.

115. A few days later, the individual was arrested.

116. The NYPD complaint report identifies Petitioner as the victim and complainant.

117. The NYPD complaint report reflects assault and menacing-related offenses.

118. Petitioner's status as a crime victim further supports the need for access to counsel, access to records, and the ability to pursue any immigration relief for which he may qualify.

119. Petitioner's detention prevents him from meaningfully assisting counsel in investigating the criminal case, any victim-related immigration relief, and his underlying fear-based claims.

120. Petitioner will be applying for a U Visa as a victim of a crime who reported the crime and is cooperating with authorities.

121. Petitioner needs to be free to fully cooperate with that application process and meaningfully cooperate with NYPD in prosecuting that serious crime.

**RESPONDENTS MUST IDENTIFY WHETHER THEY CLAIM AUTHORITY UNDER § 1225, § 1226, OR § 1231**

122. Because Petitioner was arrested in the interior after he had already been living openly in New York, and because he was not apprehended at or near the border in connection with this arrest, Respondents must identify the correct statutory detention authority.

123. If DHS contends that Petitioner is detained under 8 U.S.C. § 1225, Respondents must explain how that provision lawfully applies to a long-present interior resident arrested in New York while traveling to work and while already under ISAP supervision and electronic monitoring.

124. If DHS contends that Petitioner is detained under 8 U.S.C. § 1226(a), Respondents must produce the individualized custody determination, the statutory basis for custody, and the records showing that DHS considered danger, flight risk, family ties, residence, ISAP compliance, employment, electronic monitoring, community ties, crime-victim status, pending immigration relief, and alternatives to detention before taking and keeping Petitioner in custody.

125. If DHS contends that Petitioner is detained under 8 U.S.C. § 1231, Respondents must produce the final removal order, proof of service, appeal waiver or appeal history, and all records showing that § 1231 rather than § 1226(a) presently governs custody.

126. Respondents must also explain how any later removal order could retroactively cure an arrest and initial detention that were unlawful when made.

**DETENTION AND CONTINUING HARM**

**DETENTION IS CAUSING ONGOING FAMILY, LEGAL, AND DUE PROCESS HARM**

127. Petitioner has remained detained since June 17, 2026.

128. Petitioner is currently detained at the Metropolitan Detention Center in Brooklyn, New York.

129. The Metropolitan Detention Center is located within the Eastern District of New York.

130. Petitioner's detention is a severe deprivation of liberty.

131. Petitioner remains separated from his partner, children, family, employment, and community as a result of his continued detention.

132. Petitioner's detention has disrupted the stability of his family and has separated him from the children and family members who depend on him.

133. Petitioner's detention has made communication with counsel and family substantially more difficult.

134. Petitioner seeks review of his continued detention and an opportunity to pursue any available immigration relief while not unnecessarily detained.

135. Petitioner is not seeking to evade immigration proceedings.

136. Petitioner seeks only a lawful process, access to counsel, and release from unlawful detention.

137. The available facts show that Petitioner had a known address in the Bronx, had substantial family ties in New York, had United States citizen support, had stable employment, was already on ISAP supervision, was wearing an ankle monitor, and had a scheduled ISAP appointment five days after the arrest.

138. Those facts make the absence of a contemporaneous individualized custody determination especially significant.

139. The Government has not produced a lawful and timely individualized custody determination under the correct statute.

140. The Government has not produced the documents necessary to test the legality of Petitioner's arrest and detention.

141. Respondents should be required to produce all arrest, warrant, custody, charging, detention, transfer, removal, and immigration-court records necessary for meaningful habeas review.

142. The immediate physical custodian is a proper respondent in a core habeas challenge to present physical confinement, and the district where Petitioner is detained is an appropriate forum for review. The Court may also include supervisory immigration

officials whose actions and records bear directly on the challenged custody and requested relief. See *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004); 28 U.S.C. §§ 2241, 2243.

143. Detention is a severe deprivation of liberty. Where the Government arrests and detains a long-present interior resident without identifying the correct statute, producing the custody record, or making a timely individualized determination, the process is constitutionally deficient. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

## JURISDICTION, VENUE, AND PARTIES

144. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal custody and challenges that custody as unlawful under the Constitution, statutes, and regulations of the United States.

145. This Court has authority under 28 U.S.C. § 2243 to issue the writ or order Respondents to show cause and to require Respondents to certify the true cause of detention.

146. This Court has authority under the All Writs Act, 28 U.S.C. § 1651(a), to preserve jurisdiction, prevent transfer or removal that would frustrate habeas review, and order appropriate interim relief.

147. Venue is proper in this District because Petitioner is detained at the Metropolitan Detention Center in Brooklyn, New York, and Respondents exercise custody and control over him in this District.

## THE PARTIES

148. Respondent Kenneth Genalo is sued in his official capacity as Field Office Director for ICE Enforcement and Removal Operations in New York City, and as a supervisory official responsible for Petitioner's arrest, detention, custody classification, transfer, and removal.

149. Respondent David J. Venturella is sued in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement.

150. Respondent Markwayne Mullin, Secretary of the United States Department of Homeland Security, is sued in his official capacity as the head of the Department of Homeland Security.

151. Respondent Acting Attorney General Todd Blanche of the United States is sued in official capacity as the head of the United States Department of Justice.

152. Respondent Raul Maldonado, Jr., Warden, Metropolitan Detention Center, Brooklyn, New York, is sued in official capacity as Petitioner's immediate physical custodian.

## LEGAL FRAMEWORK

### THE LEGAL CONSENSUS IS DEFINITIVE FOR THIS TYPE OF DETENTION: § 1226(a) GOVERNS, THE DETENTION IS UNLAWFUL, AND RELEASE IS THE PROPER HABEAS REMEDY

153. The legal consensus in the EDNY is now definitive. The Government's theory that long-present interior residents who entered without inspection may be imprisoned under mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A) has been rejected by the Second Circuit, by the overwhelming weight of district-court authority, and by federal judges in this District and the Southern District of New York.

154. The Second Circuit has now held that § 1225(b)(2)(A) "does not apply to noncitizens, such as Petitioner, who are present in the United States after entering the country without inspection and admission, and who were not apprehended at or near the border at the time of entry." *Barbosa da Cunha v. Freden*, 175 F.4th 61, 66, 97–100 (2d Cir. 2026). The Court made plain that the Government's mass-detention theory "is not what the law says," that § 1226(a) governs, and that habeas relief was properly granted. Id.

155. The remedy is equally settled. Habeas is not an academic dissertation that custody is unlawful; it is the practical, historic remedy for unlawful executive detention. Where ICE has detained a long-present interior resident under the wrong statute, or without a valid arrest warrant or a lawful pre-deprivation or contemporaneous individualized custody determination, or without the process required by the INA and the Due Process Clause, federal courts have ordered release.

156. That is what the Eastern District has done repeatedly. See *Rodriguez-Acurio v. Almodovar*, No. 25-cv-06065 (NJC), 2025 WL 3314420, at *18–24, *27–33 (E.D.N.Y. Nov. 28, 2025) (Choudhury, J.); Flores Garcia v. Immigration & Customs Enf't, No. 26-cv-02561 (NCM), slip op. at 3–5 (E.D.N.Y. May 1, 2026) (Merle, J.); *Ccorihuaman v. Genalo*, No. 26-cv-00554 (HG), 2026 WL 328983, at *1–2 (E.D.N.Y. Feb. 6, 2026) (Gonzalez, J.); *J.U. v. Maldonado*, 805 F. Supp. 3d 482, 490–91 (E.D.N.Y. 2025) (Merchant, J.); *Inestroza Carbajal v. Frazier*, No. 26-CV-2778 (SJB), 2026 WL 1309265, at *1–5 (E.D.N.Y. May 12, 2026) (Bulsara, J.); *Ye v. Maldonado*, No. 25-cv-06417 (AMD), 2025 WL 3521298, at *3–6 (E.D.N.Y. Dec. 8, 2025) (Donnelly, J.); *Zhang v. Genalo*, No. 25-CV-06781 (NRM), slip op. at 1, 38–39 (E.D.N.Y. Dec. 28, 2025) (Morrison, J.); *Padilla Molina v. DeLeon*, No. 25-cv-06526 (JMA), slip op. at 4–8 (E.D.N.Y. Dec. 23, 2025) (Azrack, J.); *Hinestroza Arango v. Genalo*, No. 25-CV-6720 (RER), slip op. at 6 (E.D.N.Y. Dec. 16, 2025) (Reyes, M.J.).

157. The Eastern District's rule is straightforward. A long-present noncitizen arrested in the interior is not transformed into a mandatory § 1225(b)(2)(A) detainee merely because he once entered without inspection. Section 1226(a) governs unless the Government proves otherwise. Under § 1226(a), ICE must make a real custody determination before or contemporaneously with detention, based on danger, flight risk, community ties, family ties, compliance history, and alternatives to detention.

158. A later bond hearing, a later charging document, or a later litigation theory cannot cure a detention that was unlawful from its inception. See *Barbosa da Cunha v. Freden*, 175 F.4th 61, 97–100 (2d Cir. 2026); Rodriguez-Acurio, 2025 WL 3314420, at *18–24, *31–33; *Gopie v. Lyons*, No. 25-CV-05229-SJB, 2025 WL 3167130, at *1, *8–11 (E.D.N.Y. Nov. 13, 2025).

159. The Southern District has reached the same result. It has rejected the same post-hoc detention theories, excused futile administrative exhaustion, required actual process before liberty is taken, and ordered release where ICE detained noncitizens without lawful authority or meaningful process. See *Barco Mercado v. Francis*, No. 25-cv-06582 (LAK), 2025 WL 3295903, at *14–15, *21–22 (S.D.N.Y. Nov. 26, 2025) (Kaplan, J.); *Funes Gamez v. Francis*, 810 F. Supp. 3d 472, 520–21 (S.D.N.Y. 2025) (Engelmayer, J.); Khabazha v. United States Immigr. & Customs Enf't, No. 25-cv-05279 (JMF), 2025 WL 3281514, at *8–9 (S.D.N.Y. Nov. 25, 2025) (Furman, J.); *Savane v. Francis*, 801 F. Supp. 3d 483, 501–04 (S.D.N.Y. 2025) (Woods, J.); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 484–89, 493–94 (S.D.N.Y. 2025) (Ho, J.); *Sun v. Almodovar*, No. 25-cv-09262 (PKC), 2025 WL 3168759, at *3–6 (S.D.N.Y. Nov. 20, 2025) (Castel, J.); *Rojas Acevedo v. Almodovar*, No. 25-cv-7189 (LJL), 2025 WL 3034183, at *4–6 (S.D.N.Y. Oct. 30, 2025) (Liman, J.).

160. These cases control the result here. Petitioner was not arrested at the border. He was not apprehended while seeking entry. He was living openly in the Bronx, working openly in New York, had family and community ties, had United States citizen support, was already on ISAP supervision, was already wearing an ankle monitor, and had a scheduled ISAP appointment. ICE nevertheless arrested him in the interior, did not show him a judicial warrant, did not provide a meaningful explanation of the legal basis for the seizure, and did not make or serve any real contemporaneous custody determination under § 1226(a).

161. Respondents therefore cannot save this detention by relabeling it after the fact. If DHS claims § 1225(b)(2)(A), Barbosa da Cunha forecloses that theory. If DHS claims § 1226(a), the detention is still unlawful because DHS did not make the individualized custody determination required before or contemporaneously with detention. If DHS claims § 1231, Respondents must produce the final removal order, proof of service, appeal history, reinstatement record, and legal basis showing that the removal period actually governs. Until Respondents produce that record, this Court should not accept a conclusory custody label.

**ADMINISTRATIVE EXHAUSTION IS FUTILE BECAUSE THE AGENCY CANNOT REMEDY AN UNLAWFUL ARREST FROM INCEPTION**

162. Nor can Respondents force Petitioner into futile administrative exhaustion. A bond hearing cannot remedy an unlawful arrest, cannot retroactively supply statutory authority that did not exist when liberty was taken, cannot cure the failure to satisfy the warrant and escape-risk requirements, and cannot substitute for the individualized custody determination that DHS was required to make before or at the time of detention.

163. EDNY and SDNY courts have repeatedly recognized that exhaustion is futile where the agency cannot provide the relief sought or where the challenged detention is unlawful from inception. See Rodriguez-Acurio, 2025 WL 3314420, at *31–33; Barco Mercado, 2025 WL 3295903, at *21–22; Gopie, 2025 WL 3167130, at *8–11.

164. The Fourth Amendment and 8 U.S.C. § 1357(a)(2) independently reinforce the same conclusion. Civil immigration enforcement does not create a Fourth Amendment-free zone. ICE cannot conduct suspicion-driven interior arrests, demand identity or immigration information without individualized grounds, and then justify custody later through charging papers or post-hoc declarations.

165. A warrantless civil immigration arrest requires both reason to believe the person is removable and reason to believe the person is likely to escape before a warrant can be obtained. Where those facts were not present and documented at the moment of arrest, the seizure was ultra vires, unreasonable, and incapable of being cured after the fact.

166. This case presents the same statutory error, the same lack of pre-deprivation process, the same absence of a contemporaneous individualized custody determination, and the same post-hoc detention theory that federal courts in this Circuit have rejected again and again. The remedy should be the same. The Court should order Respondents to certify the true cause of detention, produce the complete arrest and custody record, preserve and produce the relevant evidence, and order Petitioner's immediate release. No lesser remedy is adequate where the detention was unlawful from its inception.

## THIS CASE SEEKS RELEASE FROM UNLAWFUL CUSTODY, NOT A REWEIGHING OF BOND

167. Petitioner seeks immediate release from this Honorable Court, not merely an order directing him back into a futile or inadequate administrative bond process. His core claim is that Respondents lacked lawful authority to arrest and detain him in the first instance, and that his present custody is unlawful because he was seized and detained in the interior of the United States without the statutory, regulatory, and constitutional safeguards required before liberty may be taken. Where detention lacks lawful authority, habeas relief is not limited to a paper declaration. The traditional and ordinary remedy for unlawful executive detention is release from custody, or other relief necessary to end the unlawful restraint. See *Munaf v. Geren*, 553 U.S. 674, 693 (2008); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

## EDNY AND SDNY COURTS HAVE EXCUSED EXHAUSTION IN THIS PRECISE CONTEXT

### The Immigration Court's Own Authority, the EOIR's Own Bond Precedent Makes Administrative Relief Inadequate

168. A bond hearing cannot cure an arrest and detention that were unlawful from inception. **Nor is a bond-hearing remedy adequate where the agency itself has adopted a**

**binding precedent decision declaring that immigration judges "lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission**." *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 216, 225–27 (B.I.A. 2025). That agency decision is binding on immigration judges but not on this Court. See *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 402 (2024).

169. And in this Circuit, the Government's broad *Yajure Hurtado* theory has now been rejected: long-present interior residents who entered without inspection and are later arrested inside the United States are detained under 8 U.S.C. § 1226(a), not mandatorily detained under § 1225(b)(2)(A). *Barbosa da Cunha v. Freden*, 175 F.4th 61, 66, 97–100 (2d Cir. 2026).

170. Exhaustion should therefore be excused. Section 2241 contains no statutory exhaustion requirement for immigration-detention habeas petitions; any exhaustion requirement is prudential and yields where administrative remedies are futile, inadequate, or incapable of providing meaningful relief. See *Howell v. INS*, 72 F.3d 288, 291 (2d Cir. 1995); *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003).

171. Petitioner challenges Respondents' threshold authority to arrest and detain him at all, and the administrative process cannot retroactively supply the warrant, statutory authority, contemporaneous custody determination, individualized danger-and-flight-risk assessment, or due process that were required before detention began. EDNY and SDNY courts have repeatedly excused exhaustion and ordered release where ICE arrested or detained a noncitizen under the wrong statute, without a lawful initial custody determination, or without the process required by § 1226(a) and the Fifth Amendment. See *Rodriguez-Acurio v. Almodovar*, No. 25-cv-06065 (NJC), 2025 WL 3314420, at *31–33 (E.D.N.Y. Nov. 28, 2025); *Gopie v. Lyons*, No. 25-CV-05229-SJB, 2025 WL 3167130 (E.D.N.Y. Nov. 13, 2025); *Padilla Molina v. DeLeon*, No. 25-cv-06526 (JMA), slip op. at 4–8 (E.D.N.Y. Dec. 23, 2025); *Barco Mercado v. Francis*, No. 25-cv-06582, 2025 WL 3295903, at *14–15, *21–22 (S.D.N.Y. Nov. 26, 2025); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 484–89, 493–94 (S.D.N.Y. 2025); *Tumba Huamani v. Francis*, 813 F. Supp. 3d 394 (S.D.N.Y. 2025); *Kelly v. Almodovar*, No. 25-CV-6448, 2025 WL 2381591 (S.D.N.Y. Aug. 15, 2025); *J.U. v. Maldonado*, No. 25-cv-04836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Artiga v. Genalo*, No. 25-cv-05208, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025).

172. The futility is not theoretical. **In Barco Mercado, the Southern District held that, after *Yajure Hurtado*, forcing a petitioner to seek an immigration-judge bond hearing that the BIA had already declared unavailable, and then to appeal to the same agency that created the bar, would be "Kafkaesque" and that "exhaustion of administrative remedies would be futile**." *Barco Mercado*, No. 25-cv-06582, 2025 WL 3295903, at *21–22.

173. In Rodriguez-Acurio, the Eastern District likewise held that a DHS or immigration-judge bond determination would not remedy the core constitutional violation because detention was unlawful from inception, and that *Yajure Hurtado* rendered an immigration-judge

bond remedy futile. *Rodriguez-Acurio*, 2025 WL 3314420, at *31–33. In Gopie, the Eastern District rejected exhaustion where the administrative process was defective from the outset, explaining that the petitioner was "not required to exhaust a process that was deficient from the outset." Gopie, 2025 WL 3167130. And in *Padilla Molina,* the Eastern District held that waiver of exhaustion was warranted because, given the BIA's mandatory-detention policy, "there are no administrative remedies available that could provide Petitioner with the relief he seeks." *Padilla Molina*, No. 25-cv-06526 (JMA), slip op. at 4 n.1.

174. This Court should follow that strong EDNY and SDNY line. Requiring Petitioner to exhaust would not promote agency correction, judicial economy, or factual development. It would instead force Petitioner into an administrative forum that lacks authority to remedy the unlawful arrest, lacks authority to declare Respondents' detention theory unlawful, cannot restore the pre-detention status quo, and—under *Yajure Hurtado* if Respondents invoke it—may refuse to hear the bond request at all. Habeas is therefore necessary now.

175. Because Respondents' custody is unlawful from its inception and because administrative remedies are futile and inadequate, this Court should excuse exhaustion, order Respondents to certify the true cause of detention under 28 U.S.C. § 2243, and grant immediate release or such other relief as law and justice require.

176. This record shows why habeas is needed. The ordinary bond system cannot be assumed to provide prompt and meaningful review when DHS's theory and BIA precedent deny bond jurisdiction at the threshold. Requiring Petitioner to exhaust that process would only prolong unlawful custody.

177. Petitioner now comes to this Court seeking habeas relief so that Respondents may be required to identify and prove the lawful basis for imprisoning him, or, if they cannot do so, release him immediately.

## THE WARRANTLESS INTERIOR ARREST VIOLATED THE FOURTH AMENDMENT, 8 U.S.C. § 1357(a)(2), AND DHS'S OWN ARREST REGULATIONS

178. The Fourth Amendment applies to civil immigration arrests and seizures inside the United States, and civil immigration enforcement is not exempt from individualized constitutional, statutory, and regulatory requirements. See *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1043 (1984); *Almeida-Amaral v. Gonzales*, 461 F.3d 231, 234 (2d Cir. 2006).

179. A brief immigration stop requires specific, articulable facts that reasonably warrant the intrusion. Generalized suspicion, presence in a neighborhood, language, race, ethnicity, Hispanic or Latino appearance, or apparent national origin cannot alone supply the required individualized basis for the seizure. See *Terry v. Ohio*, 392 U.S. 1, 21–22 (1968); *United States v. Brignoni-Ponce*, 422 U.S. 873, 884–87 (1975).

180. A warrantless civil immigration arrest requires both reason to believe that the person is removable and reason to believe that the person is likely to escape before a warrant can be obtained.

181. DHS regulations likewise provide that a warrant shall be obtained except when the designated immigration officer has reason to believe the person is likely to escape before a warrant can be obtained. See 8 U.S.C. § 1357(a)(2); 8 C.F.R. § 287.8(c)(2)(ii).

182. Probable cause and statutory arrest authority must exist at the moment of arrest.

183. Later-created charging documents, post-hoc declarations, or litigation explanations cannot cure a seizure that was unsupported by the required constitutional and statutory facts when made. See *Beck v. Ohio*, 379 U.S. 89, 96 (1964); *United States v. Di Re*, 332 U.S. 581, 595 (1948).

184. Here, Petitioner was already under ISAP supervision, was wearing an ankle monitor, had a scheduled ISAP appointment five days later, had a known residence, had known contact information, had family ties, and was reportedly traveling to work. Those facts are inconsistent with any unexplained assertion that he was likely to escape before a warrant could be obtained.

185. Upon information and belief, ICE did not document individualized facts showing that Petitioner was likely to escape before a warrant could be obtained.

186. Upon information and belief, ICE did not show Petitioner any warrant before arresting him.

187. Upon information and belief, ICE did not make or serve any meaningful contemporaneous custody determination before or at the time Petitioner was taken into custody.

## POST-HOC DETENTION THEORIES CANNOT CURE AN UNLAWFUL ARREST OR CUSTODY CLASSIFICATION

188. Agency action must stand or fall on the grounds actually invoked by the agency at the time it acted.

189. Respondents may not defend detention by substituting a new litigation theory for the legal authority and factual basis that actually existed when Petitioner was arrested and detained. See *SEC v. Chenery Corp.*, 318 U.S. 80, 94 (1943); Dep't of Homeland Sec. v. Regents of the Univ. of Cal., 591 U.S. 1, 20–23 (2020).

190. Courts in this Circuit have rejected post-hoc efforts to recharacterize immigration detention authority. See *Yao v. Almodovar*, 813 F. Supp. 3d 461, 476–77 (S.D.N.Y. 2025); *Gopie v. Lyons*, No. 25-CV-05229-SJB, 2025 WL 3167130 (E.D.N.Y. Nov. 13, 2025).

191. Section 1226(a) requires a real custody decision before or at the time of detention.

192. Under § 1226(a), detention is discretionary, not automatic.

193. DHS must make a real individualized custody decision under the correct statute, considering danger, flight risk, family ties, residence, community ties, compliance history, medical circumstances, crime-victim status, employment, ISAP supervision, electronic monitoring, and available alternatives to detention.

194. A later bond process does not necessarily cure the absence of a lawful initial custody decision.

195. A bond redetermination assumes that DHS first made a valid custody determination under the correct statute. See 8 U.S.C. § 1226(a); *Gopie v. Lyons*, No. 25-CV-05229-SJB, 2025 WL 3167130 (E.D.N.Y. Nov. 13, 2025).

196. A later removal order likewise does not retroactively cure an unlawful arrest or an unlawful initial custody classification.

197. Respondents must show what authority existed when Petitioner's liberty was taken on June 17, 2026.

**CLAIM ONE**

**THE ARREST AND DETENTION VIOLATED THE FOURTH AMENDMENT, 8 U.S.C. § 1357(a)(2), AND DHS REGULATIONS.**

**The Unlawful Arrest Requires Production of the Arrest, Warrant And Custody Records**

198. Petitioner repeats and realleges the preceding paragraphs.

199. ICE arrested Petitioner in the interior of the United States while he was reportedly traveling to work.

200. ICE did not arrest Petitioner at the border.

201. ICE did not arrest Petitioner at a port of entry.

202. ICE did not arrest Petitioner while he was attempting to enter the United States.

203. Upon information and belief, ICE did not present a judicial warrant to Petitioner before arresting him.

204. Upon information and belief, ICE did not show Petitioner an administrative warrant before taking him into custody.

205. Upon information and belief, ICE did not identify individualized facts establishing that Petitioner was likely to escape before a warrant could be obtained.

206. Section 1357(a)(2) is conjunctive.

207. ICE needed reason to believe Petitioner was removable and reason to believe he was likely to escape before a warrant could be obtained.

208. Respondents have not shown either statutory requirement.

209. ICE also failed to comply with 8 C.F.R. § 287.8 and the required warrant and arrest procedures applicable to interior civil immigration arrests.

210. Because the arrest was unlawful when made, later charging papers, later custody papers, or any later Immigration Judge order cannot cure the Fourth Amendment and statutory defects.

211. The Court cannot determine the true cause of custody from conclusory labels.

212. Respondents should be required to produce the actual arrest, warrant, charging, custody, detention, transfer, video, immigration-court, body-worn camera, surveillance, radio, dispatch, agent-note, database-query, GPS/ISAP-location, supervisory-approval, and contractor records because those materials are necessary to test whether the arrest and detention complied with the Constitution, the INA, and DHS regulations. See 28 U.S.C. § 2243; 8 U.S.C. § 1357(a)(2); 8 C.F.R. §§ 287.3, 287.8, 236.1, 1236.1.

## CLAIM TWO

## DHS UNLAWFULLY CLASSIFIED OR DETAINED PETITIONER WITHOUT THE § 1226(a) PROCESS REQUIRED FOR A LONG-PRESENT INTERIOR ARRESTEE.

### Respondents' Possible § 1225 Theory Is Foreclosed By Second Circuit Law For Long-Present Interior Arrestees

213. Petitioner repeats and realleges the preceding paragraphs.

214. At the time of arrest and initial detention, DHS did not identify the statutory basis for detention.

215. To the extent DHS treated Petitioner as detained under 8 U.S.C. § 1225, that classification was unlawful.

216. Petitioner was not apprehended at or near the border in connection with the present arrest.

217. Petitioner was already living in the United States and was under immigration supervision when immigration officers arrested him in New York.

218. Petitioner was arrested in the interior of the United States.

219. Petitioner was not an arriving alien at a port of entry.

220. Petitioner was not seeking admission when he was arrested.

221. Petitioner was reportedly traveling to work, was on ISAP, was wearing an ankle monitor, and had an upcoming reporting appointment when ICE took him into custody.

222. Under *Barbosa da Cunha v. Freden*, 175 F.4th 61 (2d Cir. 2026), § 1226(a), not § 1225(b)(2)(A), governs this type of interior arrest.

223. A long-present noncitizen arrested in the interior is not transformed into a mandatory § 1225(b)(2)(A) detainee merely because the person once entered without inspection.

224. For such interior arrests, the governing detention authority is § 1226(a), with its discretionary custody framework, unless the Government proves another statute lawfully applies.

225. DHS's erroneous reliance on § 1225, or its failure to identify any lawful detention statute, deprived Petitioner of the discretionary custody process required under § 1226(a).

**CLAIM THREE**

**RESPONDENTS HAVE NOT SHOWN ANY FINAL REMOVAL ORDER OR § 1231 AUTHORITY SUPPORTING CUSTODY.**

**Respondents Must Produce The Immigration Court Record, Proof Of Finality, And Any § 1231 Custody Basis**

226. Petitioner repeats and realleges the preceding paragraphs.

227. EOIR Automated Case Information reflects that Petitioner's immigration case is pending.

228. EOIR currently lists no future hearing date.

229. EOIR reflects docket court dates at the Immigration Court in Manhattan.

230. Respondents have not produced any final removal order.

231. Respondents have not produced proof of service of any final removal order.

232. Respondents have not produced any appeal waiver.

233. Respondents have not produced any BIA appeal record.

234. Respondents have not produced the complete Immigration Court record.

235. Respondents have not produced any document establishing that § 1231 presently governs detention.

236. Without those records, Respondents have not shown that § 1231 currently applies.

237. Even if Respondents later rely on a final-order theory, a later order cannot retroactively validate an unlawful June 17, 2026 arrest.

238. Even if Respondents later rely on a final-order theory, that theory cannot substitute for the warrant, escape-risk finding, and contemporaneous custody determination required when Petitioner's liberty was first taken.

239. The legality of custody must be judged by the actual grounds and actual authority invoked when the Government took liberty away.

## CLAIM FOUR

## DETENTION WITHOUT A TIMELY, INDIVIDUALIZED CUSTODY DETERMINATION UNDER THE CORRECT STATUTE VIOLATES DUE PROCESS.

### The Absence Of A Contemporaneous Individualized Custody Determination Violates Due Process

240. Petitioner repeats and realleges the preceding paragraphs.

241. Petitioner should have been treated under § 1226(a), not § 1225, unless Respondents can prove that another statute lawfully governed custody.

242. Under § 1226(a), DHS was required to make a real, individualized custody determination based on danger and flight risk.

243. DHS did not make a lawful custody determination under the correct statute before or contemporaneously with Petitioner's detention.

244. DHS did not meaningfully consider Petitioner's release factors, including his longtime residence in New York, stable address, partner, children, family ties, United States citizen support, employment, ISAP supervision, ankle monitoring, scheduled reporting appointment, crime-victim status, pending or potential immigration relief, and available alternatives to detention.

245. DHS did not identify Petitioner as dangerous.

246. DHS did not identify individualized facts showing that Petitioner posed a flight risk sufficient to justify detention.

247. DHS instead detained Petitioner without the process required by § 1226(a) and the Due Process Clause.

248. A later bond hearing, if any, does not cure the absence of a valid initial custody determination. See *Gopie v. Lyons*, No. 25-CV-05229-SJB, 2025 WL 3167130 (E.D.N.Y. Nov. 13, 2025).

249. A later Immigration Judge removal order does not cure the absence of a valid initial custody determination.

250. Petitioner is entitled to habeas relief and release.

**CLAIM FIVE**

**RESPONDENTS VIOLATED ACCARDI BY FAILING TO FOLLOW BINDING STATUTES AND REGULATIONS.**

**Respondents' Failure To Follow Binding Statutes And Regulations Violates Accardi**

251. Petitioner repeats and realleges the preceding paragraphs.

252. Under *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267–68 (1954), an agency must follow its own binding rules.

253. The Second Circuit applies the Accardi doctrine in immigration cases. *Montilla v. INS*, 926 F.2d 162, 166–69 (2d Cir. 1991).

254. The rules at issue protect liberty.

255. ICE was required to comply with the Fourth Amendment, 8 U.S.C. § 1357(a)(2), 8 C.F.R. § 287.8, 8 C.F.R. § 287.3, 8 C.F.R. § 236.1, and 8 C.F.R. § 1236.1.

256. ICE failed to comply with those rules by arresting and detaining Petitioner without producing a lawful warrant, without showing the escape-risk requirement under § 1357(a)(2), without identifying the correct detention statute, and without a timely individualized custody determination.

257. These failures violated Accardi, the INA, DHS regulations, and due process.

258. Where ICE fails to comply with the INA, DHS arrest regulations, custody regulations, or required decision-making procedures, the violation is independently actionable under the Accardi doctrine and due process principles. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267–68 (1954); *Montilla v. INS*, 926 F.2d 162, 166–69 (2d Cir. 1991).

## CLAIM SIX

## A BOND HEARING IS FUTILE AND INADEQUATE BECAUSE IT CANNOT CURE THE THRESHOLD ILLEGALITY

259. Petitioner repeats and realleges the preceding paragraphs.

260. Petitioner does not ask this Court merely to reweigh bond.

261. Petitioner challenges the Government's threshold authority to arrest and detain him at all.

262. Exhaustion is not jurisdictional in this setting and is excused when administrative remedies are futile, inadequate, or incapable of providing the relief requested.

263. A bond hearing cannot cure an unconstitutional arrest.

264. A bond hearing cannot cure an unlawful statutory classification.

265. A bond hearing cannot cure the failure to satisfy § 1357(a)(2).

266. A bond hearing cannot cure the failure to make a lawful initial custody determination.

267. A bond hearing cannot retroactively supply a warrant, an escape-risk finding, or a contemporaneous custody decision that did not exist when Petitioner was arrested.

268. See *McCarthy v. Madigan*, 503 U.S. 140, 146–49 (1992); *Howell v. INS*, 72 F.3d 288, 291 (2d Cir. 1995).

269. Habeas is necessary because the administrative process cannot provide prompt and complete relief from unlawful arrest and detention without lawful process.

## CLAIM SEVEN

## RESPONDENTS MUST PRODUCE THE FULL ARREST, CUSTODY, ISAP, GPS, AND IMMIGRATION COURT RECORD NOW FOR HABEAS REVIEW

270. Petitioner repeats and realleges the preceding paragraphs.

271. Section 2243 requires Respondents to certify the true cause of detention.

272. A conclusory declaration is not enough.

273. The Court cannot decide the legality of custody without the actual records.

274. Respondents should be ordered to produce the complete A-file and all arrest, custody, ISAP, GPS-monitoring, detention, transfer, and removal records.

275. Required records include, but are not limited to: any judicial warrant; any administrative warrant, including Form I-200 or I-205; any Form I-213; any Form I-286; any Form I-862 Notice to Appear; any custody determination form; any bond determination or bond denial; any document identifying § 1225, § 1226, or § 1231 as the basis for custody; any arrest report; any target packet; any operational plan; any supervisory approval; any database query; any body-worn camera footage; any surveillance footage; any radio transmissions or dispatch records; any property records; any ISAP records; any GPS-location records; any ankle-monitor records; any contractor records; the complete Immigration Court record; proof of service; any final removal order; any appeal waiver; any BIA appeal record; any reinstatement record if one exists; and any record supporting Respondents' present detention theory.

276. This is not ordinary discovery.

277. It is the minimum record necessary for habeas review.

278. Those materials are necessary to test whether the arrest and detention complied with the Constitution, the INA, and DHS regulations. See 28 U.S.C. § 2243; 8 U.S.C. § 1357(a)(2); 8 C.F.R. §§ 287.3, 287.8, 236.1, 1236.1.

279. If Respondents cannot produce records showing lawful arrest and lawful detention authority, the writ should issue and Petitioner should be released.

## CLAIM EIGHT

## PETITIONER PRESERVES HIS RIGHT TO EAJA FEES IF HE PREVAILS

280. Petitioner repeats and realleges the preceding paragraphs.

281. Petitioner preserves his right to seek attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, if he prevails or obtains the relief requested.

282. If Petitioner obtains the requested relief, EAJA authorizes an award to a prevailing party in a civil action against the United States unless the Government's position was substantially justified or special circumstances make an award unjust. See 28 U.S.C. § 2412(d)(1)(A).

## REQUEST FOR EMERGENCY RELIEF

Petitioner respectfully asks this Court to issue an Order to Show Cause under 28 U.S.C. § 2243 and to enter temporary relief preserving this Court's jurisdiction and Petitioner's access to counsel. Petitioner requests that the Court:

a) prohibit Respondents from transferring Petitioner outside the Eastern District of New York, or outside New York and New Jersey, absent further order of this Court;

b) prohibit Respondents from removing Petitioner from the United States while this habeas action is pending and until further order of this Court;

c) direct Respondents to provide reasonable, timely, confidential access to counsel, including meaningful in-person legal visitation, phone access, and interpreter access as necessary;

d) direct Respondents to file, within forty-eight hours, a full return certifying the statutory and factual basis for detention pursuant to 28 U.S.C. § 2243;

e) require production, within forty-eight hours, of all custodial, administrative, DHS, ICE, warrant, custody, immigration-court, detention, removal, ISAP, GPS, ankle-monitor, and transfer records supporting Petitioner's arrest and detention;

f) require Respondents to preserve and produce all videos, body-worn camera footage, surveillance footage, radio transmissions, dispatch records, target packets, operational plans, agent notes, database-query records, ISAP records, GPS-location records, contractor records, supervisory approvals, and other evidence concerning the arrest;

g) produce Petitioner before this Court as necessary to effectuate meaningful habeas review;

h) grant the writ of habeas corpus and order Petitioner's immediate release from unlawful detention;

i) order that Petitioner shall not be re-detained without notice and an opportunity to be heard before a neutral decisionmaker, where Respondents bear the burden of establishing lawful detention under the correct statutory authority;

j) order Respondents to return all personal property seized from Petitioner at the time of detention and currently in Respondents' custody, possession, or control;

k) award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), should Petitioner prevail; and

l) grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

*s/ S. Michael Musa-Obregon*

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Dated: June 30, 2026
New York, New York

**VERIFICATION BY COUNSEL PURSUANT TO 28 U.S.C. § 2242**

I submit this verification on behalf of Petitioner because I am one of Petitioner's attorneys. The facts in this Petition are based on information provided by Petitioner, Petitioner's family, available records, counsel's investigation, and counsel's review of the case file. On that basis, I verify that the statements in this Petition are true and correct to the best of my knowledge and belief.

Dated: June 30, 2026

*s/ S. Michael Musa-Obregon*
S. Michael Musa-Obregon, Esq.

**CERTIFICATE OF SERVICE**

I certify that on June 30, 2026, I caused the foregoing Petition, Emergency Motion, and proposed Order to Show Cause to be served by electronic mail and/or other authorized means on the United States Attorney's Office for the Eastern District of New York, Civil Division, and on counsel for Respondents. I also caused service on Respondents in their official capacities through the United States Attorney as permitted by applicable rule.

*s/ S. Michael Musa-Obregon*

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