UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Jesus Alberto Paez Tovar
(A[redacted],

Petitioner,

v.

Julie Massengill, in her official capacity as Jail Administrator, Monroe County Jail; **Troy Goodnough**, in his official capacity as Sheriff of Monroe County, Michigan; **Kevin Raycraft**, in his official capacity as Acting Director of Enforcement and Removal Operations, Detroit Field Office, U.S. Immigration and Customs Enforcement; **David J. Venturella**, in his official capacity as Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement; **Markwayne Mullin**, in his official capacity as Secretary of Homeland Security; and **Todd Blanche**, in his official capacity as Acting Attorney General of the United States,

Respondents.

Case No. 2:26-cv-12812

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

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

I. INTRODUCTION

1. Petitioner Jesus Alberto Paez Tovar is a 38 year old native and citizen of Venezuela who fled his country after enduring years of persecution, physical and sexual abuse, and threats on account of [redacted] On March 27, 2024, he did what the United States government asked asylum seekers to do: he scheduled an appointment through the CBP One mobile application, presented himself for inspection at the San Ysidro, California port of entry, and submitted to processing. The Department of Homeland Security ("DHS") paroled him into the United States for a two year period, served him with a Notice to Appear placing him in ordinary removal proceedings under 8 U.S.C. § 1229a, and released him into the community. (Exs. A, B.)

2. For the next two years and nearly four months, Mr. Paez Tovar lived openly in the community, with the government's knowledge and under color of its own decision to release him, while his removal proceedings and applications remained pending. He timely filed an application for asylum, withholding of removal, and protection under the Convention Against Torture within one year of his arrival. (Ex. C.) He applied for employment authorization and, on information and belief, received it, worked steadily as a rideshare and delivery driver, paid his taxes, married a United States citizen, [redacted], on February 7, 2026, whose Form I-130 immigrant visa petition on his behalf USCIS receipted on

April 6, 2026 and which remains pending, and appeared for every appointment the government scheduled, including biometrics collection in November 2025. (Exs. D, J.) He reports no criminal conviction in any country, and the only certified court record before this Court shows a single charge that ended without conviction. (Ex. E.) The NTA ordered him to appear before the Chicago Immigration Court on October 13, 2026; his case has since been reassigned to the detained docket, where a master calendar hearing is set for August 18, 2026 before the Detroit Immigration Court sitting at the jail where he is confined, and where no hearing on the merits of his asylum claim has been scheduled. (Exs. A, F.)

3. On or about July 23, 2026, while driving a delivery route, Mr. Paez Tovar was inadvertently routed onto the approach to an international bridge between Michigan and Ontario, Canada. He had no intention of leaving the United States, no luggage, and no travel documents; he was simply following turn by turn navigation in the course of his work. He presented himself to United States officials at the crossing and explained the mistake. Rather than permitting him to turn around and continue home, immigration officers took him into custody. He is now detained at the Monroe County Jail in Monroe, Michigan, within this District.

4. The government detained Mr. Paez Tovar without any written notice of the factual or legal basis for his custody, without any individualized assessment of whether he presents a danger to the community or a risk of flight, and without any

hearing of any kind, before or since, at which a neutral decisionmaker has examined whether his detention serves any lawful purpose. If Respondents' arriving-alien classification controls, the immigration judge presiding over his removal proceedings lacks jurisdiction even to consider his custody. 8 C.F.R. § 1003.19(h)(2)(i)(B).

5. This Petition is candid about the statutory landscape. Respondents may contend that Mr. Paez Tovar is detained as an applicant for admission under 8 U.S.C. § 1225(b), *see Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025); they may contend that he is detained under 8 U.S.C. § 1226; and if § 1226 governs, they may invoke 8 U.S.C. § 1226(c)(1)(E), added by the Laken Riley Act, on the basis of a single 2025 misdemeanor retail theft accusation that was stricken with leave to reinstate weeks after it was filed and that never resulted in any conviction or adjudication of guilt. As set forth below, on the positions Respondents appear to hold, no neutral decisionmaker will ever examine whether imprisoning this man is justified: if § 1225(b) governs, the arriving-alien regulation and *Matter of Q. Li* foreclose any custody hearing; if § 1226(c)(1)(E) governs, the only available procedure is a classification determination that cannot weigh danger or flight risk; and if § 1226(a) governs, Mr. Paez Tovar is entitled to the custody redetermination he has now formally requested from the Immigration Court, and continued detention without

that procedure is itself unlawful. The Fifth Amendment does not permit confinement insulated from every one of those paths.

6. An individual whom the government has released into the community holds a constitutionally protected interest in his continued liberty, and the government may not extinguish that interest without notice and a meaningful opportunity to be heard before a neutral decisionmaker. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Courts across the country have granted habeas relief to noncitizens paroled into the United States and later re-detained without process. *See, e.g., Ramirez-Mendez v. Olson*, No. 26-17, 2026 WL 907576 (E.D. Ky. Apr. 2, 2026); *Ahmadi v. Mullin*, No. 3:26-cv-00074-PDW-ARS (D.N.D. June 3, 2026); E.*A. T.-B. v. Wamsley*, No. C25-1192-KKE (W.D. Wash. Aug. 19, 2025).

7. Mr. Paez Tovar respectfully petitions this Court for a writ of habeas corpus directing Respondents to release him. In the alternative, he asks the Court to order Respondents to provide him, within seven days, an individualized custody hearing before a neutral decisionmaker at which the government bears the burden of proving by clear and convincing evidence that he presents a danger to the community or a flight risk that no condition of release can mitigate, with release to follow automatically if no such hearing is timely provided.

II. JURISDICTION

8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(1) and (c)(3) because Mr. Paez Tovar is in custody under color of the authority of the United States and in violation of the Constitution and laws of the United States. Jurisdiction is also proper under 28 U.S.C. § 1331 (federal question), and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2, secures the availability of the writ. Petitioner additionally seeks remedies under the Declaratory Judgment Act, 28 U.S.C. § 2201, and the All Writs Act, 28 U.S.C. § 1651, in aid of the Court's habeas jurisdiction.

9. Federal district courts retain habeas jurisdiction to hear statutory and constitutional challenges to civil immigration detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Demore v. Kim*, 538 U.S. 510, 516-17 (2003). Mr. Paez Tovar does not challenge any final order of removal; no such order exists. He challenges only the lawfulness of his present detention, a question squarely within this Court's habeas jurisdiction.

10. No statute requires exhaustion of administrative remedies before a noncitizen may bring a § 2241 challenge to the constitutionality of his detention, and any prudential exhaustion requirement is excused here because no administrative forum will provide the process Mr. Paez Tovar seeks. If Respondents' arriving-alien charge controls, he is regulatorily barred from a custody hearing before an immigration judge. 8 C.F.R. § 1003.19(h)(2)(i)(B). A discretionary parole request

would be decided on paper by the very officers who detained him. And if Respondents contend that he is detained under 8 U.S.C. § 1226(c)(1)(E), the only administrative procedure available, a determination under *Matter of Joseph*, 22 I&N Dec. 799 (BIA 1999), addresses solely whether he is properly included within a mandatory detention category; it does not provide the individualized assessment of danger or flight risk that due process requires and that this Petition seeks. On August 10, 2026, Mr. Paez Tovar invoked every potentially available administrative mechanism. Through removal-defense counsel, he filed with the Detroit Immigration Court an emergency request for a custody redetermination under § 1226(a) if that statute governs, for a determination under *Matter of Joseph* that he is not properly included in § 1226(c)(1)(E) if Respondents invoke that provision, and for a prompt written jurisdictional ruling if the court concludes that § 1225(b) and the arriving-alien regulations control; he separately requested release on parole from the ICE Detroit Field Office. (Exs. H, I.) Both requests remain pending, and Mr. Paez Tovar will renew his custody request in person at the master calendar hearing scheduled for August 18, 2026. Neither request concedes the governing detention statute, and neither can supply the neutral individualized danger and flight risk determination sought here if Respondents maintain that § 1225(b) or § 1226(c)(1)(E) governs. Mr. Paez Tovar acknowledges that a court of this District recently required a detained noncitizen to request a bond hearing before seeking habeas relief, but that

petitioner was charged with entry without inspection, had previously been released on an order of recognizance under § 1226(a)(2)(B), and faced no arriving-alien bar; the court reasoned that *Lopez-Campos* entitled him to a bond hearing on request. *Lopez Nieves v. Dir. of Enf't & Removal Operations*, No. 2:26-cv-11748 (E.D. Mich. July 17, 2026). Mr. Paez Tovar's posture is the opposite: DHS charged him as an arriving alien, the regulation strips the immigration judge of custody jurisdiction, and *Matter of Q. Li* supplies binding agency precedent against him. Another court of this District granted habeas relief to a parolee detained at the same jail notwithstanding an unresolved non-exhaustion objection, ordering release or a bond hearing within seven days. *Daza-Rojas v. Raycraft*, No. 2:26-cv-10739 (E.D. Mich. Apr. 27, 2026).

III. VENUE

11. Venue lies in this District because Mr. Paez Tovar is detained at the Monroe County Jail, 7000 East Dunbar Road, Monroe, Michigan 48161, and his immediate custodian is located here. A habeas petitioner challenging present physical custody must file in the district of confinement and name his immediate custodian. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003). Monroe County lies within the Southern Division of the Eastern District of Michigan. 28 U.S.C. § 102(a)(1).

12. Venue is additionally proper under 28 U.S.C. § 1391(e) because Respondents are officers and agencies of the United States, a substantial part of the events giving rise to this Petition occurred in this District, and Mr. Paez Tovar is detained in this District.

IV. THE REQUIREMENTS OF 28 U.S.C. § 2243

13. Under 28 U.S.C. § 2243, a court presented with a habeas petition "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." The respondent must make a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed," and the court "shall summarily hear and determine the facts, and dispose of the matter as law and justice require." *Id.*

14. The writ of habeas corpus is "the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action," and its administration must be "swift and imperative." *Fay v. Noia*, 372 U.S. 391, 400-02 (1963). Every day of Mr. Paez Tovar's detention inflicts irreparable injury on his liberty, separates him from his United States citizen spouse, and impairs his ability to gather evidence and prepare the asylum claim on which his safety depends, a claim

that remains unadjudicated and unscheduled. Prompt action under § 2243 is warranted.

V. PARTIES

15. Petitioner Jesus Alberto Paez Tovar (A[redacted]) is a native and citizen of Venezuela, born in 1987 in Valencia, Carabobo, Venezuela. He is detained in the custody of Respondents at the Monroe County Jail, 7000 East Dunbar Road, Monroe, Michigan 48161, a facility that houses federal immigration detainees pursuant to an intergovernmental service agreement with U.S. Immigration and Customs Enforcement ("ICE"), where ICE's Online Detainee Locator System confirms his current detention. (Ex. G.)

16. Respondent Julie Massengill is the Jail Administrator of the Monroe County Jail. She is Mr. Paez Tovar's immediate custodian and exercises daily control over him. See Roman, 340 F.3d at 320. She is sued in her official capacity.

17. Respondent Troy Goodnough is the Sheriff of Monroe County, Michigan. The Monroe County Sheriff's Office operates the Monroe County Jail, and Sheriff Goodnough bears ultimate responsibility for the custody of persons detained there. He is sued in his official capacity.

18. Respondent Kevin Raycraft is the Acting Director of Enforcement and Removal Operations ("ERO") for the ICE Detroit Field Office, whose area of

responsibility includes Michigan and Ohio. He directs ICE detention operations in this District, including the decision to detain Mr. Paez Tovar and the authority to release him, and courts in this District have recognized the Detroit Field Office Director as a proper habeas respondent for noncitizens detained in Michigan. *See Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025). He is sued in his official capacity, with substitution of any successor pursuant to Fed. R. Civ. P. 25(d).

19. Respondent David J. Venturella is the Senior Official Performing the Duties of the Director of ICE. He oversees ICE's civil detention operations nationwide. He is sued in his official capacity.

20. Respondent Markwayne Mullin is the Secretary of Homeland Security. He oversees DHS and its components, including ICE and U.S. Customs and Border Protection ("CBP"), and bears legal responsibility for the administration of the immigration detention and parole authorities at issue. He is sued in his official capacity.

22. Respondent Todd Blanche is the Acting Attorney General of the United States. He oversees the Department of Justice and the Executive Office for Immigration Review, whose regulations deny Mr. Paez Tovar access to a custody hearing before an immigration judge. He is sued in his official capacity.

23. Respondent Massengill is named as Mr. Paez Tovar's immediate custodian. The remaining Respondents are named as his legal custodians and to ensure notice and complete relief; each exercises legal or supervisory control over his detention.

VI. LEGAL AND REGULATORY FRAMEWORK

A. Parole and Its Termination

24. The Secretary of Homeland Security may, "in his discretion[,] parole into the United States temporarily under such conditions as he 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." 8 U.S.C. § 1182(d)(5)(A). The implementing regulation, 8 C.F.R. § 212.5, commits parole decisions to designated officials and, for the categories of detained applicants it enumerates, conditions release on a determination that "the aliens present neither a security risk nor a risk of absconding." 8 C.F.R. § 212.5(b). A grant of parole thus reflects an individualized, case-by-case exercise of the government's discretion to release the noncitizen into the community rather than detain him.

25. Parole terminates automatically, without written notice, upon the parolee's departure from the United States or upon expiration of the authorized parole period. 8 C.F.R. § 212.5(e)(1). In other cases, parole "shall be terminated

upon written notice to the alien," and service of a charging document constitutes such written notice unless otherwise specified. 8 C.F.R. § 212.5(e)(2)(i). Mr. Paez Tovar's claims in this Petition do not depend on his parole having remained in force on July 23, 2026. Whether his parole expired by its own terms on March 26, 2026, or terminated in some other manner, the constitutional violation alleged here arises from the government's termination of the community liberty he actually enjoyed for twenty-eight months, with the government's knowledge and under color of its own March 2024 release decision, without notice of the basis for his detention and without any individualized custody determination by a neutral decisionmaker, before or promptly after the deprivation.

B. The Competing Detention Frameworks

26. Federal law supplies three potentially relevant sources of civil immigration detention authority in this case. First, 8 U.S.C. § 1225(b) governs the inspection and detention of applicants for admission. In *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the Board of Immigration Appeals held that a noncitizen initially detained under § 1225(b) who is released on parole and later taken back into custody remains detained under § 1225(b) and is ineligible for a bond hearing under § 1226(a). Second, 8 U.S.C. § 1226(a) authorizes discretionary detention, with release on bond, of noncitizens "pending a decision on whether the alien is to be

removed from the United States." Third, 8 U.S.C. § 1226(c) mandates detention of noncitizens falling within its enumerated categories.

27. The Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), enacted January 29, 2025, added a new mandatory detention category at 8 U.S.C. § 1226(c)(1)(E), reaching a noncitizen who "(i) is inadmissible under paragraph (6)(A), (6)(C), or (7) of section 212(a)" and "(ii) is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person." The statute defines the enumerated property offenses by reference to the law of the jurisdiction where the acts occurred. 8 U.S.C. § 1226(c)(2). Because the NTA charges Mr. Paez Tovar with inadmissibility under § 212(a)(7), and because he was arrested in 2025 on a single misdemeanor retail theft charge that was stricken with leave to reinstate and never resulted in a conviction, Respondents may contend that § 1226(c)(1)(E) applies to him if his detention is governed by § 1226 rather than § 1225(b). Mr. Paez Tovar addresses that contention directly in Count Two.

C. The Absence of Any Custody Forum

28. A noncitizen charged as an "arriving alien" may not obtain a custody redetermination from an immigration judge; the regulations strip immigration judges

of jurisdiction over such requests. 8 C.F.R. § 1003.19(h)(2)(i)(B). A discretionary parole request under 8 C.F.R. § 212.5(b) is decided on paper, without a hearing, without a record, without a neutral adjudicator, and by the same enforcement office that effected the detention. And if the government instead invokes § 1226(c)(1)(E), the determination available under *Matter of Joseph*, 22 I&N Dec. 799 (BIA 1999), asks only whether the noncitizen is properly included within the mandatory detention category; it does not permit any decisionmaker to weigh whether the individual is actually dangerous or a flight risk, or whether conditions of release would suffice. Under the frameworks Respondents appear to assert, § 1225(b) or § 1226(c)(1)(E), no forum exists in which the necessity of Mr. Paez Tovar's imprisonment can be tested; and if § 1226(a) governs instead, the custody redetermination that statute authorizes has been requested and must be promptly provided.

D. The Due Process Framework

29. The Due Process Clause of the Fifth Amendment provides that no "person" shall be "deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. Its protections extend to all persons within the United States, "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 Clause protects." *Id.* at 690. Civil immigration detention is constitutionally permissible only when accompanied by "adequate procedural protections" ensuring that the government's justification for confinement outweighs the individual's liberty interest. *Id.*

30. In *Lopez-Campos v. Raycraft*, 175 F.4th 713 (6th Cir. 2026), aff'g No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025), the Sixth Circuit held that § 1226(a), not § 1225(b)(2)(A), governs the detention of noncitizens arrested in the interior after entering without inspection, and affirmed the judgments of district courts in this District, including Pizarro Reyes, that had ordered individualized bond hearings for detained noncitizens. Those cases arose in a different statutory posture, and Mr. Paez Tovar does not contend that their due process holdings control his arriving-alien circumstances of their own force. He invokes them for what they demonstrate: that courts in this District and the Sixth Circuit have required individualized custody review for detained noncitizens with substantial ties to the interior of the country, applying the same Supreme Court precedents that establish the Constitution does not permit the Executive to imprison a person while denying every forum in which the necessity of that imprisonment could be tested.

VII. STATEMENT OF FACTS

A. Background and Flight from Persecution

31. Mr. Paez Tovar was born in 1987 in Valencia, Carabobo, Venezuela, and attended the Universidad de Carabobo. (Ex. C.) Because of [redacted] he suffered physical and sexual abuse, discrimination, harassment, and threats in Venezuela from members of his community and from [redacted] As reported in his asylum application, those experiences left him with post-traumatic stress disorder, depression, generalized anxiety, and recurrent insomnia. (Ex. C.)

32. Mr. Paez Tovar first fled Venezuela for Chile in 2018, where he lived and worked in Santiago as a painting coordinator for a metallurgical firm until 2023. Conditions forced his return to Venezuela in July 2023, where the persecution resumed. He left Venezuela for the final time on January 29, 2024. (Ex. C.)

B. Presentation at a Port of Entry, Parole, and Placement in Section 240 Proceedings

33. On March 27, 2024, Mr. Paez Tovar presented himself for inspection at the San Ysidro, California port of entry pursuant to an appointment scheduled through the CBP One mobile application. (Exs. A, B.) CBP processed him, issued him a Form I-94 reflecting a class of admission of "DT" with an authorized period through March 26, 2026, and paroled him into the United States. (Ex. B.)

34. That same day, DHS personally served Mr. Paez Tovar with a Form I-862 Notice to Appear ("NTA") charging him with inadmissibility under INA § 212(a)(7)(A)(i)(I), 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an immigrant without a valid entry document, and designating him an "arriving alien." (Ex. A.) The NTA placed him directly into removal proceedings under INA § 240, 8 U.S.C. § 1229a, before the Chicago Immigration Court. (Ex. A.)

35. The checkbox on the NTA indicating issuance following a credible fear determination is not marked, and the checkboxes indicating vacatur of an expedited removal order under 8 C.F.R. § 208.30 or § 235.3(b)(5)(iv) are not marked. (Ex. A.) No document in the records presently available to counsel reflects that Mr. Paez Tovar was ever issued an expedited removal order or underwent a credible fear interview; the record reflects that he proceeded at all times in ordinary § 240 proceedings.

36. His removal proceedings remain pending; no appeal has been received and no decision has issued. The NTA ordered him to appear before the Chicago Immigration Court on October 13, 2026, at 1:00 p.m. (Ex. A.) Following his detention, his case was reassigned to the detained docket. EOIR now identifies the Detroit Immigration Court as the court of contact and reflects a master calendar hearing scheduled for August 18, 2026 at 9:30 a.m. before Immigration Judge Mark J. Jebson, to be held in person at 7000 East Dunbar Road, Monroe, Michigan, the

address of the facility where Mr. Paez Tovar is confined. (Ex. F.) No hearing on the merits of his asylum application is presently scheduled.

C. More Than Two Years of Community Residence and Pursuit of Relief

37. Following his release, Mr. Paez Tovar settled in the Chicago, Illinois metropolitan area, where he maintained a reported residence. (Exs. C, D.)

38. On February 24, 2025, within one year of his arrival, Mr. Paez Tovar filed a Form I-589 Application for Asylum and for Withholding of Removal, including protection under the Convention Against Torture, with the Chicago Immigration Court, which stamped the application received on that date. (Ex. C.) The application details the persecution he suffered in Venezuela on account of his [redacted]

39. Mr. Paez Tovar applied for employment authorization. (Ex. D.) He appeared for biometrics collection at the USCIS Application Support Center in Burbank, Illinois on November 7, 2025, as directed. (Ex. D.) On information and belief, USCIS granted him employment authorization, and he worked openly as a rideshare and delivery driver for platforms including Lyft and DoorDash and filed his taxes.

40. On February 7, 2026, Mr. Paez Tovar married [redacted], a United States citizen born in Fayetteville, North Carolina, in a ceremony in Pinckney, Washtenaw County, Michigan. (Ex. J.) On April 6, 2026, [redacted]

filed a Form I-130 Petition for Alien Relative on his behalf, which USCIS receipted under number [redacted] as a petition for the spouse of a United States citizen under INA § 201(b), and which remains pending. (Ex. J.) [redacted] has sworn under penalty of perjury that [redacted] have been together since December 2024, that Mr. Paez Tovar complied with every government obligation during his twenty-eight months in the community, and that Mr. Paez Tovar will live [redacted] (Ex. L.)

41. Mr. Paez Tovar reports that he has never been convicted of any crime in any country, and the only criminal matter of any kind reflected in the materials available to counsel is the single Cook County charge described here, whose certified disposition shows no conviction. (Ex. E.) On August 20, 2025, he was arrested in Cook County, Illinois and cited on a single misdemeanor charge of retail theft of property valued under $300; a complaint was filed on August 25, 2025, and he was released from the police station the same day. (Ex. E.) At the initial court date on September 17, 2025, the complaining witness failed to appear and Mr. Paez Tovar demanded trial, and the charge was stricken off with leave to reinstate. (Ex. E.) No conviction, adjudication of guilt, or sentence resulted. The certified record presently available to counsel was issued on September 19, 2025, and on information and belief the charge has never been reinstated; counsel is obtaining an updated certified docket to confirm the matter's current status. (Ex. E.)

42. Throughout his twenty-eight months of liberty, Mr. Paez Tovar appeared at every government appointment of record, maintained a residence in the Chicago area, and diligently pursued his immigration relief. On information and belief, he complied with the conditions of his release, and no Respondent ever notified him of any violation.

D. The July 23, 2026 Detention

43. On or about July 23, 2026, Mr. Paez Tovar was working a delivery route when his navigation application inadvertently directed him onto the approach to an international bridge connecting Michigan with Ontario, Canada. He had no intention of departing the United States. He carried no luggage and no travel documents, had a pending asylum application, a pending I-130 petition filed by his United States citizen spouse, a hearing then scheduled less than three months away, and every conceivable reason to remain in this country.

44. Once on the bridge approach, Mr. Paez Tovar had no lawful means of turning around before reaching the inspection facilities. He presented himself to officials at the crossing and explained that he had made a wrong turn while working. Petitioner discloses that whether he physically crossed the international boundary before being turned around is a fact he cannot presently resolve, and the allegations of this paragraph are accordingly pleaded in the alternative on information and belief. On information and belief, he did not effect a departure from the United

States; and even if he momentarily reached the Canadian side of the span before being returned to United States authorities, he was returned directly into United States custody and remains in the same § 240 removal proceedings commenced in 2024. DHS has disclosed no document to Mr. Paez Tovar treating the bridge encounter as a new application for admission, commencing any new removal process, or terminating his existing proceedings. Under either version of events, the constitutional claims pleaded below are the same.

45. Rather than permitting Mr. Paez Tovar to return home, CBP and ICE took him into custody. ICE thereafter transported him to the Monroe County Jail in Monroe, Michigan, within the area of responsibility of the ICE ERO Detroit Field Office, where he remains detained.

E. Detention Without Notice, Reasons, or Any Hearing

46. On information and belief, at no time before or since his detention has any Respondent served Mr. Paez Tovar with written notice of the factual or legal basis for his custody, a statement of reasons for his detention, or any document identifying the statutory authority under which he is held. Undersigned counsel has not yet obtained ICE's custody documentation concerning the July 23, 2026 detention; these allegations rest on Petitioner's account and the absence of any such document in his possession or in counsel's file, and Petitioner will promptly correct the record if Respondents' return demonstrates otherwise.

47. No Respondent disclosed to Mr. Paez Tovar any individualized finding that he presents a danger to the community or a risk of flight, and no neutral decisionmaker made any such determination before or promptly after his detention. The only post-release event in his record is the single 2025 misdemeanor accusation described above, which was stricken with leave to reinstate weeks after it was filed and nearly a year before his detention; on information and belief, no Respondent identified that accusation, or anything else, to him as a basis for his custody.

48. Mr. Paez Tovar has received no hearing of any kind, before any decisionmaker, at which the justification for his detention has been or could be examined. If Respondents' arriving-alien classification controls, the immigration judge presiding over his removal proceedings lacks jurisdiction to conduct a custody redetermination. 8 C.F.R. § 1003.19(h)(2)(i)(B). Absent relief from this Court, Mr. Paez Tovar faces detention through the adjudication of an asylum application that has not been scheduled for hearing. The master calendar hearing set for August 18, 2026 is a preliminary proceeding at which pleadings are taken and future dates are set; it will not adjudicate his claim, and if Respondents' arriving-alien classification controls, the immigration judge will lack jurisdiction to examine his custody there. (Ex. F.) No Respondent has identified any forum in which the justification for his confinement will be examined.

49. Detention is inflicting serious and mounting harm, and it was foreseeable. A year before his detention, on July 21, 2025, Mr. Paez Tovar's treating licensed clinical professional counselor documented moderate to severe post-traumatic stress disorder, anxiety, and depression arising from past trauma including sexual abuse, and recommended in writing that he not be placed in a detention setting, where she opined that the risk of re-traumatization and serious psychological decompensation was high. She further documented a history of suicidal ideation and prior attempts and recommended that he maintain a stable home with continuing access to his treatment providers. (Ex. K.) His treating physician confirmed in August 2026 that his conditions require ongoing psychiatric follow-up and medication. (Ex. K.) Respondents nonetheless confined him in a county jail, without any assessment of these circumstances. His detention has separated him from his United States citizen spouse, halted his employment, and severely impaired his ability to gather evidence and prepare with counsel for the most important hearing of his life.

50. On August 10, 2026, through removal-defense counsel, Mr. Paez Tovar filed with the Detroit Immigration Court an emergency request for a custody redetermination or, in the alternative, a Joseph determination and a written jurisdictional ruling, and separately requested release on parole from the ICE Detroit Field Office. (Exs. H, I.) Both requests were made expressly without conceding the

statutory source of his detention, both remain pending, and Mr. Paez Tovar will renew his custody request in person at the August 18, 2026 master calendar hearing.

VIII. CLAIMS FOR RELIEF

COUNT ONE

Violation of the Due Process Clause of the Fifth Amendment: Termination of Established Conditional Liberty Without Notice or Prompt Neutral Review

51. Mr. Paez Tovar realleges and incorporates by reference each allegation of the preceding paragraphs as if fully set forth herein.

52. Freedom from bodily restraint "has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). The interest in being free from physical detention by one's own government is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (plurality opinion).

53. An individual released from custody on parole or another form of conditional liberty holds a constitutionally protected interest in his "continued liberty." *Morrissey*, 408 U.S. at 482. Although conditional, such liberty "includes many of the core values of unqualified liberty," such as the ability to work and to live with family, and "its termination inflicts a 'grievous loss'" on the individual and

on others. *Id.* Due process therefore requires notice of the basis for the deprivation and a meaningful opportunity to be heard before a neutral decisionmaker, before or promptly after the individual is retaken into custody. *Id.* at 485; *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970).

54. That protected interest does not depend on whether Mr. Paez Tovar's parole remained in force in July 2026. The government released him into the community in March 2024 by its own individualized decision, and he lived there openly, with the government's knowledge, for twenty-eight months, including for nearly four months after the stated parole period expired on March 26, 2026, during which the government made no effort to detain him. Courts have recognized precisely this interest in re-detained parolees, including where the parole period had expired. *See Ahmadi v. Mullin*, No. 3:26-cv-00074-PDW-ARS (D.N.D. June 3, 2026) (granting habeas relief on due process grounds to a CBP One parolee and enjoining detention absent a bond hearing within seven calendar days); *Ramirez-Mendez*, 2026 WL 907576.

55. For twenty-eight months, Mr. Paez Tovar built exactly the life Morrissey describes: a home, a marriage, employment, tax compliance, and the diligent pursuit of relief through every lawful channel. His interest in that established community liberty is independently substantial and squarely protected by the Fifth Amendment.

56. Each factor of *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), condemns the process Mr. Paez Tovar received, which was none. First, the private interest is his fundamental interest in liberty itself, established and relied upon over more than two years of release, and it is heightened here by documented medical evidence, predating his detention, that confinement itself poses a serious risk to his health. (Ex. K.) Second, the risk of erroneous deprivation absent any notice or hearing is substantial: no decisionmaker, neutral or otherwise, has ever examined whether he is dangerous or a flight risk; the only post-release event Respondents could invoke, the 2025 retail theft accusation, was never adjudicated and was stricken when the complaining witness failed to appear and Mr. Paez Tovar demanded trial; and the government itself chose release over detention when it last considered the question in March 2024. "The fact that the Government may believe it has a valid reason to detain Petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process." *E.A. T.-B. v. Wamsley*, No. C25-1192-KKE, slip op. at 4 (W.D. Wash. Aug. 19, 2025). Third, the government's interest in dispensing with notice and a hearing is minimal; the modest administrative burden of providing them is far outweighed by the risk of erroneously imprisoning a compliant asylum seeker with a pending immediate relative petition.

57. Courts have repeatedly granted habeas relief to paroled noncitizens re-detained without process on precisely this reasoning, including in this District and

at this very jail. In *Daza-Rojas v. Raycraft*, No. 2:26-cv-10739 (E.D. Mich. Apr. 27, 2026), the court granted habeas relief to a Venezuelan parolee and asylum applicant detained at the Monroe County Jail, recognizing his protected liberty interest and ordering his immediate release or a bond hearing within seven days. *See also Ramirez-Mendez v. Olson*, No. 26-17, 2026 WL 907576 (E.D. Ky. Apr. 2, 2026) (paroled noncitizen; risk of erroneous deprivation favored petitioner where respondents identified no basis for re-detention); *Ahmadi*, supra; *Atakhanov v. Oddo*, No. 3:26-cv-00211-NR (W.D. Pa. Mar. 26, 2026) (ordering bond hearing or release for paroled and re-detained noncitizen); *Khatskevich v. Soto*, No. 2:26-cv-05301-BRM (D.N.J. May 12, 2026) (ordering release of re-detained parolee within twenty-four hours); *E.A. T.-B.*, *supra* (ordering release).

58. *Matter of Q. Li* does not alter this analysis. *Q. Li* holds, as a matter of statutory classification, that an applicant for admission initially detained under § 1225(b) who is paroled and later re-detained remains detained under § 1225(b) and is ineligible for a bond hearing before an immigration judge. 29 I&N Dec. 66. Whatever the correct statutory source of Mr. Paez Tovar's detention, the Board cannot and did not resolve the constitutional question presented here, which is for the courts. And the facts of *Q. Li* are far afield: there, the government re-detained the noncitizen after receiving new derogatory information in the form of an Interpol Red Notice alleging serious criminal offenses. Here, Respondents disclosed to Mr.

Paez Tovar no individualized custody rationale, no allegation of serious criminal conduct comparable to the Interpol notice in *Q. Li*, and no evidence that the unresolved misdemeanor accusation, addressed directly in Count Two, makes his confinement necessary.

59. Respondents detained Mr. Paez Tovar without written notice of the basis for his custody, without a statement of reasons, without any individualized assessment of danger or flight risk, and without a hearing before or promptly after the fact. His detention violates the Due Process Clause of the Fifth Amendment, and the writ should issue.

COUNT TWO

Violation of the Due Process Clause of the Fifth Amendment: Detention Without Any Individualized Custody Hearing Under Any Asserted Statutory Framework

60. Mr. Paez Tovar realleges and incorporates by reference each allegation of the preceding paragraphs as if fully set forth herein.

61. Civil immigration detention is constitutionally permissible only when it serves its regulatory purposes of ensuring appearance at proceedings and protecting the community, and only when accompanied by procedural safeguards adequate to ensure that the government's justification for confinement outweighs the individual's liberty interest. *Zadvydas*, 533 U.S. at 690. Detention untethered to any

individualized finding of flight risk or danger, and insulated from review by any neutral decisionmaker, is arbitrary in the constitutional sense.

62. If Respondents invoke § 1225(b) and *Matter of Q. Li*, then by the government's own account Mr. Paez Tovar is barred from any custody hearing before an immigration judge, 8 C.F.R. § 1003.19(h)(2)(i)(B), and his only recourse is a discretionary parole request adjudicated on paper, without a hearing, without a neutral adjudicator, and by the same enforcement office that chose to detain him. That is not process; it is unreviewed discretion.

63. If Respondents instead contend that § 1226 governs, they may invoke § 1226(c)(1)(E) on the basis of the 2025 retail theft accusation. That contention would present this as-applied question: whether the Constitution permits the government to imprison, categorically and without any individualized custody assessment, a man it released twenty-eight months earlier, based solely on a single unresolved misdemeanor accusation that was stricken with leave to reinstate weeks after it was filed, that never resulted in any conviction or adjudication of the underlying facts, and that the certified record shows was stricken after the complaining witness failed to appear and Mr. Paez Tovar demanded trial. *Demore v. Kim*, 538 U.S. 510 (2003), sustained brief mandatory detention where the noncitizen conceded removability based on criminal convictions; it did not hold that an unproven accusation, standing alone, can substitute for any individualized

assessment of danger or flight risk consistent with due process. Under *Mathews*, the risk of erroneous deprivation from detention predicated on an unadjudicated accusation, with no conviction and no neutral custody review of any kind, is intolerable as applied to Mr. Paez Tovar's circumstances.

64. Even before the Constitution is reached, § 1226(c)(1)(E) does not fit these facts. Courts construing the provision, including courts that have sustained detention under it, hold that its triggering events must be presently occurring "at the time the Government detains" the noncitizen. *Lopez Cruz v. Jamison*, No. 2:26-cv-02278-KSM, slip op. at 8-9 (E.D. Pa. May 7, 2026); *see id.* at 9 n.6 (distinguishing, as cases where the trigger was absent at the moment of detention, decisions granting habeas relief where charges had been withdrawn before the ICE arrest, including *Rueda Torres v. Francis*, No. 25cv8408, 2025 WL 3168759 (S.D.N.Y. Nov. 13, 2025), in which the charges had been withdrawn approximately ten months before detention). The certified record shows that the sole potentially qualifying accusation was stricken from the trial call on September 17, 2025, more than ten months before ICE detained Mr. Paez Tovar on July 23, 2026, and that Mr. Paez Tovar demanded trial that same day. (Ex. E.) Under Illinois law, a charge stricken with leave to reinstate remains pending only in a dormant state, and where the defendant has demanded trial, the criminal proceeding terminates upon expiration of the 160-day speedy-trial period of 725 ILCS 5/103-5(b) without further action, at which point

the State is precluded from reinstating the charge. *Ferguson v. City of Chicago*, 213 Ill. 2d 94, 820 N.E.2d 455 (2004). On information and belief, the State took no further action after September 17, 2025; if so, the 160-day period expired in or about late February 2026 and the criminal proceeding against Mr. Paez Tovar terminated as a matter of Illinois law months before his detention, and counsel is obtaining an updated certified docket to confirm that no reinstatement or tolling event occurred. At minimum, the existing record does not establish that Mr. Paez Tovar remained a person who "is charged with" or "is arrested for" a qualifying offense when DHS detained him.

65. If § 1226(c)(1)(E) nonetheless applies, courts have held that mandatory detention on its authority, without any individualized custody determination, violates due process precisely where the predicate is an unresolved accusation. In *Bakiev v. Jamison*, No. 2:26-cv-03149-MKC (E.D. Pa. July 10, 2026), the court granted habeas relief to a paroled asylum seeker in Mr. Paez Tovar's posture, a noncitizen paroled into the country, served with an NTA charging § 1182(a)(7), compliant with his check-ins, and later detained under both § 1226(c)(1)(E) and § 1225(b)(2)(A) on the basis of pending theft charges. Applying *Mathews*, the court held that detention "based on an unproven accusation of theft" without "a prompt opportunity for an individualized bond determination offends due process," reasoned that *Demore* does not control because its holding rested on criminal culpability

already established through the criminal process and on the expectation of brief detention, and ordered a prompt individualized bond hearing. *Bakiev*, slip op. at 4-6; accord *Nosirov v. Rife*, No. 26cv1534, 2026 WL 916602, at *6-8 (E.D. Pa. Apr. 1, 2026) (detention under the Laken Riley Act based on a stolen-property charge the petitioner credibly contested violated due process). The criminal predicate here is substantially weaker than in *Bakiev*, a single sub-$300 misdemeanor accusation stricken ten months before detention rather than numerous active charges involving an alleged theft exceeding $30,000, while the elapsed period of Mr. Paez Tovar's detention is shorter. The immediate procedural defect is the same: categorical confinement based on an unadjudicated accusation without prompt neutral review. And no hearing on the merits of Mr. Paez Tovar's asylum claim has been scheduled, so the current administrative record supplies no ascertainable endpoint to his confinement. (Ex. F.)

66. Mr. Paez Tovar acknowledges that another court of the same district earlier rejected an as-applied challenge on materially different facts. In *Lopez Cruz v. Jamison*, supra, the court sustained § 1226(c)(1)(E) detention and found no due process violation "yet" where the petitioner had been detained for about one month while facing charges of aggravated assault, strangulation, simple assault, and reckless endangerment arising from an alleged attack on his girlfriend, supported in the record by video and documentary evidence of her injuries, and where he had

twice been arrested at the border and had last entered without inspection. Slip op. at 14-19. The court was explicit that its holding did not foreclose future relief and that it shared other courts' concerns about mandatory detention premised on unfounded accusations. *Id.* at 16 n.11. Every feature that drove *Lopez Cruz* is absent here: the accusation against Mr. Paez Tovar is a sub-$300 misdemeanor retail theft, not a violent felony; Respondents have identified no evidence supporting it; the certified record shows it was stricken after the complaining witness failed to appear and Mr. Paez Tovar demanded trial; it predates his detention by more than ten months; and he presented at a port of entry at a scheduled appointment and was released by the government's own decision for twenty-eight months. (Ex. E.)

67. Respondents may respond that, as a charged arriving alien, Mr. Paez Tovar is entitled only to whatever process Congress has provided. *See Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206 (1953); *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020). Those decisions do not control here. *Thuraissigiam* sustained the expedited removal scheme against a Suspension Clause challenge brought by a noncitizen apprehended within yards of the border and detained continuously thereafter, who sought additional review of his admissibility; *Mezei* involved the exclusion and border detention of a returning alien the government refused to admit. Mr. Paez Tovar challenges neither an admissibility determination nor any removal procedure, and he does not seek admission through

this Petition. He challenges his physical confinement after the government itself released him into the country and permitted him to build twenty-eight months of actual community life, and he seeks the traditional office of the writ: release from unlawful custody or a neutral determination that custody is justified. Whatever process is due an applicant for admission at the threshold, the Due Process Clause protects the established liberty of a person the government released and has now re-imprisoned without explanation.

68. Nor does the availability of a determination under *Matter of Joseph*, 22 I&N Dec. 799 (BIA 1999), supply the process due. A Joseph determination addresses only whether the noncitizen is properly included within a mandatory detention category. It affords no forum in which any decisionmaker may consider whether Mr. Paez Tovar is actually dangerous or a flight risk, his ability to pay a bond, or alternatives to detention. Thus, if § 1225(b) governs, no neutral custody hearing is available; if § 1226(c)(1)(E) governs, a *Joseph* determination cannot adjudicate danger or flight risk; and if § 1226(a) governs, the custody redetermination Mr. Paez Tovar has requested must be promptly provided, and it has not been.

69. Decisions of this District, affirmed by the Sixth Circuit in *Lopez-Campos*, ordered individualized bond hearings for detained noncitizens with substantial ties to the interior of the country, and this District has since applied the

same principles to a paroled asylum seeker detained at the Monroe County Jail. *See Lopez-Campos*, 175 F.4th 713, aff'g 2025 WL 2496379; *Daza-Rojas*, No. 2:26-cv-10739; *Pizarro Reyes*, 2025 WL 2609425. The constitutional analysis for a charged arriving alien differs in important respects from the analysis those cases applied to noncitizens arrested in the interior, and Mr. Paez Tovar does not claim their holdings control of their own force. But his twenty-eight months of residence, marriage, employment, and pursuit of relief in this country give him a substantial stake in the same individualized custody review those decisions required, and nothing about the arriving-alien label diminishes his entitlement to the only thing this Petition seeks: one neutral examination of whether his confinement is justified.

70. Due process requires, at minimum, that Mr. Paez Tovar receive a prompt individualized custody hearing before a neutral decisionmaker at which Respondents bear the burden of proving, by clear and convincing evidence, that he presents a danger to the community or a risk of flight that no condition of release can reasonably mitigate, with consideration of his ability to pay any bond and of alternatives to detention. Respondents' categorical refusal to provide any such hearing violates the Fifth Amendment.

IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully prays that this Court:

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred out of the Eastern District of Michigan while this Petition is pending, except for a bona fide medical emergency, and that Respondents provide forty-eight hours' advance notice to Petitioner's counsel before any transfer;

c. Issue an order directing Respondents to show cause why the writ should not be granted within three days, as 28 U.S.C. § 2243 requires;

d. Declare that Respondents' detention of Petitioner without notice of its basis, without any individualized assessment of danger or flight risk, and without any custody hearing before a neutral decisionmaker violates the Due Process Clause of the Fifth Amendment;

e. Issue a writ of habeas corpus directing Respondents to release Petitioner immediately, on his own recognizance or subject to reasonable conditions of supervision. *See Martinez v. McAleenan*, 385 F. Supp. 3d 349, 366, 373 (S.D.N.Y. 2019);

f. In the alternative, order Respondents to provide Petitioner, within seven days, an individualized custody hearing before an immigration judge or other neutral decisionmaker at which Respondents bear the burden of proving by clear and convincing evidence that Petitioner presents a danger to the community or a flight risk that no condition of release can reasonably

mitigate, with consideration of ability to pay and alternatives to detention, and order that Petitioner be released immediately if no such hearing is provided within seven days;

g. Award Petitioner reasonable attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and

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

Dated: August 11, 2026

Respectfully submitted,

s/Christopher M. Casazza
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, **Jesus Alberto Paez Tovar**, and submit this verification on his behalf. I 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, information, and belief.

Executed on August 11, 2026, at Philadelphia, Pennsylvania.

Respectfully submitted,

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