UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

ALEJANDRO JOSE REYES-ZAMBRANO

(A [redacted]

Petitioner,

v.

JASON STREEVAL, Warden of Stewart Detention Center;

GEORGE STERLING, Field Office Director of Enforcement and Removal Operations, Atlanta Field Office (ERO Atlanta);

DAVID J. VENTURELLA, Senior Official Performing the Duties of Director, Immigration and Customs Enforcement;

DAREN K. MARGOLIN, Director, Executive Office For Immigration Review (EOIR);

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

TODD BLANCHE, U.S. Attorney General; in their official capacities,

Respondents.

Case No. 4:26-CV-1067

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Mr. Alejandro Jose Reyes-Zambrano (A[redacted]), is a citizen of Venezuela who entered the United States without inspection on or about June 16, 2021. Mr. Reyes-Zambrano was detained near the border and later released. Mr. Reyes-Zambrano was re detained by Immigration and Customs Enforcement ("ICE") in Atlanta, Georgia in or about July 2026 at a routine ICE check-in. The Respondents are keeping Mr. Reyes-Zambrano detained at the Stewart Detention Center in Lumpkin, Georgia.

2. Mr. Reyes-Zambrano is a member of a nationwide class of noncitizens who are in immigration detention and being denied access to a bond hearing based on the government's allegation that they entered the United States without admission or inspection (colloquially referred to as "entered without inspection" or "EWI").

3. On May 6, 2026, the Eleventh Circuit ruled that unadmitted noncitizens found in the interior of the United States are eligible for bond while they go through removal proceedings. *Hernandez Alvarez v. Warden*, No. 25-14065, 2026 WL 1243395 (11th Cir. May 6, 2026). The Eleventh Circuit was unpersuaded by the Department of Homeland Security's ("DHS")") reinterpretation of 8 U.S.C. §1225(b)(2)(A) that those found within the interior are "seeking admission."

4. This Court has since ruled that the 11th Circuit's ruling applies equally to those inspected and paroled upon entry to the United States. *B.A.M.A. v. Warden, Irwin Detention Center*, No. 7:26-cv-95-WLS-ALS (M.D.Ga. May 13, 2026); I.A.A.M. v. *Warden, Irwin Detention Center*, 7:26-cv-68-WLS-ALS (M.D.Ga. May 13, 2026).

5. Mr. Reyes-Zambrano's case also follows directly in line with this Honorable Court's decisions in *J.A.M. v. Streeval*, No. 4:26-CV-342-CDL, 2025 WL 3050094 (M.D. Ga.

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Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-CV-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025). In these cases, this Honorable Court found that these same Respondents could not hold immigrant detainees subject to mandatory detention under 8 U.S.C. §1225(b)(2) and that "an immigration officer or immigration judge has the discretion" to grant them release on bond under 8 U.S.C. § 1226(a). Respondents continue to deny the right to a bond hearing despite this Honorable Court's clear past rulings on the very same issue.

6. Because DHS and the Executive Office for Immigration Review ("EOIR") continue to refuse to follow the precedent of the Eleventh Circuit and this Court, Mr. Reyes-Zambrano is likely to face many additional months in detention. Mr. Reyes-Zambrano has no other option but to bring this petition for a Writ of Habeas Corpus to enforce his rights to a bond hearing.

7. Mr. Reyes-Zambrano also seeks relief from this Court, as a detainee under 8 U.S.C. § 1226(a), because his continued, lengthy immigration-related detention is unconstitutional due to the violation of his constitutional right to due process under the Fifth Amendment, the violation of the *Administrative Procedure Act* ("APA") unlawful denial of bond, and the violation of statutory rights under the Immigration and Nationality Act ("INA") for unlawful denial of bond hearings; pursuant to this Honorable Court's previous decisions.

8. Accordingly, to vindicate Mr. Reyes-Zambrano's constitutional and statutory rights, and subject to this Court's rulings and the recent Eleventh Circuit ruling, this Court should grant the instant petition for a Writ of Habeas Corpus.

9. Therefore, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

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JURISDICTION

10. This action arises under the Constitution and the *Immigration and Nationality Act*, 8 U.S.C. § 1101 *et seq*

11. This Court has jurisdiction under 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the U.S. Constitution (the Suspension Clause) as Mr. Reyes-Zambrano is presently in custody at the Stewart Detention Center under or by color of the authority of the United States, and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States.

12. 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.

13. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678 (2001).

14. Federal courts also have federal question jurisdiction, through the APA, to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. 706(2)(A).

VENUE

15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the U.S. District Court for the Middle District of Georgia, the judicial district in which Petitioner currently is detained.

16. Venue is also properly in this Court pursuant to 28 U.S.C. § 2241(c)(3) and 8 U.S.C. §1391(b)(2) because the Petitioner is in the physical custody of Respondents at the

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Stewart Detention Center in Lumpkin, Georgia in this District. Therefore, a substantial part of the events or omissions giving rise to the claims occurred and continue to occur in this District.

17. Furthermore, venue is proper under 28 U.S.C. § 1391(e), as the Respondents are employees, officers, and agencies of the United States acting in their official capacities.

REQUIREMENTS OF 28 U.S.C. § 2243

18. The federal habeas corpus statute provides that "[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

19. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

20. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that this Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved by this Court and by the Eleventh Circuit.

21. However, if pursuant to Section 2243, this Court issues an order to show cause (OSC), it must direct the Respondents to file a return showing why the petition for a writ of habeas corpus should not be granted.

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22. As provided by Section 2243, the writ or order to show cause must be returned by the respondents "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." ***28 U.S.C. § 2243*** (emphasis added).

23. Nonetheless, giving the Respondents additional time to respond is inappropriate in this case because Mr. Reyes-Zambrano faces unjustified detention for an extended period of time without being able to challenge his detention at a bond hearing in immigration court while the immigration proceedings are pending. It is important to note that, should Mr. Reyes-Zambrano continue to fight his case, Respondents will not offer the opportunity for pre-removal release.

24. Thus, Mr. Reyes-Zambrano's period of detention is uncertain and can also increase because of the backlog in the immigration courts. Mr. Reyes-Zambrano's ongoing, and prolonged detention carries the separation from his family members. Additionally, the harshness of detention could not only affect his physical health or expose him to psychological trauma, but it could also be used to pressure him to accept abandonment of any claims of immigration relief and accept deportation.

25. Absent a grant of this petition for Writ of Habeas Corpus or an issuance of an Order to Show Cause, the Respondents will cause irreparable harm to Mr. Reyes-Zambrano by subjecting him to an indefinite deprivation of his liberty and other fundamental rights.

PARTIES

26. Petitioner, **ALEJANDRO JOSE REYES-ZAMBRANO**, is a citizen of Venezuela who has resided in the United States since 2021. Mr. Reyes-Zambrano was arrested at

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a routine ICE check-in at the Atlanta ICE office in July 2026. He has been in immigration detention since July 2026.

27. Respondent, **GEORGE STERLING**, Field Office Director of Enforcement and Removal Operations, is the Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations division ("ERO Atlanta"). As such, Mr. Sterling is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

28. Respondent, **DAVID J. VENTURELLA,** is the Senior Official Performing the Duties of Director of ICE, the federal agency responsible for custody decisions relating to non citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens. Mr. Venturella has responsibility for the administration of the immigration laws pursuant to 8 U.S.C. § 1103 and is a legal custodian of Mr. Reyes-Zambrano. He is sued in his official capacity.

29. Respondent, **JASON STREEVAL**, is on information and belief, an employee of CoreCivic the private corporation which runs the Stewart Detention Center in Lumpkin, Georgia. contract facility where Petitioner is detained. On information and belief, Mr. Streeval's job title is Warden of the Stewart Detention Center. He has immediate physical custody of Mr Reyes-Zambrano. He is sued in his official capacity.

30. Respondent, **DAREN K. MARGOLIN,** is the Director of EOIR, the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

31. Respondent, **MARKWAYNE MULLIN,** is the Secretary of the Department of Homeland Security ("DHS"). He is responsible for the implementation and enforcement of the

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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.

32. Respondent, **TODD BLANCHE**, is the Attorney General of the United States. He is responsible for the Department of Justice, of which the EOIR and the immigration court system it operates is a component agency. He is sued in his official capacity.

STATEMENT OF FACTS

33. Mr. Reyes-Zambrano is a foreign national who is a citizen of Venezuela.

34. Mr. Reyes-Zambrano entered the United States without inspection in or about June 2021. He was detained at the border and later released.

35. On July 10, 2026, Mr. Reyes-Zambrano was placed in removal proceedings when DHS served him with a Notice to Appear, charging him with being removable under 8 U.S.C. § 1182.

36. Prior to that, Mr. Reyes-Zambrano was included as a derivative on his mother's affirmatively filed I-589 Application for Asylum and Withholding of Removal, alleging past persecution in Venezuela.

37. In or about July 2026, Mr. Reyes-Zambrano was detained by ICE at a routine ERO check-in appointment and transferred to the Stewart Detention Center in Lumpkin, GA.

38. Mr. Reyes-Zambrano remains in the physical custody of Respondents.

39. Respondents are bound by the judgments of the Eleventh Circuit U.S. Court of Appeals and this Honorable Court. *See Hernandez Alvarez v. Warden*, No. 25-14065, 2026 WL 1243395 (11th Cir. May 6, 2026); *B.A.M.A. v. Warden, Irwin Detention Center*, No. 7:26-cv-95-WLS-ALS (M.D.Ga. May 13, 2026); I.A.A.M. v. *Warden, Irwin Detention Center*, 7:26-cv-68-WLS-ALS (M.D.Ga. May 13, 2026). Nevertheless, Respondents continue to

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flagrantly defy the judgment in those cases, continuing to subject Mr. Reyes-Zambrano to unlawful detention despite his clear entitlement to consideration for release on bond.

40. With this in mind, it is of extreme urgency that this Court issue a decision as early as practicable. This will allow the undersigned attorney to effectively argue for Mr. Reyes-Zambrano's release and ensure that the IJ affords Mr. Reyes-Zambrano a bond hearing, in accordance with the precedential caselaw and his due process rights. Therefore, the Court should expeditiously grant this petition.

LEGAL FRAMEWORK

A. HABEAS CORPUS

41. "Habeas relief is available when a person is 'in custody in violation of the Constitution or laws or treaties of the United States.'" *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, at *3 (E.D. Mich. Aug. 29, 2025) (quoting 28 U.S.C. § 2241(c)(3)).

42. The right to file a petition for a writ of habeas corpus is intended to, at a minimum, provide "a means of reviewing the legality of Executive detention." *Rasul v. Bush*, 542 U.S. 466, 474 (2004) (quoting *INS v. St. Cyr*, 533 U.S. 289, 301 (2001)).

43. In the context of immigration, there are two main sources of authority for habeas corpus. The first, is the civil habeas statute, 28 U.S.C. § 2241. It provides that:

> (a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions. The order of a circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.
>
> (c) The writ of habeas corpus shall not extend to a prisoner unless—
>
> (1) He is in custody under or by color of the authority of the United States

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> or is committed for trial before some court thereof; or
> . . .
> (3) He is in custody in violation of the Constitution or laws or treaties of the United States . . . . 28 U.S. Code § 2241 - Power to grant writ.

44. The second basis of jurisdiction is the Suspension Clause of the U.S. Constitution, also known as the Great Writ. *See* U.S. Const. art. I, § 9, cl. 2 ("The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.").

B. DUE PROCESS CLAUSE, U.S. CONSTITUTION

45. The Fifth Amendment to the U.S. Constitution protects every person from being "deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V § 2.

46. In the immigration context, the Supreme Court extended these constitutional protections to all noncitizens within the United States, including those who entered unlawfully, declaring that "[noncitizens] who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law." *See Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953); *see also Mathews v. Diaz*, 426 U.S. 67, 77 (1976) (There are literally millions of aliens within the jurisdiction of the United States. The Fifth Amendment, as well as the Fourteenth Amendment, protects every one of these persons from deprivation of life, liberty, or property without due process of law.); *Plyler v. Doe*, 457 U.S. 202, 215 (1982) (holding that unlawfully present aliens were entitled to both due process and equal protection under the Fourteenth Amendment).

47. The Court reasoned that noncitizens physically present in the United States, regardless of their legal status, are recognized as persons guaranteed due process of law by the

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Fifth and Fourteenth Amendments. *Plyler*, 457 U.S. at 210 (citing Mezei, 345 U.S. at 212; *Wong Wing v. United States*, 163 U.S. 228, 238 (1896); *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886)). Thus, the Court determined, [e]ven one whose presence in this country is unlawful, involuntary, or transitory is entitled to that constitutional protection. *Mathews*, 426 U.S. at 77; see also *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (explaining that the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent). "The Due Process Clause extends to all 'persons' regardless of status, including non-citizens (whether here lawfully, unlawfully, temporarily, or permanently)." *Lopez-Campos*, 2025 WL 2496379, at *9 (citing *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993).

48. Accordingly, notwithstanding Congress's indisputably broad power to regulate immigration, fundamental due process requirements notably constrained that power with respect to aliens within the territorial jurisdiction of the United States. *See Kwong Hai Chew*, 344 U.S. 590, 596–97 (1953) (explaining that a lawful permanent resident may not be deprived of his life, liberty or property without due process of law, and thus cannot be deported without notice of the nature of the charge and a hearing at least before an executive or administrative tribunal).

49. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See Zadvydas v. Davis*, 533 U.S. 678, 721 (2001) (Kennedy, J., dissenting) ("[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious"). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention, *Diouf v. Napolitano*,

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634 F.3d 1081, 1086-87 (9th Cir. 2011), as well as those noncitizens deemed "arriving" under the INA, *Jennings v. Rodriguez*, 138 S.Ct. 830, 862 (2018). (Breyer, J., dissenting) (stating that "arriving" noncitizens enjoy due process protections against prolonged detention because they are "are held within the territory of the United States at an immigration detention facility" (citing *Wong Wing v. United States*, 163 U.S. 228, 238 (1896)); *see also Kwai Fun Wong v. United States*, 373 F.3d 952, 973-74 (9th Cir. 2004) (concluding that the "entry fiction" does not preclude substantive constitutional protection for noncitizens considered "arriving").

50. As a matter of context, in the last two decades, the Supreme Court has addressed several challenges to the immigration detention scheme. For instance, in *Zadvydas v. Davis*, 533 U.S. 678, 721 (2001), the Supreme Court explained that "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. The Supreme Court then held that the government must demonstrate that a noncitizen's removal is reasonably likely to occur if the noncitizen remains detained for six months after the removal period specified in 8 U.S.C. § 1231(a)(6). 533 U.S. at 701. In doing so, the Court recognized a presumption that detention longer than six months following a noncitizen's removal period violates that noncitizen's due process right to liberty. *Id.*

51. In *Demore v. Kim*, 538 U.S. 510, 523 (2003), the Supreme Court upheld the mandatory detention of a noncitizen under 8 U.S.C. § 1226(c) based on the petitioner's concession of deportability and the Court's understanding that detention under § 1226(c) is typically "brief." *Demore*, 538 U.S. at 522 n.6, 528. Nevertheless, the Supreme Court's decision in *Demore* did not foreclose a noncitizen's right to challenge prolonged detention that does not provide protections that permit a noncitizen to challenge continued confinement.

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52. To guarantee against such arbitrary detention and to guarantee the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

53. Following *Zadvydas* and *Demore*, circuit court of appeals that confronted the issue found either that the INA or due process require a bond hearing or release for noncitizens subject to unreasonably prolonged detention pending removal proceedings. *See, e.g., Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199 (11th Cir. 2016), *vacated as moot*, 890 F.3d 952 (11th Cir. 2018); *Reid v. Donelan*, 819 F.3d 486 (1st Cir. 2016); *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015); *Rodriguez v. Robbins (Rodriguez III)*, 804 F.3d 1060 (9th Cir. 2015); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011); *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003).

54. Later, in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court held that the Ninth Circuit erred by interpreting 8 U.S.C. §§ 1226(c) and 1225(b) to require bond hearings as a matter of statutory construction. The Supreme Court concluded that §§1225(b), 1226(a), and 1226(c) do not give detained [noncitizens] the right to periodic bond hearings during the course of their detention. Because the Ninth Circuit had not decided whether the Constitution itself requires bond hearings in cases of prolonged detention, the Court remanded for the Ninth Circuit to address the issue. *Id.* at 851. The Court's majority opinion did not express any views on the constitutional question and left it to the lower courts to address the issue in the first instance.

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55. In his dissent, Justice Breyer expressed that "to hold a [person] without bail is to deprive him of bodily 'liberty…' …where there is no bail proceeding, there has been no bail-related 'process' at all." citing *United States* v. *Salerno*, 481 U. S. 739 –751 (1987) Justice Breyer also mentioned that "[f]reedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." citing *Foucha* v. *Louisiana*, 504 U. S. 71, 80 (1992); *Demore* v. *Kim*, 538 U. S. 510, 532 (2003) (Kennedy, J., concurring); *Zadvydas*, 533 U. S., at 718 (Kennedy, J., dissenting). To Justice Breyer "[t]he Due Process Clause foresees eligibility for bail as part of due process" because "[b]ail is basic to our system of law." *Jennings*, at 862, (citing *Salerno*, *supra,* at 748–751; *Schilb* v. *Kuebel*, 404 U. S. 357, 365 (1971); *Stack* v. *Boyle*, 342 U. S. 1, 4 (1951)).

56. Since the Supreme Court's *Jennings* decision, lower courts have expressed that "…any statute that allows for arbitrary prolonged detention without any process is unconstitutional or that those who founded our democracy precisely to protect against the government's arbitrary deprivation of liberty would have thought so." *See. e.g., Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018).

57. In immigration cases, civil detention has been found only permissible where it bears a "reasonable relation to the purpose for which the individual was committed." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). As concluded in *Zadvydas v. Davis*, 533 U.S. at 690, due process thus requires "adequate procedural protections" to ensure that the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* at 690 (internal quotation marks omitted).

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58. Importantly, in the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification.

59. Thus, where the government detains a noncitizen for a prolonged period or where the noncitizen pursues a substantial defense to removal or claim to relief, due process requires an individualized hearing before a neutral decisionmaker to determine whether such a significant deprivation of liberty is reasonably related to its purpose. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (stating that an "individualized determination as to [a noncitizen's] risk of flight and dangerousness" may be warranted "if the continued detention became unreasonable or unjustified"); *cf. Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the "initial commitment" requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (noting that "lesser safeguards may be appropriate" for "short-term confinement"); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (observing, in Eighth Amendment context, that "the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards").

60. To determine if the prolonged detention of a noncitizen is reasonable, Courts have applied a reasonableness test, which involves three main factors. First, courts have evaluated whether the noncitizen has raised a "good faith" challenge to removal—that is, the challenge is "legitimately raised" and presents "real issues." *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Second, reasonableness is a "function of the length of the detention," with detention presumptively unreasonable if it lasts six months to a year. *Id.* at 477-78; *accord Sopo*, 825 F.3d at 1217-18. In assessing the length of detention, delay attributable

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to the government weighs against finding the detention reasonable. *Sopo*, 825 F.3d at 1218. Third, courts consider the likelihood that detention will continue pending future proceedings. *Chavez-Alvarez*, 783 F.3d at 478 (finding detention unreasonable after ninth months of detention, when the parties could "have reasonably predicted that Chavez-Alvarez's appeal would take a substantial amount of time, making his already lengthy detention considerably longer"); *Sopo*, 825 F.3d at 128; *Reid*, 819 F.3d at 500.

61. Due process also requires certain minimal bond hearing procedures. First, the government must bear the burden of proof by clear and convincing evidence to justify continued detention. Second, the decisionmaker must consider available alternatives to detention. Finally, if the government cannot meet its burden, a decisionmaker must assess a noncitizen's ability to pay a bond when determining the appropriate conditions of release.

62. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Under the *Matthews* test, Courts consider (1) "the private interest that will be affected by the official action." (2) "the risk of an erroneous deprivation of such interest," and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id* at 335.

63. Due process also requires that a neutral decisionmaker consider alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979).

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64. Courts have ruled that automatically stayed release from detention is a violation of the Fifth Amendment. *See, e.g.*, *Mohammed H. v. Trump,* 781 F. Supp. 3d 886, 895 (D. Minn. 2025) (finding that it "does not require any showing of dangerousness or flight risk. Nor is it subject to immediate review by an immigration judge. It operates by fiat and has the effect of prolonging detention even after a judicial officer has determined that release on bond is appropriate. That mechanism's operation here—in the absence of any individualized justification—renders the continued detention arbitrary as applied. Cf. *Zadvydas*, 533 U.S. at 699–700, 121 S.Ct. 2491.

65. The "recent shift to use the mandatory detention framework under Section 1225(b)(2)(A) is not only wrong but also fundamentally unfair. In a nation of laws vetted and implemented by Congress, we don't get to arbitrarily choose which laws we feel like following when they best suit our interests." *Lopez-Campos*, 2025 WL 2496379, at *10.

66. It is important to consider that detention is often lengthy and that immigration detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down facilities, with limited freedom of movement and access to their families: "the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); *accord Chavez-Alvarez*, 783 F.3d at 478; *Ngo v. INS*, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo*, 825 F.3d at 1218, 1221. "And in some cases[,] the conditions of their confinement are inappropriately poor." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), *DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities* (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, *e.g.*,

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indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

67. These conditions and obstacles only further underscore the serious due process concerns that prolonged immigration detention entails for Mr. Reyes-Zambrano. While in detention Mr. Reyes-Zambrano is separated from his U.S. citizen child and other close family members, who will also endure hardship as Mr. Reyes-Zambrano is unable to help provide for them financially or be close to them.

68. Upon weighing the *Matthews* factors this Court should find that the Government's interest in fewer bond hearings (the efficient processing of noncitizens for removal) is diminished. Additionally, since Mr. Reyes-Zambrano's detention will continue pending future immigration proceedings, this Court should find that the Government's interest in denying her the opportunity for a bond hearing does not outweigh Mr. Reyes-Zambrano's liberty interest and it will also create a high risk of erroneous deprivation to said right.

69 The government's decision that all noncitizens, like Mr. Reyes-Zambrano, are to be mandatorily detained is arbitrary and affords to individuals like him no process, let alone due process. Therefore, it should be unconstitutional. *See Mathews v. Eldridge*, 424 U.S. 319 (1976).

C. The Immigration and Nationality Act of 1952 ("INA")

70. The Immigration and Nationality Act of 1952 ("INA"), codified in Chapter 12 of Title 8 of the United States Code, governs all aspects of immigration law. *See* 8 U.S.C. §§ 1101 *et seq*. Forming the basis of current immigration laws of the United States, the INA addresses issues of admission qualifications for noncitizens, naturalization and loss of nationality, refugee assistance, and removal procedures for noncitizen terrorists. *Id. See also*

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Margaret C. Jasper, *The Immigration and Nationality Act of 1952*, Legal Almanac: The Law of Immigration (2012).

71 Sections 8 U.S.C. §§ 1225, 1226, codified as sections 235 and 236 of the INA, govern how the executive branch evaluates inadmissible noncitizens. Logically speaking, inspection or apprehension of the noncitizen is a necessary precondition of removal. Only after a noncitizen is identified as inadmissible can removal proceedings happen.[1] The Supreme Court has already distinguished these two provisions in *Jennings v. Rodriguez*. The *Jennings* Court determined that the government may "detain certain aliens seeking admission into the country" under § 1225(b) while § 1226 "authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings." 583 U.S. 281, 289 (2018) (emphasis added).

72. Under § 1225, an "applicant for admission" is a noncitizen "present in the United States who has not been admitted or who arrives in the United States." 8 U.S.C. § 1225(a)(1). "[A]dmission" and "admitted" are defined as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A).

73. Section 1225(b)(1) authorizes expedited removal for certain "applicants for admission" in two categories. First, noncitizens "arriving in the United States" that are determined by an immigration officer to be inadmissible due to misrepresentation or failure to meet documents requirements. *Id.* at § 1225(b)(1)(A)(i); *see also id.* at § 1182(a)(6)(C), (a)(7).

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[1] *See also, Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al*, 5:25-cv-01873-SSS-BFM, --- F Supp. 3d ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). Amended Order Consolidating The Court's Orders On Motion For Partial Summary Judgment, Class Certification, And Application For Reconsideration Or Clarification.

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74. Second, noncitizens that (a) are inadmissible because of misrepresentation or failure to meet documents requirements; (b) have not "been admitted or paroled into the United States"; (c) have not "affirmatively shown, to the satisfaction of an immigration officer, that [they have] been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility"; and (d) have been designated by the Attorney General for expedited removal. *Id.* at § 1225(b)(1)(A)(iii).

75. These two categories of noncitizens subject to § 1225(b)(1) are subject to mandatory detention "until certain proceedings have concluded." *Jennings*, 583 U.S. at 297. Individuals who fall into § 1225(b)(1) are "normally ordered removed 'without further hearing or review' pursuant to an expedited removal process" unless claiming asylum or a fear of persecution. *Jennings,* 53 U.S. at 287 (first quoting § 1225(b)(1)(A)(i); then citing § 1225(b)(1)(A)(ii)).

76. Noncitizens who are "seeking admission" and not covered by the expedited removal provisions in § 1225(b)(1) are subject to § 1225(b)(2). *See id.* at 287. This category would include, for example, noncitizens who are arriving in the United States, seek admission, and are inadmissible for some reason other than misrepresentation or failure to meet documents requirements. *See* 8 U.S.C. § 1182(a)(2)–(3).

77. Section 1225(b)(2)(A) governs mandatory detention of applicants for admission. Subject to limited exceptions, Section 1225(b)(2) provides that such noncitizens "shall be detained" for full removal proceedings under § 1229a "if the examining immigration officer determines" that the noncitizen "is not clearly and beyond a doubt entitled to be admitted." *Id.* at § 1225(b)(2)(A).[2]

[2] (b) Inspection of applicants for admission

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78. On the other hand, Section 1226(a) "provides the general process for arresting and detaining aliens who are present in the United States and eligible for removal." This Section provides for discretionary detention. 8 U.S.C. §1226(a). *See, e.g., Rodriguez Diaz v. Garland,* 53 F.4th 1189, 1196 (9th Cir. 2022).

79. Under § 1226(a), a noncitizen "may be arrested and detained" "[o]n a warrant issued by the Attorney General" if their removal proceedings are pending, 8 U.S.C. § 1226(a).[3] Detention pursuant to § 1226(a) is not mandatory. If the noncitizen was not charged with, arrested for, or convicted of certain criminal offenses enumerated in § 1226(c),[4] the government has discretion to release them on "bond of at least $1,500 with security approved by, and

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. .

(2) Inspection of other aliens
(A) In general
Subject to subparagraphs (B) and (C), 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 of this title. 8 U.S.C. § 1225(b)(2)(A).

[3] (a) Arrest, detention, and release
On 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. Except as provided in subsection (c) and pending such decision, the Attorney General—
(1) may continue to detain the arrested alien; and
(2) may release the alien on—
(A) bond of at least $1,500 with security approved by, an containing conditions prescribed by, the Attorney General . . 8 U.S.C. § 1226(a).

[4] Known as the *Laken Riley Act*, subsection (c) of § 1226, provides for mandatory detention of noncitizens found inadmissible or deportable under certain provisions and who have been "charged with," "arrested for," "convicted of," or admit "having committed" certain listed crimes. 8 U.S.C. § 1226(c). "[N]oncitizens arrested and detained under § 1226 have a right to request a custody redetermination (i.e., a bond hearing) before an Immigration Judge." *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, at *4 (citing 8 C.F.R. 1236.1(c)(8), (d)(1)). "The IJ evaluates whether there is a risk of nonappearance or danger to the community." *Id.* (citing *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006)).

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containing conditions prescribed by, the Attorney General, or ... conditional parole." *Id.* at § 1226(a)(2)(A)–(B).

80. Beyond how noncitizens are identified as inadmissible, the one key distinction between these two Sections is that noncitizens detained under § 1226(a) are entitled to receive bond hearings at the outset of detention. 8 C.F.R. §§ 236.1(d)(1). *See also Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018).

81. Not only does § 1226(a) provide several layers of review of the agency's initial custody determination, but it also confers "an initial bond hearing before a neutral decisionmaker, the opportunity to be represented by counsel and to present evidence, the right to appeal, and the right to seek a new hearing when circumstances materially change." *See, e.g.*, *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022) (observing that § 1226(a) and its implementing regulations "provide extensive procedural protections that are unavailable under other detention provision".)

82. For decades the DHS had applied § 1226(a) and its discretionary release and review of detention "to the vast majority of noncitizens allegedly in this country without valid documentation"—a practice codified by regulation. *See, e.g., Salcedo Aceros*, 2025 WL 2737503, at *3. However, last year DHS upended this long-held understanding of the law.

83. First, on July 8, 2025, ICE issued an interim guidance memo stating that anyone who entered without inspection was ineligible for release on bond and could not challenge their detention at a bond hearing in immigration court, regardless of how long an

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individual has lived in the United States. [5] As a result, DHS attorneys started arguing, and some IJs started finding, that such individuals were not eligible for bond hearings in immigration court.

84. Then, on September 5, 2025, the Board of Immigration Appeals ("BIA") issued a precedential decision binding on all IJs, holding that an IJ had no authority to consider bond requests for any person who entered the United States without inspection. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The BIA determined that such individuals are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for release on bond. As a result, thousands of people are facing months or years in detention without any individualized consideration for whether they should be detained.

85. As discussed above, mandatory detention of applicants for admission applies after an immigration officer has determined that they will not be entitled to admission if the examining immigration officer determines that [a noncitizen] seeking admission is not clearly and beyond a doubt entitled to be admitted. 8 U.S.C. § 1225(b)(2)(A). DHS, however, now contends that anyone who entered without inspection remains an "applicant for admission" who is "seeking admission" and thus subject to mandatory detention under Section 1225(b)(2). *See e.g.*, *Rodriguez Vasquez v. Bostock, et al.* 3:25-CV-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (citing *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020)).

86. However, it is important to note that individuals who have not been inspected and authorized by an immigration officer lack the trait to be categorized as "applicants for

[5] *See*, AILA Doc. No. 25071607, accessible through https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (last accessed on Friday, January 16, 2026 at 6:27 pm.)

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admission" because statutory language of § 1225(b)(2) contemplates a determination by an "examining immigration officer" regarding a noncitizen's admissibility. *See* § 1225(b)(2).[6]

87. In regard to this new interpretation, as of late 2025, several district courts have held that DHS's new and more expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect on the basis that this reading of the statute would render 1226(c) inoperable or moot. Several Courts have rejected DHS's position and have held that such individuals are subject to § 1226(a) and thus eligible for a bond hearing. *See also* e.g., *Rodriguez Vasquez v. Bostock, et al.* 3:25-CV-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025); *See* e.g., *Aguilar Merino v. Ripa*, 25-23845-CIV, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025), and *J.Y.L.C., v. Bostock, et al.,* 3:25-cv-02083-AB, (D. Or. Nov. 12, 2025) (collecting cases rejecting *Matter of Yajure Hurtado*).

88. On May 6, 2026, the Eleventh Circuit ruled that unadmitted noncitizens found in the interior of the United States are eligible for bond while they go through removal proceedings. *Hernandez Alvarez v. Warden*, No. 25-14065, 2026 WL 1243395 (11th Cir. May 6, 2026). The Eleventh Circuit was unpersuaded by the Department of Homeland Security's ("DHS)") reinterpretation of 8 U.S.C. §1225(b)(2)(A) that those found within the interior are "seeking admission."

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[6] "…based on a plain reading of the language and aided by these standard canons of statutory construction, § 1225(b)(2)(A) applies to aliens in the United States who have not been admitted ("applicants for admission" definition) AND who are attempting to obtain lawful admission to the United States. This interpretation is also consistent with the framework of § 1225, which focuses on the admission of aliens upon their arrival to the United States or upon an attempt to obtain admission after arrival…" *See J.A.M. v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) citing *See K Mart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291 (1988) (Kennedy, J.) ("In ascertaining the plain meaning of the statute, the court must look to the particular statutory language at issue, *as well as the language and design of the statute as a whole.*") (emphasis added).

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89. This Court has since ruled that the 11th Circuit's ruling applies equally to those inspected and paroled upon entry to the United States. *B.A.M.A. v. Warden, Irwin Detention Center*, No. 7.26-cv-95-WLS-ALS (M.D.Ga. May 13, 2026), I.A.A.M. v. *Warden, Irwin Detention Center*, 7:26-cv-68-WLS-ALS (M.D.Ga. May 13, 2026).

90. These recent precedents control in this case, meaning that Mr. Reyes-Zambrano is eligible for bond.

D. THE ADMINISTRATIVE PROCEDURE ACT (APA), 5 U.S.C. § 706(2)(A)

91. Section 706(2)(A) of the APA commands a reviewing court to "hold unlawful *and set aside* agency action, findings, and conclusions" that are found to be "arbitrary, capricious, . . . or otherwise not in accordance with law." § 706(2)(A) (emphasis added).

92. APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by "any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus"). The APA affords a right of review to a person who is "adversely affected or aggrieved by agency action." 5 U.S.C. § 702.

93. Respondents' continued detention of Mr. Reyes-Zambrano for a prolonged or otherwise indefinite period of time without a review of his custody or a bond hearing is adversely and severely affecting his liberty and freedom.

E. EXHAUSTION

94. Section 706(2)(A) of the APA commands a reviewing court to "hold unlawful *and set aside* agency action, findings, and conclusions" that are found to be "arbitrary, capricious, . . . or otherwise not in accordance with law." § 706(2)(A) (emphasis added).

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95. Under the doctrine of exhaustion of administrative remedies, 'a party may not seek federal judicial review of an adverse administrative determination until the party has first sought all possible relief within the agency itself.'" *Howell v. INS*, 72 F.3d 288, 291 (2d Cir. 1995) (quoting Guitard v. U.S. Sec'y of Navy, 967 F.2d 737, 740 (2d Cir. 1992)).

96. However, a party need not exhaust administrative remedies when the available remedies would "provide no genuine opportunity for adequate relief" or when "administrative appeal would be futile." *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.) (quoting *Able v. United States*, 88 F.3d 1280, 1288 (2d Cir. 1996)). *See also McCarthy v. Madigan*, 503 U.S. 140, 146-49 (1992), *superseded by statute on other grounds as stated in Booth v. Churner*, 532 U.S. 731 (2001) (noting that traditional exceptions include where exhaustion would cause "undue prejudice to subsequent assertion of a court action" or "irreparable harm" to the petitioner, where there is "some doubt as to whether the agency was empowered to grant effective relief," or where it would be futile because "the administrative body is shown to be biased or has otherwise predetermined the issue before it") (internal quotation marks omitted).

97 In the context of immigration, Congress has not explicitly mandated exhaustion Where Congress has not explicitly spoken, requiring the exhaustion of administrative remedies lies within "sound judicial discretion." *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). In exercising that discretion, the Supreme Court has stated that "federal courts must balance the interest of the individual in retaining prompt access to a federal judicial forum against countervailing institutional interests favoring exhaustion." *Id.* at 146. Those institutional interests are "protecting administrative agency authority and promoting judicial efficiency." *Id.* at 145.

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98. The *McCarthy* Court also identified situations in which the interest of the individual weighs heavily against the institutional interests. *See id.* at 146–49. Relevant here, "an administrative remedy may be inadequate where the administrative body . . . has otherwise predetermined the issue before it." *Id.* at 148 (citing *Gibson v. Berryhill*, 411 U.S. 564, 575, n.14 (1973).

99. Further, constitutional challenges have been found exempt from administrative exhaustion requirements. *See Khan v. Atty. Gen. of U.S.*, 448 F.3d 226, 236 n.8 (3d Cir. 2006) (internal alterations and quotations omitted) ("[D]ue process claims generally are exempt from the exhaustion requirement because the BIA does not have jurisdiction to adjudicate constitutional issues."); United States v. Gonzalez-Roque, 301 F.3d 39, 48 (2d Cir. 2002) ("'[T]he BIA does not have jurisdiction to adjudicate constitutional issues . . . .'" (quoting *Vargas v. U.S. Dep't of Immigration & Naturalization*, 831 F.2d 906, 908 (9th Cir. 1987)).

100. As mentioned above, on July 8, 2025, the U.S. Immigration and Customs Enforcement ("ICE") was instructed, via an interim guidance memo, that anyone deemed to have entered without inspection is ineligible for release on bond. Then, on September 5, 2025, the Board of Immigration Appeals ("BIA") held that "[b]ased on the plain language of section 235(b)(2)(A) of the [INA], Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission." *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

101. In accordance with the July 8, 2025 interim guidance memo and the Board of Immigration Appeals (BIA) decision in *Matter of Yajure Hurtado*, DHS' attorneys have the practice of arguing, and Immigration Court IJs throughout the country, including those stationed at IrwinDetention Center, have started finding that individuals, such as Mr. Reyes-Zambrano,

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could not challenge their detention at a bond hearing in immigration court, regardless of how long an individual has lived in the United States. As result, individuals, such as Mr. Reyes-Zambrano, are denied bond hearings in immigration court.

102. The BIA is an administrative body located within the DOJ, which, of course, is part of the executive branch of the government. Its members are appointed by the Attorney General, and its decisions are binding on all immigration judges, *Yajure Hurtado* thus precludes an IJ from finding jurisdiction over noncitizens like Mr. Reyes-Zambrano or from holding a custody redetermination hearing. As such, this Court should find that the agency's position is already set and recourse to administrative remedies is very likely futile.

103. Additionally, IJs have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

104. Since DHS has already predetermined that anyone who entered without inspection is ineligible for release on bond, established a no-bond for EWIs policy, and has resorted to an across the board application of § 1225(b)(2), Mr. Reyes Zambrano had to proceed directly to filing this petition for Writ of Habeas Corpus for the violation to his statutory and constitutional rights.

105. Requiring exhaustion, in this case, would not further the ends of judicial efficiency and protecting administrative authority because it would simply delay the resolution of Mr. Reyes-Zambrano's legal questions. It is important to consider that in detention cases, appeals to the Board of Immigration Appeals ("BIA") can take months or years. Thus, requiring habeas petitioners, such as Mr. Reyes-Zambrano, to appeal to the BIA to prudentially exhaust is not

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efficient, would cause irreparable harm by continuing to deprive him of his liberty. Mr. Reyes-Zambrano's individual interest in having prompt access to this forum outweighs any institutional interests at stake

106. Therefore, the Court should consider the merits of the Petition This Court intervention, to enjoin the Respondents from preventing Mr. Reyes-Zambrano from having a bond hearing pursuant to the holding in *Yajure Hurtado,* is necessary to enable him to avail himself of his administrative remedies.

CLAIMS FOR RELIEF

COUNT 1: REQUEST FOR RELIEF PURSUANT TO *HERNANDEZ LOPEZ*

107. Petitioner, Mr. Reyes-Zambrano, repeats, re-alleges, and incorporates by reference allegations in the preceding paragraphs 1-106 as if fully set forth herein.

108. As an unadmitted noncitizen who is found in the interior of the United States, Mr. Reyes-Zambrano is eligible for bond pursuant to the Eleventh Circuit's holding in *Hernandez Alvarez*.

109. Respondents are bound by the precedents of the Eleventh Circuit, which has appellate authority over this Court and all within its jurisdiction.

110. By denying Mr. Reyes-Zambrano a bond hearing under § 1226(a) and wrongly asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Mr. Reyes-Zambrano's statutory rights under the INA and the Court's judgment in *Hernandez Alvarez*.

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COUNT 2: UNCONSTITUTIONAL DETENTION IN VIOLATION OF THE FIFTH AMENDMENT

111. Petitioner, Mr. Reyes-Zambrano, repeats, re-alleges, and incorporates by reference allegations in the preceding paragraphs 1-106 as if fully set forth herein.

112. "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).

113. Civil immigration detention is only permissible where it bears a "reasonable relation to the purpose for which the individual was committed." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972), *Zadvydas*, 533 U.S. at 690. Those purposes are limited: preventing flight and protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

114. Mr. Reyes-Zambrano's immigration proceedings at an early stage, and he could raise a "good faith" challenge to removal. There is no removal order. His removal is not imminent or reasonably foreseeable.

115. Mr. Reyes Zambrano's continued and prolonged detention does not bear a reasonable relation to the purpose for which it was committed until the government satisfies its burden of proof to show by clear and convincing evidence that community protection or flight risk concerns apply to him. This can only happen in a bond hearing, which the Respondents are not affording to Mr. Reyes-Zambrano. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690.

116. Furthermore, the mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens, such as Mr. Reyes-Zambrano, residing in the United States who are subject

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to the grounds of inadmissibility only because they previously entered the country without being admitted.

117. Petitioner is detained under § 1226(a) and is not subject to another detention provision, such as 1225(b)(1), § 1226(c), or § 1231.

118 However, in accordance with the BIA decision in *Matter of Yajure Hurtado*, DHS attorneys have the practice of arguing and IJs throughout the country, including those stationed the Irwin Detention Center, have started finding that individuals, such as Mr. Reyes-Zambrano, could not challenge their detention at a bond hearing in immigration court, regardless of how long an individual has lived in the United States. As a result, individuals such as Mr. Reyes-Zambrano are denied bond hearings in immigration court.

119. These cumulative actions render his detention even more constitutionally suspect, as they reflect punitive conduct rather than civil processing.

120. Respondents lack statutory authority to detain Mr. Reyes-Zambrano under Section 1225(b)(2) because that statute does not apply to noncitizens in his circumstances. Accordingly, Mr. Reyes-Zambrano's continued detention constitutes a deprivation of liberty without due process of law. The Court should order his release.

COUNT 3: VIOLATION OF INA AND ITS IMPLEMENTING REGULATIONS; 8 U.S.C. § 1226(A) UNLAWFUL DENIAL OF BOND HEARINGS

121. Petitioner, Mr. Reyes-Zambrano, repeats, re-alleges, and incorporates by reference allegations in the preceding paragraphs 1-106 as if fully set forth herein.

122. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens, such as Mr. Reyes-Zambrano, residing in the United States who are only subject to

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the grounds of inadmissibility because they previously entered the country without being admitted.

123. It is important to note that individuals who have not been inspected and authorized by an immigration officer lack the trait to be categorized as "applicants for admission" since statutory language of § 1225(b)(2) contemplates a determination by an "examining immigration officer" regarding a noncitizen's admissibility. *See* § 1225(b)(2). Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as 1225(b)(1), § 1226(c), or § 1231.

124. Mr. Reyes-Zambrano is detained under § 1226(a) and is not subject to the detention provisions proscribed in 1225(b)(1), § 1226(c), or § 1231.

125. The government's no-bond for purported EWIs policy and the incorrect, willful, and capricious application of § 1225(b)(2) to Mr. Reyes-Zambrano violates the Immigration and Nationality Act.

COUNT 4: UNLAWFUL DENIAL OF BOND HEARING IN VIOLATION OF EIGHTH AMENDMENT RIGHT TO BAIL

126. Petitioner, Mr. Reyes-Zambrano, repeats, re-alleges, and incorporates by reference allegations in the preceding paragraphs 1-106 as if fully set forth herein.

127. The Eighth Amendment of the United States Constitution prohibits "cruel and unusual punishments." U.S. Const. amend. VIII cl. 4.2.

128. Bail is "basic to our system of law." It not only "permits the unhampered preparation of a defense," but also "prevent[s] the infliction of punishment prior to conviction." *Jennings*, at 862, (Breyer, J., dissenting) citing *Salerno*, *supra,* at 748–751; *Schilb* v. *Kuebel*, 404 U. S. 357, 365 (1971); *Stack* v. *Boyle*, 342 U. S. 1, 4 (1951).

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129. The government's categorical, incorrect, willful, and capricious application of 8 U.S.C. § 1225(b)(2) to Mr. Reyes-Zambrano and continued detention without a bond hearing result in indefinite and unconstitutional imprisonment which amounts to a cruel and unusual punishment in violation of the Eighth Amendment.

130 For these reasons, Mr Reyes-Zambrano's ongoing and prolonged detention without a bond hearing violates the Eighth Amendment.

COUNT 5: CONTINUED DETENTION WITHOUT BOND HEARING IN VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A)

131. Petitioner, Mr. Reyes-Zambrano, repeats, re-alleges, and incorporates by reference allegations in the preceding paragraphs 1-106 as if fully set forth herein.

132. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens, such as Mr. Reyes-Zambrano, residing in the United States who are only subject to the grounds of inadmissibility because they are purported to have originally entered the United States without inspection. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

133. That Mr. Reyes-Zambrano is detained under § 1226(a) and is not subject to any detention provisions proscribed in 1225(b)(1), § 1226(c), or § 1231.

134. Nonetheless, IJs stationed at Stewart Detention Center have a policy and practice of applying § 1225(b)(2) and denying bond hearings to detainees, such as Mr. Reyes-Zambrano.

135. Respondents continue to keep Mr. Reyes Zambrano detained under the wrong provision of INA. Such action against Mr. Reyes-Zambrano is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

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PRAYER FOR RELIEF

WHEREFORE, Petitioner, Alejandro Jose Reyes-Zambrano, prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;

c. Issue a declaration that Respondents are detaining Petitioner in violation of the precedential caselaw, relevant statutory law, and the U.S. Constitution;

d. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;

e. Issue a Writ of Habeas Corpus requiring that within one day, Respondents release Petitioner; on his own recognizance, under parole, or on low bond or any other reasonable conditions of supervision;

f. Alternatively, issue a Writ of Habeas Corpus, hold a hearing before this Court if warranted to determine if the Petitioner should be subject to mandatory detention under 8 U.S.C. § 1225(b)(2); require Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days; and order that the bond hearing shall comport with all requirements of due process, including the requirement 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;

a. Issue a declaration that Petitioner's ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment and the Eighth Amendment.

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a. 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

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

Respectfully submitted,

/s/ *Michael Urbina*
Michael Urbina
michael@urbina.law
Counsel for Petitioner

Dated: 3rd day of August, 2026

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

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

Dated this 3d day of August, 2026.

/s/Michael Urbina
Michael Urbina
Counsel for Petitioner
michael@urbina.law

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