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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA (Las Vegas)

LUCIO ALEXANDER BERNAL MUNIZ

Petitioner,

v.

MARKWAYNE MULLIN,
in his official capacity as Secretary, U.S. Department of Homeland Security; 245 Murray Lane SW, Washington, DC 20528;

U.S. DEPARTMENT OF HOMELAND SECURITY

TODD BLANCHE,
in his official capacity as Acting Attorney General of the United States, 950 Pennsylvania Avenue, NW, Washington, DC, 20530;

U.S. DEPARTMENT OF JUSTICE,

DAVID VENTURELLA,
in his official capacity as Acting Director and Senior Official Performing the Duties of the Director for U.S. Immigration and Customs

Case No.: _____

Agency No: A[redacted]

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

Enforcement, 500 12th Street, SW, Washington, DC 20536;

ALEJANDRO ALMEIDA,
in his official capacity as Acting Field Office Director, Salt Lake City Field Office Director, U.S. Immigration & Customs Enforcement, 2975 Decker Lake Drive Suite 100, West Valley City, UT 84119-6096

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, and

JOHN MATTOS,
in his official capacity as Warden, Nevada Southern Detention Center, 2190 E. Mesquite Ave. Pahrump, NV 89060

Respondents.

INTRODUCTION

1. Lucio Alexander Bernal Muniz ("Petitioner") is a Salvadorian national. He has resided in the United States since the early 1990s, where he entered without inspection ("EWI") in 1990. Petitioner has held Temporary Protected Status ("TPS") since 2003. After receiving advance parole in 2014, Petitioner returned to the U.S. after a short trip abroad where immigration officials inspected and admitted him into the U.S.

2. On or about April 15, 2026, Immigration and Customs Enforcement ("ICE") detained Petitioner after his release from the Clark County Detention Center ("CCDC"). ICE then transported him to Nevada Southern Detention Center ("NSDC"), a private prison run by CoreCivic in Pahrump, Nevada. Despite Petitioner's status as a TPS recipient, on the same day, ICE also initiated removal proceedings against him. Due to an erroneous arriving alien ("AA")

designation subjecting him to mandatory detention, Petitioner has remained in ICE custody since.

3. Petitioner brings this Petition pursuant to 28 U.S.C. § 2241; the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101-1538 and its implementing regulations, and the United States Constitution to allow him to be immediately released from immigration detention. Petitioner does not request a review of his removability, or any other determination of the immigration court – he only seeks review of the lawfulness of ICE's detention and his release from that detention without delay.

JURISDICTION AND VENUE

4. Petitioner is in the custody of Respondents. He is detained at NSDC, 2190 E. Mesquite Ave., Pahrump, NV 89060. NSDC is a private detention center operated by CoreCivic, Inc., under contract with ICE.

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

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

7. Venue is proper in this District under 28 U.S.C. § 2241; 28 U.S.C. § 1391(b); and 28 U.S.C. § 1391(e)(1) because this Petition was filed while Petitioner was detained within the geographic jurisdiction of the District of Nevada (Las Vegas). Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and a substantial part of the events or omissions giving rise to the claim occurred in this District. *See* 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

8. The Court must grant the Petition for Writ of Habeas Corpus or order respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the respondents must file a return "within three (3) days unless for good cause additional time, not exceeding twenty (20) days, is allowed." *Id.*

9. 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) (overruled on other grounds by *Keeney v. Tamayo-Reyes*, 504 U.S. 1 (1992)). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

10. Petitioner is a citizen of El Salvador who has resided in the United States since the 1990s. He has been in immigration detention since or about April 2026 after ICE issued his Notice to Appear ("NTA"). *See* **Exhibit ("Exh.") A**, *NTA*.

11. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security ("DHS"). He is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

12. Respondent DHS is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens. Respondent DHS is a legal custodian of Petitioner.

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

14. Respondent DOJ is the federal agency responsible for adjudicating removal and related bond cases. EOIR, and its components the immigration courts and the Board of Immigration Appeals ("BIA"), is a division of the DOJ.

15. Respondent David Venturella is the Acting Director and Senior Officer Performing the Duties of the Director of ICE. Respondent Venturella is responsible for ICE's policies, practices, and procedures, including those relating to the detention of immigrants during their removal procedures. Respondent Venturella is a legal custodian of Petitioner. Respondent Venturella is sued in his official capacity.

16. Respondent ICE is the subagency of DHS that is responsible for carrying out removal orders and overseeing immigration detention. Respondent ICE is a legal custodian of Petitioner.

17. Respondent Alejandro Almeida is the Acting Director of the Salt Lake City Field Office of ICE Enforcement and Removal Operations ("ERO"), a federal law enforcement agency within the DHS. ERO is a directorate within ICE whose responsibilities include operating the immigration detention system. In his capacity as ICE ERO Salt Lake City, Acting Field Office Director, Respondent Almeida exercises control over and is a custodian of immigration detainees held at NSDC. At all times relevant to this Complaint, Respondent Almeida was acting within the scope and course of his employment with ICE. He is sued in his official capacity.

18. Respondent John Mattos is the Warden of NSDC which detains individuals suspected of civil immigration violations pursuant to a contract with ICE. Respondent Mattos exercises physical control over immigration detainees held at NSDC. Respondent Mattos is sued in his official capacity.

19. Respondents individually and collectively will be referred to as "Respondents."

FACTS

20. Petitioner has resided in the United States since the 1990s.

21. On or about December 1996, Petitioner applied for political asylum. *See* **Exh. B**, *I-589, Application for Asylum, Withholding of Removal, and/or Convention Against Torture*. On August 26, 1997, an immigration judge ("IJ") denied Petitioner asylum but granted voluntary departure. *See* **Exh. C**, *Order of the IJ*, dated August 26, 1997. Petitioner did not leave the U.S. DHS issued Petitioner a removal order on February 16, 2001. *See* **Exh. D**, *Notice of Removal Order*, dated February 16, 2001.

22. In 2001, Petitioner applied for Temporary Protected Status ("TPS") following the disruption in living in El Salvador caused by the earthquakes that took place in January and February 2001. *See* **Exh. E**, *I-821, Application for Temporary Protected Status*, dated March 30, 2001. U.S. Citizenship and Immigration Services ("USCIS") approved Petitioner's application for TPS on December 10, 2003. *Id.*

23. On September 15, 2014, USCIS also approved Petitioner's application for advance parole. *See* **Exh. F**, *Advance Parole Approval Notice*, dated September 15, 2014. As such, Petitioner left the U.S. after receiving his approval and returned on November 13, 2014. *Id.* Petitioner was admitted into the U.S. in Los Angeles, California on that same day. *Id.*

24. Petitioner filed an I-485, Application to Register Permanent Residence or Adjust Status ("I-485") on February 19, 2015. *See* **Exh. G**, *USCIS's Decision on Form I-485*, dated April 29, 2016. USCIS denied Petitioner's application on April 29, 2016, under INA § 212(a)(6)(C)(i) for fraud or willful misrepresentation of a material fact, INA § 212(a)(9)(A) where Petitioner's grant of advance parole was considered a departure for other reasons, and INA § 245(a)(2) on ineligibility to receive an immigrant visa. *Id.* DHS alleged Petitioner failed to disclose his prior outstanding removal order on his Form I-131, Application for Advance Parole. *Id.*

25. Petitioner appealed his denial to adjust status on June 2, 2016. *See* **Exh. H**, *USCIS Decision on Form I-290*, dated November 8, 2016. USCIS denied Petitioner's appeal on November 8, 2016, due to lack of appellate jurisdiction. *Id.*

26. Petitioner first obtained TPS on December 10, 2003. *See* **Exh. E**, *I-821, Application for Temporary Protected Status*, dated March 30, 2001. Petitioner has re-registered for TPS since 2003, and USCIS received his latest re-registration on March 21, 2025. *See* **Exh. N,** *USCIS Benefit Card Details*.[1] A decision on such re-registration is still pending today. *See* **Exh. O**, *USCIS Cases Status Online* (last visited July 2, 2026).

27. On or about June 30, 2025, Petitioner was cited for unlawful use or possession of drug paraphernalia in the City of Las Vegas. *See* **Exh. I**, *Las Vegas Municipal Court Case Docket Search*, No. 25-043099. On September 29, 2025, the Court issued a bench warrant which was executed on or about December 20, 2025. *Id.* Petitioner was ultimately convicted on or about December 22, 2025. *Id.*

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[1] This exhibit is page seven (7) of fifty-two (52) from a Freedom of Information Act ("FOIA") request Petitioner sought from USCIS. If necessary, Petitioner can provide the entire file to the Court.

28. On or about April 8, 2026, Petitioner was arrested again for unlawful use or possession of drug paraphernalia in the City of Las Vegas. *See* **Exh. J**, *Las Vegas Municipal Court Case Docket Search*, No. 26-036499. After his release from City Jail, ICE detained Petitioner and that matter is currently under a bench warrant because he has been under ICE custody since. *Id.*

29. On or about April 15, 2026, ICE transported Petitioner to NSDC and initiated removal proceedings against him before the Las Vegas Immigration Court pursuant to 8 U.S.C. § 1229a. *See* **Exh. A**, *NTA*. In his NTA, ICE charged Petitioner as an arriving alien ("AA") subject to removal from the United States. *Id.* Under inadmissibility ground INA § 212(a)(7)(A)(i)(I), DHS alleges that Petitioner is a noncitizen who, at the time of application for admission, was not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document of identity and nationality, or other suitable travel document as required under INA § 211(a). *Id.*

30. Las Vegas IJ Roberts conducted a bond hearing on May 27, 2026. *See* **Exh. K**, *Order of the IJ*, dated May 7, 2026. Judge Roberts found she had no jurisdiction to entertain bond because ICE has charged Petitioner as an AA. *Id.*

LEGAL FRAMEWORK

Noncitizens and TPS

31. The TPS program provides humanitarian relief to foreign nationals in the United States who come from specified countries. 8 U.S.C. § 1254a.

32. In order for a foreign national to be eligible for TPS, they must "(1) be a national of a TPS-designated country; (2) have been present in the United States on the date of the initial

designation, re-designation, or extension; (3) be otherwise admissible into the United States; and (4) register within a specific time frame." 8 U.S.C. § 1254a(c)(1)(A).

33. A noncitizen with TPS is considered as "being in, and maintaining, lawful status as a nonimmigrant." 8 U.S.C. § 1254a(f)(4).

34. A noncitizen with an active grant of TPS may not be removed from the U.S. and is authorized to obtain employment "during the period in which such status is in effect." 8 U.S.C. § 1254a(a)(1). A noncitizen with an active grant of TPS ***shall*** also "not be detained by [DHS] on the basis of the alien's immigration status in the United States." 8 U.S.C. § 1254a(d)(4) (emphasis added).

35. USCIS may withdraw TPS from a noncitizen if the noncitizen was not in fact eligible at the time such status was granted, the noncitizen has not remained continuously physically present in the U.S. from the date the status was initially granted, or the noncitizen fails without good cause to register with DHS annual within thirty (30) days before the end of each twelve (12) month period after the granting of TPS. 8 C.F.R. § 244.14(a)(1)–(4).

36. If USCIS withdraws TPS status from a noncitizen, such withdrawal ***shall*** be in writing and served by personal service. 8 C.F.R. § 244.14(b)(1) (emphasis added). Additionally, if the ground for withdrawal is for failure to register within thirty (30) days,[2] USCIS's notice shall provide that the noncitizen has thirty (30) days within which to provide evidence of good cause for failure to register. *Id.*

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[2] 8 C.F.R. § 244.14(a)(3).

a. Travel Authorization via Advance Parole

37. A noncitizen with TPS may be eligible for parole to travel abroad and return to the United States. 8 U.S.C. § 1245a(f)(3). Prior to July 2022, DHS executed this travel authorization through advance parole for purposes of "urgent humanitarian reasons or significant public benefit." 8 U.S.C § 1182(d)(5)(A).

38. Historically, immigration authorities processed individuals returning to the U.S. on advance parole as "parolees" and automatically classified them as AAs. *See Matter of Arrabally and Yerrabelly*, 25 I.&N. Dec. 771, 777 (BIA 2012) (noting that a noncitizen returning on advance parole presents themselves as an arriving alien seeking parole).

39. An AA is a noncitizen present in the United States who has not been formally admitted into the country and who is therefore considered an "applicant for admission." 8 U.S.C. § 1225(a)(1). This designation generally applies to those who are: applicants for admission into the United States at a port-of-entry, those seeking transit through the United States, or those intercepted in international or American waters. 8 C.F.R. § 1.2; 8 C.F.R. § 1001.1(q).

40. However, this historical practice stood in direct conflict with the statutory text of § 304(c) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 ("MTINA"), which states that a TPS beneficiary who returns on parole "shall be inspected and admitted in the same immigration status the alien had at the time of departure." Pub. L. No. 102-232, 105 Stat. 1733, 1749 (1991) (codified at 8 U.S.C. § 1254a note).

41. USCIS explicitly recognizes that the MTINA framework overrides a noncitizen's prior entry defects, clarifying that a TPS beneficiary who returns from authorized travel is legally "inspected and admitted." *See* U.S. Citizenship & Immigration Servs., *USCIS Policy Manual*,

vol. 7, pt. B, ch. 2, § A.5 (2026), https://www.uscis.gov/policy-manual/volume-7-part-b-chapter-2. As such, a returning TPS holder is legally "admitted" and therefore excluded from being an "applicant for admission" under 8 U.S.C. § 1225(a)(1).

42. Importantly, USCIS explains that MTINA's "inspected and admitted" standard applies retroactively to past TPS travel on a "case-by-case basis." *Id.* This lawful admission effectively extinguishes an individual's prior EWI status for subsequent immigration and custody determinations, meaning a returning TPS beneficiary cannot be legally classified as an unadmitted AA. *Id.*

43. Petitioner obtained TPS in 2003, after which he established authorized and lawful status as a nonimmigrant. *See* **Exh. E**, *I-821, Application for Temporary Protected Status*, dated March 30, 2001. Petitioner has re-registered for TPS since his initial approval. *See* **Exh. N**, *USCIS Benefit Card Details*. In 2025, DHS issued notice that noncitizens who have been granted TPS under El Salvador's designation, must re-register between January 17, 2025, and March 18, 2025.[3] Petitioner's re-registration application arrived at USCIS on March 21, 2025. *See* **Exh. P**, *USCIS Pending and Prior Cases Filed.*[4]

44. While Petitioner's re-registration arrived at USCIS three (3) days late, Petitioner still holds TPS status, and therefore lawful status as a nonimmigrant, because USCIS has yet to issue a final decision on his re-registration application. 8 C.F.R. 244.14(b)(1); *see also* **Exh. O**, *USCIS Cases Status Online* (last visited July 2, 2026). Here, USCIS has not issued a written notice of the denial nor a thirty (30) day notice for Petitioner to establish good cause for the

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[3] https://www.federalregister.gov/documents/2025/01/17/2025-00626/extension-of-the-designation-of-el-salvador-for-temporary-protected-status

[4] This exhibit is page twenty-three (23) of fifty-two (52) from a Freedom of Information Act ("FOIA") request Petitioner sought from USCIS. If necessary, Petitioner can provide the entire file to the Court.

delay as regulation requires. 8 C.F.R. § 244.14(b)(1). Additionally, Petitioner's NTA makes no allegations as to the withdrawal of TPS. 8 C.F.R. § 244.14(b)(3) (establishing that if the withdrawal of TPS constitutes a ground of deportability which renders the noncitizen ineligible, the decision shall include a charging document which sets forth such grounds with notice of the right of a *de novo* determination of eligibility for TPS in deportation proceedings).

45. As such, Petitioner's active grant of TPS provides a statutory shield against both detention and removal. Because 8 U.S.C. § 1254a(a)(1)(A) mandates that a TPS beneficiary cannot be removed, and 8 U.S.C. § 1254a(d)(4) explicitly forbids DHS from detaining a TPS holder on the basis of their immigration status, DHS has no legal authority to execute removal or maintain custody of Petitioner. Therefore, his current detention is unlawful and the reason why Petitioner's immediate release should be ordered.

46. Additionally, due to Petitioner's status as a TPS beneficiary, in 2014, Petitioner obtained a valid travel document and departed the U.S. *See* **Exh. F**, *Advance Parole Approval Notice*, dated September 15, 2014. Petitioner's last entry to the U.S. as such occurred with advance parole on November 13, 2014, through Los Angeles, California's airport. *Id.* Therefore, under § 304(c) of MTINA, Petitioner returned to the U.S. as a lawful nonimmigrant with TPS and an approved advance parole document.

47. Petitioner's intervening travel with prior government authorization through advance parole designates him as "inspected and admitted" for purposes of immigration and custody determinations. Petitioner at the time of his last entry maintained TPS status and advance parole. *Id.*

48. Based on allegations that pre-dated his 2014 admission, and following an ICE encounter twelve (12) years later, DHS designated Petitioner as an "AA" and subjected him to

inadmissibility grounds in the NTA it issued on April 15, 2026. *See* **Exh. A**, *NTA*. However, upon the issuance of the NTA, Petitioner had been "inspected and admitted" into the U.S., he was not applying for admission at a port-of-entry, seeking transit through the U.S., nor intercepted in international or American waters.

49. Petitioner has resided in the United States for the last thirty-six (36) years and been continuously present for the last twelve (12) years pursuant to a legally authorized admission. Therefore, Petitioner's designation as an AA and the inadmissibility charges brought upon him are incorrect. He is not subject to mandatory detention under 8 U.S.C. § 1225. And, because Petitioner was inspected and admitted in 2014, he should be subject to deportability grounds that place him within the ambit of 8 U.S.C. § 1226(a). Accordingly, his continued detention due to the AA designation is unlawful.

Doctrine of Procedural Regularity

50. The INA provides the terms "admission" and "admitted," meaning "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." § 1101(a)(13)(A).

51. For purposes of this rule, a "lawful entry" is defined in a procedural sense rather than in a substantive sense. *Matter of Quilantan*, 25 I.&N. Dec. 285 (BIA 2010). An entry is deemed "procedurally regular," and therefore constitutes a lawful entry or admission, when a noncitizen physically presents themselves at a U.S. port-of-entry for inspection and are permitted to enter by an immigration officer. *Id.* at 290–93.

52. Consequently, an entry remains legally regular and constitutes a valid admission even if the noncitizen possessed administratively defective travel documents,[5] or lacked substantive eligibility to enter, provided they presented themselves face-to-face with an immigration officer for inspection and makes no false claim of U.S. citizenship. *Id.* at 293; *see also Matter of Areguillin*, 17 I.&N. Dec. 308, 310 (BIA 1980) (holding that commission of an error by an inspecting officer does not invalidate a procedurally regular admission).

53. USCIS denied Petitioner's I-485 Adjustment of Status application alleging Petitioner's last entry was not lawful due to his failure to disclose his prior removal order. *See* **Exh. G**, *USCIS's Decision on Form I-485*, dated April 29, 2016. If this Court too finds Petitioner was not "admitted" into the U.S. under an authorized grant of parole, the Doctrine of Procedural Regularity appropriately applies.

54. USCIS conflates substantive legality with procedural regularity by contending that Petitioner, at the time of his last entry to the U.S., was not in possession of a suitable travel document. *Id.* An administrative defect in an underlying travel document does not retroactively erase a physical inspection at a port-of-entry by an immigration officer or transform a face-to-face border crossing into an EWI. *See Matter of Quilantan*, 25 I.&N. Dec. at 293.

55. On November 13, 2014, upon his return to the U.S., Petitioner executed a procedurally regular entry into the country. Petitioner physically presented himself before an immigration officer for inspection and made no false claim of citizenship before the officer. Thus, under the standards set forth in *Matter of Quilantan* and *Matter of Areguillin*, Petitioner's

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[5] Petitioner does not concede that he possessed an administratively defective travel document on any grounds. Rather, Petitioner maintains he obtained valid travel authorization via advance parole and addresses DHS's contrary position solely to demonstrate that the Department's position fails as a matter of law.

entry into the U.S. constituted a lawful entry or admission. As such, Petitioner's AA designation in his current NTA continues to be incorrect; he was inspected and admitted, subjecting him to deportability grounds, not inadmissibility, and accordingly, his detention remains unlawful.

Discretionary and Mandatory Detention

56. The INA prescribes three (3) forms of detention for noncitizens in removal proceedings—discretionary detention under § 1226(a), mandatory detention under § 1226(c), and mandatory detention under § 1225. *See* 8 U.S.C. § 1229(a).

57. The Supreme Court describes § 1226 detention as relating to people "inside the United States" and "present in the country." *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018).

58. Under § 1226(a), the DHS may detain noncitizens who are placed in removal proceedings, but such detention is discretionary. *See* 8 U.S.C. § 1226(a). These individuals are entitled to a custody redetermination (or "bond hearing") before an IJ who determines whether they should be released on bond. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Bond must be at least $1,500 and is subject to any other conditions imposed by the Attorney General. *See* 8 U.S.C. § 1226(a)(2).

59. In contrast to § 1226(a), noncitizens who have been convicted of certain criminal convictions are subject to mandatory detention under § 1226(c). *Demore v. Kim*, 538 U.S. 510, 513 (2003). Congress added this provision through passing the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") to address concerns that criminal noncitizens frequently failed to appear at their removal proceedings. *Velasco Lopez v. Decker*, 978 F.3d 842, 848 (2d Cir. 2020). Relying on legislative findings that individuals with certain convictions posed elevated risks of danger and flight, Congress mandated detention for noncitizens convicted

of serious crimes such as aggravated felonies, drug trafficking, and crimes involving moral turpitude. *Demore*, 538 U.S. at 518–20.

60. Lastly, 8 U.S.C. § 1225(b) provides mandatory detention for two categories of noncitizens: (1) noncitizens subject to expedited removal under § 1225(b)(1); and (2) noncitizens "seeking admission" at the border under § 1225(b)(2). *See Jennings*, 583 U.S. at 287 (2018) (noting that this process generally begins at the Nation's borders and ports of entry).

a. Expansion of Mandatory Detention

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

62. Accordingly, in the decades after IIRIRA, those who entered without inspection were placed in standard removal proceedings generally received bond hearings, unless they were ineligible for bond due to their criminal history.

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

64. The policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[6] claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies

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[6] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

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

65. On September 5, 2025, the BIA published a decision holding that IJs lack jurisdiction to grant bond to individuals present in the U.S. without admission. *Matter of Yajure Hurtado*, 29 I.&N. 216 (BIA 2025).[7] The BIA held that all persons who entered the U.S. without inspection are considered "applicants for admission" under 8 U.S.C. § 1225(a)(1) and are therefore subject to mandatory detention under § 1225(b)(2)(A), rendering them ineligible for bond hearings before an IJ.

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

67. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

68. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry **or** who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. §

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[7] *Available at* https://www.justice.gov/eoir/media/1413311/dl?inline.

1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings*, 583 U.S. at 287.

69. Crucially, the applicability of the BIA's decision in *Yajure Hurtado* is strictly limited, applying only to those unadmitted individuals charged with inadmissibility under 8 U.S.C. § 1182. It does not extend to individuals who have already been lawfully admitted to the U.S. Where a noncitizen has been legally admitted, any subsequent removal actions must take place on grounds of deportability governed by 8 U.S.C. § 1227. Because removal proceedings governed by 8 U.S.C. § 1227 are inherently tied to discretionary custody under 8 U.S.C. § 1226(a), the categorical jurisdictional bar in *Yajure Hurtado* cannot be expanded to strip an IJ of custody jurisdiction over an admitted noncitizen who legally belongs in deportability proceedings.

b. Statutory and Judicial Restraints on Mandatory Detention

70. In the alternative, even if a noncitizen is classified as unadmitted, the geographic location of their arrest determines the statutory detention framework governing their proceedings. As the Supreme Court has explained, 8 U.S.C. § 1225 generally applies "at the Nation's border and ports of entry, where the Government must determine whether a [noncitizen] seeking to enter the country is admissible," whereas 8 U.S.C. § 1226 generally applies to those "already in the country." *Jennings*, 583 U.S. at 287-89. As such, when a civil detention occurs deep within the interior of the U.S., custody is governed by § 1226(a). DHS lacks the statutory authority to retroactively strip an interior detainee of bond eligibility by expanding a border inspection process into the interior of the country.

71. Moreover, in March 2026, in a class-action lawsuit, the U.S. District Court for the District of Nevada issued a decision ruling that DHS's mandatory detention policy under 8 U.S.C. § 1225(b)(2) was unlawful. This ruling restored the right to bond hearings for all eligible class members deemed inadmissible because they initially entered the U.S. without inspection. *Jacobo-Ramirez et al. v. Noem et al.,* Case No. 2:25-cv-02136. By declaring mandatory detention unlawful for this class of individuals, the court effectively restored class members' access to discretionary detention and bond eligibility under § 1226(a).

72. A noncitizen lacking lawful status is a *Jacobo-Ramirez* class member if they: (a) are or will be arrested or detained by ICE; (b) are or will be in removal proceedings before an immigration court within the District of Nevada; (c) entered the U.S. without inspection or parole, as alleged or to be alleged by DHS; (d) are not subject to detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 (under final orders of removal); and (e) were most recently arrested by ICE inside the U.S., excluding arrests made upon arrival at the border or at a port-of-entry. *Id.*

73. Accordingly, once an individual establishes eligibility as a *Jacobo-Ramirez* class member, they are entitled to a bond hearing before an IJ under § 1226(a), at which default constitutional due process applies and the government bears the absolute burden of justifying continued detention by clear and convincing evidence.

74. Here, because § 1225(b) governs the detention of noncitizens "seeking admission," Petitioner is not subject to mandatory detention. Petitioner has lived in the United States for over 30 years and was not "seeking admission" at the time of his apprehension in April 2026. *See* **Exh. B**, *I-589, Application for Asylum, Withholding of Removal, and/or Convention*

Against Torture (showing Petitioner applied for asylum on or about December 1996 while in the U.S.); *see also* **Exh. L**, *DHS's Warrant for Arrest of Alien*, dated April 14, 2026.

75. Moreover, Petitioner was not seeking transit through the U.S. Petitioner has resided in Las Vegas, NV since the 1990s and has five (5) U.S. citizen children. Petitioner was also not intercepted in international or American waters. Petitioner reentered the United States with advance parole in 2014 and returned to Las Vegas, where he has continued to reside since his initial entry. Therefore, § 1225(b) does not govern Petitioner's detention.

76. Even if this Court declines to apply § 304(c) of MTINA and instead deems Petitioner an unadmitted noncitizen, Respondents still lack the authority to deny Petitioner a bond hearing because Petitioner meets the *Jacobo-Ramirez* class criteria under these circumstances.

77. First, ICE detained Petitioner in April 2026 by issuing an administrative warrant and he has remained in ICE custody since. *See* **Exh. L**, *DHS's Warrant for Arrest of Alien*, dated April 14, 2026.

78. Second, Petitioner is currently in removal proceedings before an immigration court within the District of Nevada. *See* **Exh. M**, *Automated Case Information System* (showing Petitioner's next master hearing is scheduled on August 7, 2026). *Id.* On April 15, 2026, ICE initiated removal proceedings against Petitioner before the Las Vegas Immigration Court pursuant to 8 U.S.C. § 1229a. *See* **Exh. A**, *NTA*.

79. Third, if this Court holds that Petitioner's advance parole was issued in error and his last entry was therefore unlawful, then Petitioner's entry would have been without inspection.

80. Fourth, as discussed above, Petitioner is not subject to detention under §§1226(c), 1225(b)(1), or 1231. Petitioner is not subject to detention under § 1226(c) because he has no

criminal convictions, such as aggravated felonies, drug trafficking, and crimes involving moral turpitude, that would pose an elevated risk of danger and flight. Petitioner is not subject to expedited removal under § 1225(b)(1), nor is Petitioner under final orders of removal under § 1231.

81. Therefore, if this Court finds that Petitioner obtained his travel authorization errantly and disagrees with procedurally regular admission, Petitioner would still be a qualifying class member not subject to mandatory detention under § 1225(b). Petitioner would then be subject to discretionary detention under § 1226(a). Therefore, in either instance, Petitioner is at least entitled to a bond hearing before an IJ under § 1226(a), which entitles him to demonstrate why he should be released from ICE custody.

Available Agency Relief

82. Jurisdiction with an IJ vests once a charging document, like an NTA, is filed with the immigration court. 8 C.F.R. § 1003.14(a). A request for a bond hearing must be filed with the immigration court with jurisdiction over the place of detention, the immigration court with administrative control over the case, or with the office of the Chief IJ for the court with jurisdiction. 8 C.F.R. § 1003.14(a); 8 C.F.R. § 1003.19(c).

83. An IJ does not have jurisdiction to hear a request for bond when DHS designates a noncitizen as an AA in the NTA or other charging document. 8 C.F.R. § 1003.19(h)(1)(i)(B). DHS has erroneously given Petitioner this designation on his NTA and for this reason the IJ denied Petitioner's bond request continuing his unlawful detention. *See* **Exh. A**, *NTA*; *see also* **Exh. K**, *Order of the IJ*, dated May 7, 2026.

84. This framework stands in direct contradiction to § 304(c) of MTINA which establishes that Petitioner, as a TPS beneficiary who last entered the U.S. under advance parole,

has been legally admitted into the country. Consequently, any lawful proceedings against Petitioner must proceed under the deportability framework of 8 U.S.C. § 1227 (INA § 237), which inherently permits discretionary custody review. Because an IJ is bound by 8 C.F.R. § 1003.19(h)(1)(i)(B), the agency is structurally incapable of resolving this conflict between DHS's designation of Petitioner and a clear federal statute.

85. A subsequent appeal to the BIA is equally futile because Petitioner holds a valid, active grant of TPS. Under 8 U.S.C. § 1254a(a)(1)(A), Congress explicitly mandated that a TPS holder shall not be removable "during the period in which such status is in effect." Because Petitioner is statutorily immune from removal as a matter of law, DHS's initiation of these removal proceedings is void from the start. Because neither the IJ nor the BIA can unilaterally override DHS's charges or provide a remedy for a noncitizen who cannot be legally removed yet subjected to mandatory detention, an appeal to the BIA offers no viable path to relief for Petitioner.

86. Additionally, the BIA is part of the Department of Justice ("DOJ") and as such would be likely to dismiss an appeal by Petitioner. In recent months, most of the BIA's decisions have shown its arbitrary positions and interpretations of longstanding immigration law and policy and have proven it is not a reliable arbiter of justice. Federal courts have been inundated with immigration cases, due to the BIA's biased and prejudiced decisions such as *Yajure Hurtado*.

87. ICE, as an agency, also has the authority to set a bond or release a noncitizen on conditional parole, in their discretion. 8 U.S.C. § 1226(a)(2). To warrant this discretionary determination, a noncitizen must show they are not a danger to society nor a flight risk. 8 C.F.R. § 1236.1(c)(3). Furthermore, while Petitioner could seek release on conditional parole from ICE,

currently there is a significant trend of ICE denying parole over fiscal year 2026, with parole grants dropping dramatically from 365 then 198 and then twenty-five (25) from February to April. *See* Immigration and Customs Enforcement, FY26_detentionStats04092026, Detention Management, https://www.ice.gov/detain/detention-management (last visited June 24, 2026). This suggests an agency policy against discretionary release, and that a conditional parole request to ICE would be largely unavailing.

88. If this Court does not act, Petitioner has no remedy to his unlawful detention, allowing ICE to continue detaining Petitioner illegally for an indefinite period if he is found removable at his individual hearing and he appeals. There is no reasonable or judicially efficient way for Petitioner to seek relief with DHS and ICE.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

90. The INA includes several provisions that govern detention and custody redeterminations; however, Petitioner is unable to utilize any provision to seek release. As a legal nonresident with no criminal history that subjects him to mandatory detention, his detention is governed by 8 U.S.C. § 1226(a), the INA discretionary detention provision. While § 1226(a) states that a noncitizen "may" be released, Petitioner currently has no avenues to do so.

91. ICE is unlikely to release Petitioner on conditional parole and seeking a bond hearing under the INA is not possible for Petitioner. An IJ does not have jurisdiction to preside over a bond hearing because his NTA erroneously designates him an AA. DHS has misapplied 8

U.S.C. § 1225(b)(2) to detain Petitioner despite his arrest in the interior of the U.S., where he has resided for decades, as opposed to an arrest at the border or a port-of-entry. DHS's designation of Petitioner as an AA is also contrary to his status as a legal nonresident under TPS who has been legally admitted into the country via procedurally regular parole. Therefore, Petitioner's continued detention is unlawful and an immediate release should be ordered.

COUNT II

Violation of Due Process Under the Fifth Amendment

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

93. Petitioner has a fundamental interest in liberty and being free from unlawful detention. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

94. The Fifth Amendment also entitles noncitizens to due process in removal proceedings. *Reno*, 507 U.S. at 306. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). Additionally, to protect due process in removal proceedings, the Supreme Court consciously selected the burden of proof in removal proceedings to be clear and convincing evidence. *Woodby*, 385 U.S. at 286 (1966). By intentionally selecting a higher burden than preponderance of the evidence, the Supreme Court acknowledged the liberty interest at stake and sought to prevent arbitrary outcomes. *Id.* at 285.

95. As relevant here, application of 8 U.S.C. § 1225(b)(2)(A) to Petitioner would violate Petitioner's right to due process.

96. Under the balancing test articulated in *Mathews v. Eldridge*, 424 U.S. 319 (1976), Respondents' categorical detention of Petitioner is unconstitutional because he is a TPS beneficiary, who DHS cannot legally remove or detain under 8 U.S.C. §1254a(a)(1) and §1254a(d)(4), respectively. Releasing Petitioner would not pose an undue burden on Respondents as Petitioner has current legal status and no criminal record that subjects him to mandatory detention under 8 U.S.C. § 1226(c).

97. Instead, releasing Petitioner would enable Respondents to uphold the law and save them resources long-term. In contrast, not releasing Petitioner, or at least providing him with a bond hearing, is a substantial burden for him. He has been incarcerated and separated from his family for nearly three (3) months and has been unable to work and provide for his household. He also faces deportation if the Immigration Judge denies his application for asylum at his upcoming individual hearing—an application he should not have to file in the first place due to his ongoing lawful TPS status. Maintaining Petitioner's unlawful detention would infringe on his basic rights such as the ability to live free from detention and potential removal to a country from which he has TPS.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Declare that his continued detention violates the INA, including 8 U.S.C. § 1226(a), 8 U.S.C. § 1254a(d)(4), § 304(c) of MTINA and the Due Process Clause of the Fifth Amendment of the United States Constitution;

c. Order Petitioner's immediate release from detention, or, alternatively, issue a Writ of Habeas Corpus requiring that an IJ schedule a bond hearing within seven (7) days, at which the government bears the burden of justifying continued detention by clear and convincing evidence;

d. Permanently enjoin Respondent from re-detained Petitioner under 8 U.S.C. § 1225(b) or any theory of mandatory detention based on the same factual predicate, absent a material change in circumstances and a constitutionally sufficient individualized determination consistent with 8 U.S.C. § 1226(a);

e. Permanently enjoin Respondents from invoking an automatic stay under 8 C.F.R. § 1003.19(i)(2) to continue his detention if bond is granted but Respondents appeal;

f. Retain jurisdiction to ensure compliance with this Court's order;

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

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

DATED this 2nd day of July, 2026.

Respectfully Submitted,

/s/ Melissa Corral

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of Petitioner because I am one of the Petitioner's attorneys. I have discussed with Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in this Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: July 2nd, 2026

/s/ Melissa Corral

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EXHIBIT LIST

Tab	Document	Page
A	Notice to Appear (NTA)	PET002-PET 005
B	I-589, Application for Asylum, Withholding of Removal, and/or Convention Against Torture	PET007-PET013
C	Order of the Immigration Judge, dated August 26, 1997	PET015-PET016
D	Notice of Removal Order, dated February 16, 2001	PET018
E	I-821, Application for Temporary Protected Status, dated March 30, 2001	PET020-PET024
F	Advance Parole Approval Notice, dated September 15, 2014	PET026
G	USCIS's Decision on Form I-485, dated April 29, 2016	PET028-PET039
H	USCIS Decision on Form I-290, dated November 8, 2016	PET041-PET042
I	Las Vegas Municipal Court Case Docket Search, No. 25-043099	PET044-PET045
J	Las Vegas Municipal Court Case Docket Search, No. 26-036499	PET047-PET048
K	Order of the Immigration Judge, dated May 7, 2026	PET050-PET051
L	DHS's Warrant for Arrest of Alien, dated April 14, 2026	PET053
M	Automated Case Information System, (last visited July 2, 2026)	PET055-PET056
N	USCIS Benefit Card Details	PET059

O	USCIS Cases Status Online (last visited July 2, 2026)	PET061-PET065
P	USCIS Pending and Prior Cases Filed	PET067