IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

RUSTAM TASHMATOV,

Petitioner,

v.

HOBE RUNION, SHERIFF, SEBASTIAN COUNTY, ARKANSAS; SCOTT LADWIG, FIELD OFFICE DIRECTOR, NEW ORLEANS FIELD OFFICE, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; DAVID VENTURELLA, ACTING DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; MARKWAYNE MULLIN, SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY; TODD BLANCHE, ATTORNEY GENERAL, UNITED STATES DEPARTMENT OF JUSTICE, *in their official capacities,*

Respondents.

Case No.: 2:26-cv-02113-TLB-MEF

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

Petitioner Rustam Tashmatov ([redacted]) ("Petitioner"), by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241. Petitioner is not an individual apprehended at the threshold of a surreptitious entry. More than four years ago, he presented at the Otay Mesa Port of Entry in California; the Department of Homeland Security ("DHS") inspected and processed him, designated him an "arriving alien," placed him in ordinary removal proceedings under 8 U.S.C. § 1229a, and—rather than detain him—exercised its

discretion to grant him humanitarian parole into the United States under 8 U.S.C. § 1182(d)(5), documenting that parole with a Form I-94 issued in his name. Ex. 1 (Notice to Appear); Ex. 2 (Form I-94). Since March 2022, Petitioner has resided openly in Naperville, Illinois. He filed his Application for Asylum and for Withholding of Removal (Form I-589) with the Chicago Immigration Court within one year of his arrival, Ex. 3; DHS granted him employment authorization on the basis of that pending application, Ex. 4; the State of Illinois issued him a Class A commercial driver's license, Ex. 5; and he supported himself and his wife lawfully as a commercial truck driver while awaiting the individual merits hearing that the Chicago Immigration Court has scheduled for April 27, 2027. Ex. 6. Upon information and belief, he has no criminal history.

On July 19, 2026, officers of U.S. Immigration and Customs Enforcement ("ICE") arrested Petitioner while he was working as a commercial truck driver. Respondents now detain him at the Sebastian County Adult Detention Center in Fort Smith, Arkansas, within this District and Division. Ex. 7 (ICE Online Detainee Locator, July 20, 2026). Upon information and belief, Respondents claim authority for that detention solely by classifying Petitioner as an "applicant for admission" subject to mandatory detention without bond under 8 U.S.C. § 1225(b)(2)(A), pursuant to the nationwide reclassification policy the Government adopted in mid-2025, and the immigration court will not entertain any bond request because the Board of Immigration Appeals has held that immigration judges lack bond jurisdiction over noncitizens whom DHS detains under § 1225(b). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Petitioner therefore has no forum other than this Court in which to test the legality of his confinement.

Petitioner's detention is unlawful in two independent respects. *First*, Respondents are detaining him under the wrong statute. Section 1225(b)(2)(A) authorizes detention incident to the

inspection of a noncitizen arriving at the border; DHS completed Petitioner's inspection in March 2022 and resolved it by granting him humanitarian parole into the country. His arrest four years later, in the interior, while he awaited an already-scheduled merits hearing, is governed by 8 U.S.C. § 1226(a), which entitles him to an individualized custody determination and the opportunity to seek bond. *Second*, even if § 1225(b)(2)(A) applied, the Fifth Amendment's Due Process Clause does not permit the indefinite civil detention of a longtime resident without any individualized hearing at which the Government must justify his confinement. This Court has already so held on materially similar facts. In *Fall v. Easley*, No. 4:26-cv-04010-SOH (W.D. Ark. Apr. 17, 2026), Judge Susan O. Hickey granted the § 2241 petition of an asylum-seeking CDL truck driver detained under § 1225(b)(2)(A), held that *Demore*, *Banyee*, and *Thuraissigiam* do not foreclose an as-applied due process challenge by a noncriminal detainee who has lived and worked lawfully in this country, applied the *Mathews v. Eldridge* factors, and ordered an individualized bond hearing—at which the Government bears the burden—within ten days. Petitioner's constitutional position is at least as strong: unlike the petitioner in *Fall*, who entered without inspection, Petitioner presented at a port of entry, was inspected, and was granted humanitarian parole into the United States by DHS itself.

Introduction

1. Petitioner is a native of Kyrgyzstan and a citizen of Russia, born on [redacted], in Kenesh, Talas region, Kyrgyzstan. Ex. 3. He previously visited the United States in lawful B-2 visitor status, entering at Charleston, South Carolina, on February 2, 2018, and departing in accordance with that status. Ex. 3. He last left his country of residence on February 27, 2022. Ex. 3.

2. On or about March 2, 2022, Petitioner arrived at the United States border and attempted to enter at the Otay Mesa Port of Entry in California, where he was taken into custody by U.S. Customs and Border Protection ("CBP") and inspected. Ex. 1. On March 3, 2022, at San Ysidro, California, a CBP officer personally served Petitioner with a Notice to Appear (Form I-862), which designates him an "arriving alien"—not a noncitizen present without admission or parole—and charges him with inadmissibility on documentary grounds, alleging that he is an immigrant not in possession of a valid unexpired immigrant visa or other valid entry document. Ex. 1. The Notice to Appear placed Petitioner in ordinary removal proceedings under section 240 of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1229a, before the immigration court in Chicago, Illinois, near his intended residence. Ex. 1.

3. DHS did not detain Petitioner for his removal proceedings. Instead, on March 3, 2022, DHS exercised its discretionary authority under 8 U.S.C. § 1182(d)(5) and granted Petitioner humanitarian parole into the United States, issuing him Form I-94 Admission Record No. [redacted], reflecting a class of admission of "DT" and authorizing his presence through February 28, 2023. Ex. 2. Parole under § 1182(d)(5) is a case-by-case, discretionary determination; upon information and belief, DHS determined that Petitioner presented neither a security risk nor a risk of absconding when it released him into the interior. *See* 8 C.F.R. § 212.5(b).

4. Petitioner's removal proceedings were docketed with the Chicago Immigration Court on May 23, 2022. Ex. 6. Upon information and belief, Petitioner has appeared as required at every hearing in those proceedings, and no in absentia order has ever been entered against him. Ex. 6.

5. On January 18, 2023—within one year of his March 2022 arrival—Petitioner filed his Application for Asylum and for Withholding of Removal (Form I-589), which the Chicago Immigration Court received and stamped on that date. Ex. 3. His asylum application remains pending today. Ex. 6.

6. On the basis of his pending asylum application, DHS granted Petitioner employment authorization under 8 C.F.R. § 274a.12(c)(8). His current Employment Authorization Document is valid from February 3, 2026, through August 2, 2027. Ex. 4. Upon information and belief, Petitioner has been continuously employment-authorized by DHS since his asylum application had been pending for the period required by law.

7. On August 1, 2025, the State of Illinois issued Petitioner a Class A commercial driver's license, valid through February 1, 2027. Ex. 5. Petitioner thereafter worked lawfully as a commercial truck driver. He resided with his wife at [redacted]—the address of record on his Notice to Appear and his asylum application. Exs. 1, 3. Upon information and belief, Petitioner has no criminal history in the United States or anywhere else.

8. The Chicago Immigration Court has scheduled Petitioner's individual merits hearing on his asylum application for April 27, 2027, at 3:00 p.m., to be conducted by internet-based videoconference before Immigration Judge Matthew C. Beese. Ex. 6. Petitioner's removal case is pending; no removal order has been entered against him, and no appeal is or has been pending before the Board of Immigration Appeals. Ex. 6. His detention therefore is not governed by 8 U.S.C. § 1231.

9. On July 19, 2026, ICE officers arrested Petitioner while he was working as a commercial truck driver. Upon information and belief, the arrest was effected on an administrative

Warrant for Arrest of Alien (Form I-200), and Respondents have never alleged that Petitioner violated any condition of his parole or release, that his circumstances have changed in any respect, or that he is a danger to any community or a flight risk.

10. Respondents transported Petitioner to the Sebastian County Adult Detention Center, 801 South A Street, Fort Smith, Arkansas 72901, where he remains confined under the authority of the ICE New Orleans Field Office and its Little Rock, Arkansas sub-office. Ex. 7. The Sebastian County Sheriff's Office booking records confirm that Petitioner was booked on July 19, 2026, at 3:32 p.m., as an "Immigration and Customs Enforcement" prisoner on an "ICE Hold," with a bond type of "NO BOND" and a total bond amount of $0.00. Ex. 8 (Sebastian County AR Inmate Inquiry, July 20, 2026). He has been detained since July 19, 2026, without any custody hearing of any kind.

11. Upon information and belief, there is a substantial likelihood that Respondents will transfer Petitioner from the Sebastian County Adult Detention Center to a detention facility outside this District—most likely in Louisiana, as occurred in *Fall*, where the petitioner was arrested in this District, taken to the Miller County jail, and transferred to the Jackson Parish Correctional Center in Louisiana. *See Fall*, slip op. at 2 & n.2. Any such transfer would separate Petitioner from his counsel, impair his ability to prepare for his April 27, 2027 individual hearing, and burden the orderly adjudication of this Petition.

12. Upon information and belief, Respondents classify Petitioner's detention as mandatory detention of an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A). Under *Matter of Yajure Hurtado*, immigration judges will not exercise bond jurisdiction over any noncitizen whom DHS detains under § 1225(b). Petitioner accordingly has no

administrative forum in which to seek release, and no process of any kind—past, present, or scheduled—at which any neutral decisionmaker will ever review his custody.

Petitioner's Detention Is Unlawful

13. Petitioner's detention does not stem from a border encounter. It stems from the interior arrest of a four-year resident of Illinois—inspected by DHS and granted humanitarian parole into this country—who filed for asylum on time, worked with DHS's written permission, held a state-issued commercial driver's license, and was awaiting the merits hearing the immigration court had already scheduled. Respondents nonetheless detain him as if he were standing at the border today, invoking § 1225(b)(2)(A) and denying him any custody hearing whatsoever.

14. That position is wrong as a matter of statute. Section 1226(a) authorizes the arrest and detention of a noncitizen "pending a decision on whether the alien is to be removed," on a warrant—precisely what occurred here—and it carries with it the right to an individualized custody determination, including the opportunity for release on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. §§ 1003.19(a), 1236.1(d). Section 1225(b)(2)(A), by contrast, mandates detention as an incident of the inspection process for noncitizens arriving in the United States. DHS completed that inspection in March 2022 and resolved it by granting parole. As set forth in Claim One, § 1226(a)—not § 1225(b)(2)(A)—supplies the only statutory authority for Petitioner's present custody.

15. Respondents' position is also unconstitutional as applied. Even where detention is statutorily classified under § 1225(b)(2)(A), the Fifth Amendment requires that a noncriminal, long-resident detainee receive an individualized bond hearing at which the Government justifies his continued confinement. That is the holding of this Court's

decision in *Fall v. Easley*, which granted habeas relief to a similarly situated CDL truck driver and ordered a bond hearing, with the burden on the Government, within ten days. Claims Two and Three establish that Petitioner is entitled to at least the same relief, and Claim Four establishes that leaving him with no forum whatsoever in which to test his custody would work an effective suspension of the writ.

16. Petitioner respectfully requests that this Court declare that Respondents are detaining him without statutory authority under § 1225(b)(2)(A); order his release or, at a minimum, an individualized custody hearing under § 1226(a) within seven days; and order that at any such hearing the Government bear the burden of proving, by clear and convincing evidence, that Petitioner is a danger to the community or a flight risk.

Parties

17. Petitioner Rustam Tashmatov is a native of Kyrgyzstan and citizen of Russia, born on [redacted]. He was inspected and granted humanitarian parole into the United States at the Otay Mesa Port of Entry on March 3, 2022, and resided continuously and openly in Naperville, Illinois, from his parole until his arrest on July 19, 2026. He is currently detained at the Sebastian County Adult Detention Center in Fort Smith, Arkansas.

18. Respondents are the officials responsible for Petitioner's custody and for the administration and enforcement of the immigration detention laws: Hobe Runion, Sheriff of Sebastian County, Arkansas, the operator of the Sebastian County Adult Detention Center and Petitioner's immediate custodian; Scott Ladwig, Field Office Director of the ICE New Orleans Field Office, whose area of responsibility includes Arkansas through the Little Rock sub-office; David Venturella, Acting Director of U.S. Immigration and Customs Enforcement; Markwayne Mullin, Secretary of the Department of Homeland Security; and

Todd Blanche, Attorney General of the United States. Respondents are sued solely in their official capacities, and their successors in office are automatically substituted. Fed. R. Civ. P. 25(d).

Jurisdiction

19. This Court has jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, which authorizes federal courts to grant habeas relief to individuals who are "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(1), (3); *see also Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

20. Petitioner is detained within this District at the Sebastian County Adult Detention Center in Fort Smith, Arkansas, and his immediate custodian, Sheriff Runion, is located within the Fort Smith Division. Jurisdiction is therefore proper in this Court. *See Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). Once the custodian is properly served, any subsequent transfer of Petitioner would not defeat this Court's jurisdiction. *Weeks v. Wyrick*, 638 F.2d 690, 692 (8th Cir. 1981) ("Once the custodian is properly served, subsequent transfer of the petitioner does not cause a loss of habeas corpus jurisdiction."); *accord Fall v. Easley*, No. 4:26-cv-04010-SOH, slip op. at 2 n.2 (W.D. Ark. Apr. 17, 2026) (retaining jurisdiction notwithstanding the petitioner's transfer to Louisiana).

21. This Court also possesses equitable authority—including under the All Writs Act, 28 U.S.C. § 1651—to enjoin Petitioner's transfer during the pendency of these proceedings in order to preserve its jurisdiction and maintain the status quo. District courts have exercised precisely that authority in materially identical habeas cases brought by paroled noncitizens. *See Flores v. Olson*, No. 25 C 12916 (N.D. Ill. Nov. 3, 2025); *Vasquez Gonzalez v. Olson*,

No. 25 C 13162 (N.D. Ill. Nov. 12, 2025). Given the substantial likelihood of transfer described above, an order barring transfer is warranted at the outset of this case.

22. This Court recently exercised § 2241 jurisdiction over—and granted—a materially identical challenge to DHS's detention of a noncriminal asylum seeker under § 1225(b)(2)(A). *See Fall*, slip op. at 12. Jurisdiction is proper here for the same reasons.

23. No jurisdiction-stripping provision bars review. Section 1226(e) limits review only of discretionary custody judgments, not statutory or constitutional challenges to the framework of detention, and § 1252 does not foreclose a challenge to the fact of detention that is independent of any final order of removal. *Jennings v. Rodriguez*, 583 U.S. 281, 294–96 (2018); *Demore v. Kim*, 538 U.S. 510, 517 (2003). Petitioner brings an as-applied challenge to his own detention; he does not seek classwide relief or review of any removal order.

Venue

24. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e) because Respondents are officers and agencies of the United States acting in their official capacities, a substantial part of the events giving rise to Petitioner's claims is occurring within this District, and Petitioner is detained at the Sebastian County Adult Detention Center in Sebastian County, Arkansas. Because Sebastian County lies within the Fort Smith Division, venue properly lies in this Court, Fort Smith Division. 28 U.S.C. § 83(b).

Requirements of 28 U.S.C. § 2243

25. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents forthwith, unless Petitioner is not entitled to relief. 28 U.S.C. § 2243.

If an order to show cause is issued, the Court must require Respondents to file a return within three days, which may be extended up to twenty days for good cause. *Id.*

26. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Supreme Court has described the writ as a fundamental remedy against illegal restraint or confinement. *See Fay v. Noia*, 372 U.S. 391 (1963), *overruled on other grounds by Wainwright v. Sykes*, 433 U.S. 72 (1977).

Legal Framework

27. The INA prescribes three basic detention frameworks applicable to noncitizens encountered by DHS during the removal process.

28. First, 8 U.S.C. § 1226 governs the detention of noncitizens placed in standard removal proceedings before an immigration judge under 8 U.S.C. § 1229a. Section 1226(a) provides that, "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States," and it authorizes release on bond or conditional parole. Noncitizens detained under § 1226(a) are entitled to an individualized custody determination before an immigration judge. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Mandatory detention under § 1226(c) applies only to a narrow category of individuals with specified criminal histories, which Petitioner does not have.

29. Second, 8 U.S.C. § 1225(b) addresses the inspection of "applicants for admission" arriving in the United States. Section 1225(b)(2)(A) provides that, "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a." Third, 8 U.S.C. § 1231(a) governs

detention after a removal order becomes administratively final. Because Petitioner's proceedings remain pending before the immigration court, § 1231 has no application. Ex. 6.

30. Overlaying this framework is the parole authority of 8 U.S.C. § 1182(d)(5)(A), under which DHS "may . . . in [its] discretion parole into the United States temporarily under such conditions as [it] may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States." Parole of an arriving noncitizen is warranted only where the noncitizen "present[s] neither a security risk nor a risk of absconding." 8 C.F.R. § 212.5(b). DHS exercised precisely that authority here: it inspected Petitioner, placed him in § 1229a proceedings, and granted him humanitarian parole into the United States with a Form I-94 rather than detain him. Ex. 2.

31. Petitioner's position is that § 1226(a)—not § 1225(b)(2)(A)—governs the custody of a noncitizen whom DHS inspected and granted humanitarian parole into the United States in March 2022, who resided openly in the interior for more than four years while pursuing asylum, and who was arrested on a warrant in the interior while his § 1229a proceedings remained pending. That argument is developed in Claim One.

32. Petitioner acknowledges the Eighth Circuit's decision in *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026), which held that a noncitizen who entered the United States without inspection or admission is subject to mandatory detention without bond under § 1225(b)(2)(A), reasoning that the phrases "applicant for admission" and "seeking admission" are synonymous. *Avila* arose from an entry without inspection; it did not involve—and did not address—a noncitizen whom DHS inspected at a port of entry and affirmatively granted humanitarian parole into the country under § 1182(d)(5). To the

extent *Avila* is nonetheless read to reach Petitioner's circumstances, Petitioner respectfully preserves his statutory argument for further review.

33. The statutory question is the subject of an entrenched and lopsided circuit split. Four courts of appeals have now held that § 1225(b)(2)(A) does not authorize the mandatory detention of noncitizens already present in the interior of the United States: *Barbosa da Cunha v. Freden*, 175 F.4th 61 (2d Cir. 2026); *Lopez-Campos v. Raycraft*, 175 F.4th 713 (6th Cir. 2026); *Santillan Quiroz v. Mullin*, No. 26-6019, 2026 WL 1876709 (10th Cir. June 30, 2026); and *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, 175 F.4th 1258 (11th Cir. 2026). Only the Fifth and Eighth Circuits have ruled the other way, in statutory-only opinions that do not reach the constitutional question. *See Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026); *Avila*, 170 F.4th 1128.

34. Of particular relevance here, the Eleventh Circuit in *Hernandez Alvarez* held that § 1225(b)(2)(A) "limits no-bond detention to applicants for admission who are 'seeking admission,'" and that mere presence in the country—without "any cognizable step to obtain the rights and privileges of lawful entry"—does not satisfy that requirement. *Hernandez Alvarez*, slip op. at 4. The court grounded its holding in the plain text of § 1225(b)(2)(A), which uses two distinct phrases ("applicant for admission" and "seeking admission") with distinct definitional meanings; in the structure of the INA, which preserves a longstanding border-interior distinction for purposes of detention; and in nearly three decades of consistent executive practice, under five presidential administrations, treating interior noncitizens as detained, if at all, under § 1226(a). *Id.* at 13–55. "Seeking," the court explained, is a present participle that "signal[s] present and continuing action"—a present-tense, ongoing status, not a permanent label that attaches at entry and persists indefinitely.

Id. at 17. The Government, it held, "has conflated the passive condition of 'presence' with actively 'seeking' something specific, in contravention of the actual words and definitions Congress chose." *Id.* at 21.

35. In *Santillan Quiroz*, the Tenth Circuit reasoned that a noncitizen already present in the country is not "seeking admission" in any ongoing sense, and it applied the doctrine of constitutional avoidance, explaining that the Government's reading "raises serious constitutional concerns" because the mandatory detention of potentially millions of noncitizens without any possibility of bond cannot be reconciled with the special justification the Due Process Clause demands for civil detention. 2026 WL 1876709 (citing *Zadvydas*, 533 U.S. at 690). That reasoning applies with particular force to a noncitizen whom the Government itself inspected, paroled, and permitted to live and work in the interior for more than four years.

36. Whatever the statutory classification, the constitutional question is independent of it. In *Jennings v. Rodriguez*, the Supreme Court construed §§ 1225(b) and 1226 without deciding whether the absence of bond hearings would violate the Due Process Clause, and it remanded the constitutional claims. 583 U.S. at 312. *Avila*, like *Buenrostro-Mendez*, resolved only the statutory question. The Fifth Amendment analysis therefore remains open in this Circuit, and this Court has resolved it in Petitioner's favor.

37. Days ago, another district court within this Circuit spelled out precisely what *Avila* resolved—and what it did not—and granted habeas relief on the question it left open. In *Baltabev v. Arnott*, No. 6:26-cv-3391-MDH (W.D. Mo. July 16, 2026), and *Vikash v. Arnott*, No. 6:26-cv-3392-MDH (W.D. Mo. July 16, 2026), the court observed that the governing statutory scheme "has, for the past twenty-nine years and five presidential

administrations, been interpreted to mean that [the petitioner] was entitled to a bond hearing during his removal proceedings," and that "the new presidential administration has adopted a novel interpretation of that statutory scheme." *Vikash*, slip op. at 2. On the statutory question, the court explained: "A divided panel of the 8th Circuit recently agreed with this administration's interpretation, in a decision still subject to rehearing, en banc rehearing, or appeal. At this time, however, this Court is bound by the panel's interpretation of the statutory scheme. So, given this change in long standing statutory interpretation, this Court is left to analyze the writ on Constitutional grounds." *Id.*; *accord Baltabev*, slip op. at 2–3. What *Avila* resolved, in other words, was only the statutory classification; what it did not resolve—and what remains for constitutional analysis—is whether the Fifth Amendment permits detention with no custody hearing at all. Applying *Mathews*, the court held in both cases that the continued detention of a multi-year resident with no criminal history and no custody hearing violates procedural due process: where immigration courts conclude they lack bond jurisdiction and "DHS provides no alternative mechanism for individualized custody review," the detainee "has no forum, administrative or judicial, through which he may seek release based on his circumstances. This is not minimal process. It is zero process." *Vikash*, slip op. at 7; *Baltabev*, slip op. at 7. On that reasoning, the court ordered the petitioners' immediate release and enjoined their relocation pending compliance. Although the petitioners there had been released on recognizance rather than paroled, the court's account of *Avila*'s limits does not turn on the form of the Government's prior release decision.

38. In *Fall v. Easley*, this Court considered the petition of Ousmane Fall, a citizen of Senegal who entered the United States in December 2023, filed for asylum, obtained employment

authorization, and worked lawfully as a CDL truck driver until ICE detained him under § 1225(b)(2)(A) following a February 2026 arrest at a weigh station. Declining to adopt the magistrate judge's recommendation of dismissal, Judge Hickey held that *Demore v. Kim*, 538 U.S. 510 (2003), and *Banyee v. Garland*, 115 F.4th 928 (8th Cir. 2024), are "distinguishable from Fall's challenge to his detention under § 1225(b)(2)(A) as an alien with no criminal background," that *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020), is "inapplicable" to a noncitizen who has "effected an entry" and lived and worked lawfully in the United States, and that the *Mathews v. Eldridge* factors required an individualized bond hearing. *Fall*, slip op. at 7–12. The Court ordered Respondents to provide a bond hearing before an immigration judge, "at which the government bears the burden to demonstrate Fall's dangerousness or flight risk," within ten days. *Id.* at 12.

39. Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), whether civil detention comports with due process turns on three factors: the private interest at stake, the risk of an erroneous deprivation of that interest through the procedures used and the probable value of additional safeguards, and the Government's interest, including the fiscal and administrative burdens that additional procedures would entail. As demonstrated in Claim Two, each factor favors Petitioner—as this Court found in *Fall* on facts materially indistinguishable from, and no stronger than, these.

Exhaustion of Administrative Remedies

40. Exhaustion of administrative remedies is not required. Section 2241 contains no statutory exhaustion requirement, and courts apply only a prudential exhaustion doctrine in immigration habeas matters. *See McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). Where,

as here, a petitioner challenges the statutory and constitutional authority for his detention, exhaustion is not required, because the immigration courts cannot adjudicate constitutional claims and cannot grant habeas relief.

41. Exhaustion would in any event be futile. In *Matter of Yajure Hurtado*, *abrogated by Maldonado Bautista v. Noem*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025), the Board of Immigration Appeals held that immigration judges lack bond jurisdiction whenever DHS classifies a noncitizen's detention as arising under 8 U.S.C. § 1225(b). *Accord Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). Nothing in either decision resolves whether § 1225(b) lawfully applies to a noncitizen who was inspected, paroled into the United States, released into the interior, and later arrested by ICE; yet, as applied in practice, those decisions operate to foreclose any administrative forum in which Petitioner could raise that question. Because immigration judges are bound by that holding, any bond request by Petitioner would be denied as a matter of course, without any adjudication of whether § 1225(b) lawfully governs his custody.

42. The futility of administrative process is underscored by the posture of the only judicial decision to have set aside the agency's position. In *Maldonado Bautista v. Department of Homeland Security*, No. 26-1044 (9th Cir. Mar. 6, 2026), the Ninth Circuit administratively stayed the district court judgment vacating *Matter of Yajure Hurtado* insofar as that judgment extends beyond the Central District of California. Outside that district, *Yajure Hurtado* remains operative, and immigration judges continue to decline bond jurisdiction whenever DHS invokes § 1225(b). Because administrative bond relief is foreclosed and the violation is ongoing, this Petition is the only meaningful avenue through which

Petitioner can test the legality of his detention. This Court reached the merits in the same posture in *Fall*.

Claims for Relief

CLAIM ONE

Detention Without Statutory Authority: 8 U.S.C. § 1226(a), Not 8 U.S.C. § 1225(b)(2)(A), Governs Petitioner's Custody

43. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

44. Section 1226(a) is the statute that describes what happened to Petitioner. He was arrested in the interior of the United States, upon information and belief on an administrative warrant, "pending a decision on whether [he] is to be removed"—a decision committed to the immigration judge before whom his merits hearing is already scheduled. 8 U.S.C. § 1226(a); Ex. 6. Detention under § 1226(a) carries with it the right to an individualized custody determination and the opportunity to seek release on bond or conditional parole. 8 C.F.R. §§ 1003.19(a), 1236.1(d).

45. Section 1225(b)(2)(A), by contrast, is addressed to the inspection process at the border: "if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a." 8 U.S.C. § 1225(b)(2)(A). That examination occurred in March 2022. The examining officers did not detain Petitioner for his § 1229a proceeding; DHS instead exercised its parole discretion under § 1182(d)(5), issued Petitioner a Form I-94, and released him into the interior, where he remained for more than four years with DHS's knowledge and written work authorization. Exs. 2, 4. Section 1225(b)(2)(A)'s text ties mandatory detention to the disposition of an arriving noncitizen's inspection; it is not a

roving authority to arrest, years later and hundreds of miles from any border, a paroled resident awaiting an already-docketed merits hearing.

46. The majority of the courts of appeals to consider the question have so held. *See Barbosa da Cunha*, 175 F.4th 61; *Lopez-Campos*, 175 F.4th 713; *Santillan Quiroz*, 2026 WL 1876709; *Hernandez Alvarez*, 175 F.4th 1258. And federal courts have repeatedly applied that rule to noncitizens in precisely Petitioner's posture—inspected and paroled at a port of entry, released into the interior, and later arrested by ICE while their removal proceedings remained pending. In *Hyppolite v. Noem*, 2025 U.S. Dist. LEXIS 197628 (E.D.N.Y. Oct. 6, 2025), the court rejected the Government's attempt to classify a paroled asylum seeker awaiting immigration court proceedings as subject to mandatory detention, holding that the Government's characterization of its detention authority is not controlling and that detention must comport with statutory limits and due process. In *Gomes v. Hyde*, No. 1:25-cv-11571, 2025 WL 1869299, at *6–8 (D. Mass. July 7, 2025), the court held that § 1225(b)(2) applies only at the border or shortly after entry, explaining that the phrase "seeking admission" is written in the present tense—confirming that Congress intended § 1225(b) to apply at the point of entry, not after a noncitizen has been released into the country. *Accord Martinez v. Hyde*, 792 F. Supp. 3d 211 (D. Mass. 2025); *Rodriguez-Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025) (§ 1226(a), not § 1225(b), governs detention where a noncitizen was not apprehended at the border or immediately upon entry).

47. District courts within this Circuit and beyond have applied the same statutory boundary to inspected-and-paroled noncitizens. The Western District of Missouri did so in *Khutyaev v. Arnott*, No. 6:25-cv-3393-MDH (W.D. Mo. Jan. 8, 2026), holding that DHS could not

lawfully apply § 1225(b) to a noncitizen who had been inspected and paroled into the United States and later apprehended in the interior. And the Western District of Michigan held in *Kozubaev v. Lynch*, No. 1:25-cv-1873 (W.D. Mich. Jan. 15, 2026), that "§ 1226(a), not § 1225(b)(2)(A), governs noncitizens who have resided in the United States and were already within the United States when apprehended," and ordered release or a bond hearing under § 1226(a).

48. The parolee-specific question has been squarely addressed. In *I.A.A.M. v. Warden, Irwin County Detention Center*, No. 7:26-cv-068-WLS-ALS (M.D. Ga. May 13, 2026), the court considered the § 2241 petition of a noncitizen who was "inspected and paroled upon entry to the United States" and later detained by ICE while driving on a freeway. Expressly acknowledging that the petitioner's inspection and parole distinguished his posture from that of an entrant without inspection, the court held—applying *Hernandez Alvarez*—that the distinction changes nothing: although a parolee remains an "applicant for admission," he is not "seeking admission" within the meaning of § 1225(b)(2)(A) when he is detained in the interior while engaged in ordinary daily life. The court ordered an individualized bond hearing under § 1226(a) within seven days, at which DHS "shall bear the burden of establishing by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk." The same court reached the same conclusion the same day in *B.A.M.A. v. Warden, Irwin County Detention Center*, No. 7:26-cv-95-WLS-ALS (M.D. Ga. May 13, 2026), where the petitioner—a humanitarian parolee working as a delivery driver—was arrested by ICE in a parking area.

49. Nor can the Government distinguish these authorities on the ground that Petitioner was paroled and issued a Form I-94. That theory produces a textual absurdity: it would place

parolees in a worse statutory position than noncitizens who entered without inspection—rewarding unauthorized entry while punishing those who, like Petitioner, presented themselves for inspection and complied with the formal process. And the parole-termination language of § 1182(d)(5)(A)—providing that when parole concludes the noncitizen "shall continue to be dealt with in the same manner as that of any other applicant for admission"—establishes a procedural framework for the processing of the case; it does not override the separate, present-tense "seeking admission" requirement of § 1225(b)(2)(A). Petitioner—arrested at work four years after his parole and nine months before his scheduled merits hearing—was not at that moment "seeking admission" in any sense in which Congress used that phrase.

50. District courts across the country have granted habeas relief in materially identical posture—to noncitizens who entered the United States through humanitarian parole, resided in the interior with DHS-issued employment authorization while pursuing relief in immigration court, and were arrested by ICE in the interior, far from any border or port of entry. *See, e.g.*, *Poinvil v. ICE*, No. 2:26-cv-1015-JES-NPM (M.D. Fla. Apr. 24, 2026); *Malikov v. Bondi*, No. 2:26-cv-00172-SPC-NPM (M.D. Fla. Feb. 12, 2026); *Perez v. Walker*, No. 2:26-cv-00009-SPC-DNF (M.D. Fla. Jan. 19, 2026); *Rabaev v. Baltazar*, No. 1:26-cv-00811-SBP (D. Colo. Apr. 2, 2026); *Mukambetov v. Baltazar*, No. 26-cv-01709-NYW (D. Colo. May 15, 2026); *Gelashvili v. U.S. Immigration & Customs Enforcement Denver Field Office Director*, No. 1:26-cv-00042-SWS (D. Wyo. Feb. 26, 2026); *Fuentes Lopez v. Mullin*, No. 2:26-cv-00069-KHR (D. Wyo. Apr. 20, 2026); *Popov v. Unknown Party*, No. CV-26-00739-PHX-RM (DMF) (D. Ariz. Mar. 13, 2026); *Malitskyi v. Rivas*, No. CV-25-02929-PHX-MTL (JFM) (D. Ariz. Nov. 25, 2025); *Mateo Francisco v. Dedos*,

No. 1:25-cv-1229-MIS-GJF, 2026 WL 145456 (D.N.M. Jan. 20, 2026), *report and recommendation adopted*, 2026 WL 300319 (D.N.M. Feb. 4, 2026); *Leiva Pinto v. Jamison*, No. 2:26-cv-00646-KSM (E.D. Pa. Feb. 4, 2026); *Sanchez Navarrete v. Noem*, No. 3:26-cv-00320-KM (M.D. Pa. Feb. 26, 2026); *Khushbokov v. Oddo*, No. 3:26-cv-00622-CCW (W.D. Pa. Apr. 15, 2026); *Melisov v. Oddo*, No. 3:26-cv-00430-CCW (W.D. Pa. Mar. 23, 2026); *Mambetzhumaev v. Oddo*, No. 3:26-cv-371 (W.D. Pa. Mar. 17, 2026); *Batyrov v. Oddo*, No. 3:26-cv-636 (W.D. Pa. Apr. 22, 2026); *Tsikhotskyi v. Tatum*, No. 1:26-cv-00249-JL-TSM, 2026 DNH 055 (D.N.H. May 8, 2026); *Roman Ariza v. Noem*, No. 4:25-cv-165-RGJ (W.D. Ky. Dec. 23, 2025); *Navarro Sanchez v. LaRose*, No. 25-cv-2396-JES-MMP (S.D. Cal. Sept. 26, 2025); *Kozubaev v. Lynch*, No. 1:25-cv-1873 (W.D. Mich. Jan. 15, 2026); *Khutyaev v. Arnott*, No. 6:25-cv-3393-MDH (W.D. Mo. Jan. 8, 2026); *Avandeev v. Noem*, No. 6:25-cv-3390-MDH (W.D. Mo. Jan. 8, 2026); *Yrysbaev v. Arnott*, No. 6:26-cv-3047-MDH (W.D. Mo. Feb. 12, 2026); *Akkabakov v. Crowley*, No. 2:26-cv-00172-JRS-MG (S.D. Ind. Mar. 26, 2026); *Aliev v. Crowley*, No. 2:26-cv-00291-JPH-MJD (S.D. Ind. May 7, 2026); *Madymarov v. Welsh*, No. 26-3059-JWL (D. Kan. Apr. 9, 2026); *Karimov v. Crowley*, No. 26 C 1154 (N.D. Ill. Feb. 17, 2026); *Mairambekov v. Olson*, No. 26-cv-01573 (N.D. Ill. Feb. 25, 2026); *Bekbolot Kyzy v. Figuero*, No. CIV-26-129-D (W.D. Okla. Mar. 17, 2026); *Kudusov v. Grant*, No. CIV-26-0132-HE (W.D. Okla. Mar. 11, 2026); *Shailookul Uulu v. Aldridge*, No. 3:26-cv-00073 (S.D.W. Va. Feb. 12, 2026); *Abdilaziz Uulu v. Mason*, No. 2:26-cv-00074 (S.D.W. Va. Feb. 19, 2026). These decisions share the dispositive features Petitioner's case exhibits: entry after inspection at a designated port of entry through a humanitarian parole process; residence in the interior with DHS-issued employment authorization and a pending application for relief in

immigration court; and an eventual ICE arrest in the interior. In none of them did the court draw the parolee-versus-EWI distinction the Government urges; each applied the present-tense textual analysis and held that § 1226(a) governs.

51. *Avila v. Bondi* does not control. The petitioner in *Avila* entered the United States without inspection or admission and was never paroled; the Eighth Circuit held that such a noncitizen remains an "applicant for admission" subject to § 1225(b)(2)(A). 170 F.4th 1128. *Avila* had no occasion to consider the statutory consequence of DHS's own decision to inspect an arriving noncitizen, place him in § 1229a proceedings, and grant him humanitarian parole into the United States—let alone the consequence of a four-year interval of authorized residence and employment between that parole and the arrest. Indeed, the Eleventh Circuit in *Hernandez Alvarez* expressly considered the reasoning of *Avila* and *Buenrostro-Mendez* and declined to follow it, explaining that treating "applicant for admission" and "seeking admission" as synonyms "fail[s] to give full effect to the phrase 'seeking admission' under the statute." *Hernandez Alvarez*, slip op. at 52 n.16. Reading § 1225(b)(2)(A) to mandate the no-bond detention of inspected-and-paroled residents would raise the same serious constitutional concerns that led the Tenth Circuit to reject the Government's construction, *Santillan Quiroz*, 2026 WL 1876709, and statutes are construed to avoid such concerns. To the extent *Avila* is read to extend to Petitioner's circumstances, he respectfully preserves the statutory question for en banc or Supreme Court review.

52. Because § 1226(a) governs, Petitioner's detention without any individualized custody determination is contrary to the INA. The Court should declare that Respondents are detaining Petitioner under the wrong statutory authority and order that he receive the

process § 1226(a) provides: release, or an individualized bond hearing before a neutral decisionmaker.

CLAIM TWO

Violation of the Due Process Clause of the Fifth Amendment: Detention Without Any Individualized Custody Hearing

53. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

54. The Due Process Clause "applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Id.* at 690; *accord Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). "The interest in being free from physical detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Whether the procedures attending Petitioner's detention—which are none—satisfy the Constitution is measured by the three-factor test of *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). This Court applied exactly that framework in *Fall*, and each factor favors Petitioner at least as strongly as it favored Mr. Fall.

55. *First*, the private interest is paramount. Petitioner has been at liberty in the United States for more than four years—longer than the petitioner in *Fall*, whose two years at liberty gave him "a strong interest in being free from physical detention." *Fall*, slip op. at 10; *see Ochoa v. Vergara*, No. 1:26-CV-266-RP, 2026 WL 482211, at *3 (W.D. Tex. Feb. 20, 2026). And Petitioner's interest is heightened by the Government's own prior decision to release him: DHS granted him humanitarian parole into the United States after inspecting

him, a determination available only where the noncitizen "present[s] neither a security risk nor a risk of absconding." 8 C.F.R. § 212.5(b). "[T]he government's decision to release an individual from custody creates 'an implicit promise,' upon which that individual may rely, that their liberty 'will be revoked only if [they] fail[] to live up to the . . . conditions [of release].'" *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)); *see Young v. Harper*, 520 U.S. 143, 147–49 (1997). Respondents have never contended that Petitioner violated any condition of his release.

56. *Second*, the risk of erroneous deprivation is high, and the value of additional safeguards is substantial. Petitioner "has no opportunity to contest the reasonableness of his detention without a bond hearing, meaning the risk of erroneous deprivation lies in this 'automatic continued deprivation of liberty for a noncitizen.'" *Fall*, slip op. at 11 (quoting *Ochoa*, 2026 WL 482211, at *3). Respondents have presented no evidence—and have never alleged—that Petitioner is a danger or a flight risk, and DHS's own parole and employment-authorization decisions reflect the opposite. A bond hearing, at which the Government must demonstrate danger or flight risk, would substantially reduce the risk of erroneous deprivation without imposing significant burdens. *Fall*, slip op. at 11; *see E.M. v. Noem*, No. 25-cv-3975 (SRN/DTS), 2025 WL 3157839, at *9–10 (D. Minn. Nov. 12, 2025); *Muse v. Mullin*, No. 25-CV-4024-CJW-MAR, 2026 WL 1008532, at *4 (N.D. Iowa Apr. 14, 2026).

57. *Third*, the Government's interest is fully protected by the very hearing Petitioner seeks. The Government's legitimate interests—"ensuring noncitizens appear for their removal hearings and do not pose a risk to the communities in which they live"—"may be addressed

at a bond hearing where the government considers [the detainee's] danger to the community and flight risk." *Fall*, slip op. at 11 (quoting *Ochoa*, 2026 WL 482211, at *3, and citing *Vieira v. De Anda-Ybarra*, 806 F. Supp. 3d 690, 701 (W.D. Tex. 2025)). The Government "previously provided bond hearings to aliens detained under the same circumstances," and the marginal burden of one individualized hearing "pales in comparison" to the liberty interest at stake. *Id.*; *Muse*, 2026 WL 1008532, at *4.

58. Neither *Demore* nor *Banyee* forecloses this claim. Both addressed mandatory detention under § 1226(c), which Congress enacted on specific findings about criminal aliens' recidivism and flight—findings with no analogue here. In *Fall*, this Court held that "those cases are distinguishable from [a] challenge to . . . detention under § 1225(b)(2)(A) as an alien with no criminal background," *Fall*, slip op. at 7, and the Supreme Court has itself confirmed that its statutory holdings do "not foreclose as-applied [constitutional due process] challenges." *Nielsen v. Preap*, 586 U.S. 392, 420 (2019); *see Jennings*, 583 U.S. at 312 (remanding the constitutional question). Petitioner acknowledges that some district courts have read *Demore* and *Banyee* more broadly, *see Leiva v. Berg*, No. 4:26CV3023, 2026 WL 948430, at *4 (D. Neb. Apr. 8, 2026), but this Court considered that split in *Fall* and adopted the better-reasoned view. *Fall*, slip op. at 6–7. *Accord Vikash*, slip op. at 4 (*Demore* "did not rule out Constitutional challenges for people like Petitioner who have no criminal convictions or other factors which mandate classification under § 1226(c)").

59. *Thuraissigiam* and the "entry fiction" are likewise inapplicable. *Thuraissigiam* concerned a noncitizen apprehended twenty-five yards inside the border, "detained shortly after unlawful entry," who therefore remained "on the threshold of initial entry" and could claim only the process Congress provided with respect to his admission. 591 U.S. at 107, 140.

Petitioner, by contrast, was inspected and granted humanitarian parole by DHS itself and has lived and lawfully worked in this country for more than four years. Like the petitioner in *Fall*, he has "effected an entry" and "enjoys certain constitutional protections available to persons inside the United States [that] are unavailable to aliens outside of our geographic borders." *Fall*, slip op. at 9 (quoting *Zadvydas*, 533 U.S. at 693); *see Zheng v. Mullin*, No. 6:26-cv-3179-MDH, 2026 WL 963336, at *2 (W.D. Mo. Apr. 9, 2026) (distinguishing *Thuraissigiam* where the petitioner had lived in the United States for over a year). Nor does *Thuraissigiam*'s passing description of noncitizens "paroled elsewhere in the country . . . pending removal" as "treated" like applicants for admission, 591 U.S. at 139, alter the analysis: that discussion addresses the rights a noncitizen may assert *regarding admission*—the terms on which he may remain permanently—not the distinct and elemental liberty interest in freedom from physical confinement, which the Due Process Clause protects for every person inside our borders. *Zadvydas*, 533 U.S. at 693 ("Once an alien enters the country," due process applies "regardless of whether their presence is lawful, unlawful, temporary, or permanent."). Indeed, Petitioner's parole is an affirmative Executive determination that he should be at liberty in this country; it would invert the doctrine to treat that grant of liberty as a license to confine him with less process than a noncitizen who entered without inspection—like Mr. Fall—would receive. The court in *Vikash* likewise held *Thuraissigiam* inapposite: its petitioner "did not seek release from custody; he sought additional review of his asylum claim," and the Supreme Court "expressly noted that 'the legality of his detention is not in question.'" *Vikash*, slip op. at 3 (quoting *Thuraissigiam*, 591 U.S. at 122).

60. Nor can the Government prevail by invoking *Connecticut Department of Public Safety v. Doe*, 538 U.S. 1 (2003), on the theory that danger and flight risk are "irrelevant" to detention under § 1225(b)(2)(A). *Doe* did not involve the deprivation of physical liberty, where it is the Constitution—not the statutory scheme—that defines what facts are material and what process is due. *See Foucha*, 504 U.S. at 80; *Hamdi*, 542 U.S. at 529.

61. Because every *Mathews* factor favors Petitioner, his detention without any individualized custody hearing violates the Fifth Amendment. The Court should grant the writ and order Petitioner's release or, at a minimum, an individualized bond hearing before an immigration judge within seven days—relief that follows directly from this Court's decision in *Fall*, which ordered such a hearing within ten days.

CLAIM THREE

Violation of the Due Process Clause of the Fifth Amendment: Any Custody Hearing Must Place the Burden on the Government to Justify Detention by Clear and Convincing Evidence

62. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

63. A custody hearing satisfies due process only if its procedures are adequate to protect the liberty interest at stake. Where the Government seeks to confine someone it previously chose to release, the burden of justifying that confinement belongs to the Government. "When the [g]overnment seeks to continue detaining someone it previously released, fairness demands that the [g]overnment shoulder the burden of justifying that detention." *Fall*, slip op. at 12 (quoting *Muse*, 2026 WL 1008532, at *5, quoting *Dambreville v. Noem*, No. 4:25-cv-00514-SMR-SBJ, 2026 WL 602174, at *5 (S.D. Iowa Jan. 12, 2026)). On that basis, this Court in *Fall* ordered a bond hearing "at which the government bears the burden

to demonstrate Fall's dangerousness or flight risk." *Id. Accord I.A.A.M.*, No. 7:26-cv-068-WLS-ALS (ordering that DHS "shall bear the burden of establishing by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk" (citing *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1335 (M.D. Ga. 2020))).

64. The standard of proof must likewise reflect the gravity of the deprivation. In civil-commitment settings the Supreme Court has required proof by at least clear and convincing evidence before the state may confine a person. *Addington v. Texas*, 441 U.S. 418, 427, 431–33 (1979); *see Foucha*, 504 U.S. at 80–81. Consistent with those principles, courts ordering bond hearings for noncitizens detained without process have required the Government to justify continued detention by clear and convincing evidence of danger or flight risk. *See Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 499 (S.D.N.Y. 2025); *E.M.*, 2025 WL 3157839, at *10.

65. Due process further requires that the hearing be prompt and meaningful: it must occur before a neutral decisionmaker, on a record, with consideration of alternatives to detention and, if bond is set, of Petitioner's ability to pay. Anything less would leave the "automatic continued deprivation" of Petitioner's liberty uncorrected. *Fall*, slip op. at 11 (quoting *Ochoa*, 2026 WL 482211, at *3). The Government bears the burden at any such hearing, and to date it has offered nothing—no evidence, no allegation, and no process—to justify Petitioner's confinement. It has therefore necessarily failed to carry its burden.

CLAIM FOUR

Violation of the Suspension Clause of the United States Constitution

66. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs. The Suspension Clause, U.S. Const. art. I, § 9, cl. 2, guarantees that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." By asserting mandatory detention authority under 8 U.S.C. § 1225(b) and denying Petitioner any opportunity to seek release or a bond hearing, the Government would extinguish the core function of the writ—to test the legality of restraint on personal liberty.

67. The Supreme Court has long held that habeas relief remains available to noncitizens challenging unlawful executive detention. *See INS v. St. Cyr*, 533 U.S. 289, 301 (2001) ("At the absolute minimum, the Suspension Clause protects the writ as it existed in 1789."). The writ cannot be withdrawn where, as here, the Executive detains an individual without statutory authority and without due process safeguards. *See Boumediene v. Bush*, 553 U.S. 723, 797 (2008) (inadequate substitutes cannot replace habeas; detainees must have a meaningful opportunity to challenge detention).

68. Under *Matter of Yajure Hurtado* and *Matter of Q. Li*, no immigration judge will entertain Petitioner's request for release so long as DHS invokes § 1225(b). If, as Respondents' detention framework presupposes, no court may review his custody either, Petitioner would remain confined without any effective mechanism to challenge the legal basis of his detention. Because Petitioner's detention without access to meaningful judicial review of his custody would constitute an effective suspension of the writ, this Court must exercise jurisdiction and grant relief—ordering immediate release or, in the alternative, a prompt individualized custody hearing at which the Government must justify continued detention by clear and convincing evidence. As a court within this Circuit concluded just days ago,

a detainee left in that posture receives "zero process," and "Respondents' position, that no such process is required, cannot be reconciled with the Fifth Amendment." *Vikash*, slip op. at 7; *accord Baltabev*, slip op. at 7.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter pursuant to 28 U.S.C. § 2241;
2. Issue an emergency order prohibiting Respondents from transferring Petitioner outside this judicial district during the pendency of these proceedings—including, specifically, any transfer to a detention facility in Louisiana or in any other district—and order that, in the event of any transfer effected notwithstanding such order, this Court retains jurisdiction over this Petition and Respondents shall promptly return Petitioner to this District, *see Weeks v. Wyrick*, 638 F.2d 690, 692 (8th Cir. 1981);
3. Declare that 8 U.S.C. § 1226(a), and not 8 U.S.C. § 1225(b)(2)(A), governs Petitioner's detention, and that Respondents' detention of Petitioner without any individualized custody determination violates the Immigration and Nationality Act, the Due Process Clause of the Fifth Amendment, and the Suspension Clause of Article I, Section 9;
4. Issue a Writ of Habeas Corpus directing Respondents to release Petitioner from immigration detention immediately, and in no event later than 48 hours from the Court's order;
5. In the alternative, order Respondents to provide Petitioner a constitutionally adequate individualized bond hearing before a neutral immigration judge within seven (7) days, at which the Government bears the burden of proving by clear and convincing evidence that

Petitioner poses a danger to the community or a risk of flight, with consideration of alternatives to detention and of Petitioner's ability to pay any bond set;

6. Order that if Respondents fail to provide such a hearing within the specified time, or fail to meet their burden of proof, Petitioner must be immediately released;

7. Order Respondents to notify undersigned counsel in advance of the location and approximate time of Petitioner's release;

8. Upon Petitioner's release, order Respondents to return all of Petitioner's property, personal effects, and documents confiscated upon his detention, including identity, foreign-issued, and immigration documents;

9. Enjoin Respondents from re-detaining Petitioner absent a showing of changed circumstances and, if re-detention is pursued, from doing so without first providing an individualized bond hearing before a neutral immigration judge; and

10. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted on July 20, 2026.

/s/ Harun Taskin

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ATTORNEY FOR PETITIONER

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I have reviewed the relevant documentation of the events described in this Petition that was reasonably available to me prior to and at the time of filing, including official immigration records and court filings. Based on those documents and on discussions with individuals whom Petitioner authorized to speak on his behalf, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge.

Respectfully submitted on July 20, 2026.

/s/ Harun Taskin

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