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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

AITEGIN SAGYNBEK UULU, Petitioner, v. **CHRISTOPHER J. LaROSE, Senior Warden, Otay Mesa Detention Center; FIELD OFFICE DIRECTOR, San Diego Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; DAVID J. VENTURELLA, Senior Official Performing the Duties of the Director, U.S. Immigration and**	Case No. '26CV4645 JO DEB **PETITION FOR WRIT OF HABEAS CORPUS** 28 U.S.C. § 2241 IMMIGRATION DETENTION [redacted]

Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; TODD BLANCHE, Attorney General of the United States; and EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, Respondents. All Respondents are sued in their official capacities.	

INTRODUCTION

1. Petitioner Aitegin Sagynbek Uulu is a twenty-four-year-old national and citizen of the Kyrgyz Republic. He presented himself at a port of entry, was inspected, and was released into the United States by the Department of Homeland Security on May 13, 2023. He then lived openly in Illinois for more than three years. Within five months of his arrival he applied for asylum, and that application remains pending today, undecided. The government granted him employment authorization, and he holds an employment authorization document valid through October 29, 2030. Petitioner reports that he worked lawfully as a commercial truck driver. He has never been ordered removed, and the immigration court record reflects no failure to appear.

2. On or about August 5, 2026, at the conclusion of a Virginia misdemeanor case that ended in a fine and no jail sentence, Immigration and Customs Enforcement took Petitioner into custody and transported him from Virginia to the Otay Mesa

Detention Center in San Diego. He has been held there ever since. In that time Petitioner reports that no officer has interviewed him about danger or flight risk, and no such interview, custody review, or individualized determination has been disclosed to him or appears in the presently available record.

3. Upon information and belief, Respondents maintain that no such review is available to him at all. Their position is that Petitioner remains an arriving alien subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), and that 8 C.F.R. § 1003.19(h)(2)(i)(B) therefore strips the immigration judge of any authority to consider his release. The Ninth Circuit has now rejected the premise of that position. In Rodriguez Vazquez v. Bostock, No. 25-6842 (9th Cir. July 30, 2026), the court held that noncitizens present without admission who are apprehended in the interior of the United States are detained under 8 U.S.C. § 1226, not § 1225(b)(2)(A). On the same day, the Seventh Circuit held that a person deemed an applicant for admission is nonetheless not seeking admission when the only relief he pursues, such as asylum, withholding of removal, and protection under the Convention Against Torture, is not admission at all. Cirrus Rojas v. Olson, No. 25-3127 (7th Cir. July 30, 2026).

4. That reasoning governs this case. Petitioner was apprehended in the interior of Virginia more than three years after he entered, and the only relief he seeks is asylum, withholding, and protection under the Convention Against Torture. Section 1226(a) supplies the authority for his detention, and it entitles him to an individualized bond hearing.

5. Because the regulation forecloses the immigration judge's jurisdiction, no immigration judge may conduct an individualized merits determination of Petitioner's custody. The Board may review the antecedent legal classification on appeal from a jurisdictional denial, but that review cannot itself weigh danger or flight risk, cannot supply the hearing Petitioner has never had, and cannot remedy detention that continues while it unfolds. He is detained under a statute that provides for bond, in a system that will not give him one. Separately and independently,

Respondents returned Petitioner to custody after more than three years of government-sanctioned liberty without notice, without an opportunity to be heard, and without any disclosed individualized determination. Either failing entitles him to relief. Petitioner asks this Court to order his immediate release or, in the alternative, to order an individualized custody hearing within seven days.

JURISDICTION

6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, Section 9, Clause 2 of the United States Constitution (Suspension Clause). Petitioner is in the custody of the United States in violation of the Constitution and laws of the United States.

7. The Supreme Court has repeatedly confirmed that federal courts retain habeas jurisdiction over challenges to the statutory and constitutional authority for immigration detention. See Zadvydas v. Davis, 533 U.S. 678, 687-88 (2001); Demore v. Kim, 538 U.S. 510, 516-17 (2003). Section 1226(e) does not bar review, because Petitioner does not challenge a discretionary judgment; he challenges the legal framework Respondents have applied and the absence of any disclosed individualized merits custody determination.

8. This Court may also grant declaratory relief under 28 U.S.C. §§ 2201 and 2202, and relief in aid of its jurisdiction under the All Writs Act, 28 U.S.C. § 1651.

VENUE

9. Venue is proper in this District. Petitioner is detained at the Otay Mesa Detention Center in San Diego, California, which lies within the Southern District of California, and his immediate custodian is located here. See Rumsfeld v. Padilla, 542 U.S. 426, 443 (2004); Doe v. Garland, 109 F.4th 1188, 1192, 1197-99 (9th Cir. 2024).

10. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are officers and agencies of the United States acting in their official capacities.

11. Jurisdiction attached upon filing and is not defeated by any subsequent transfer of Petitioner out of this District. See Ex parte Endo, 323 U.S. 283, 306 (1944); Padilla, 542 U.S. at 441.

REQUIREMENTS OF 28 U.S.C. § 2243

12. Section 2243 provides that a court entertaining an application for 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 person detained is not entitled to it. It further provides that the writ or order to show cause shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.

13. Habeas corpus is not an ordinary civil action to be resolved at ordinary speed. It is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action. Fay v. Noia, 372 U.S. 391, 401-02 (1963). Every day of delay is a day of confinement that may prove to have been unlawful. Petitioner respectfully requests that the Court act promptly under § 2243 and the schedule established by Chief Judge Order No. 144.

EXHAUSTION IS NOT REQUIRED AND WOULD BE FUTILE

14. There is no statutory exhaustion requirement for claims brought under 28 U.S.C. § 2241. To the extent exhaustion might otherwise apply as a prudential matter, it would be futile here.

15. Upon information and belief, Respondents treat Petitioner as an arriving alien subject to § 1225(b)(2)(A). Under 8 C.F.R. § 1003.19(h)(2)(i)(B), an

immigration judge may not redetermine conditions of custody for arriving aliens in removal proceedings, including aliens paroled after arrival pursuant to section 212(d)(5) of the Act. A bond motion would therefore be denied on jurisdictional grounds rather than on the merits. Petitioner acknowledges that the Board will review such a jurisdictional denial de novo on appeal, as it did in Matter of Q. Li, 29 I&N Dec. 66, 67 (BIA 2025). That route is nonetheless inadequate here.

16. It is inadequate for four reasons. The agency cannot remedy the constitutional re-detention claim pleaded in Count Three, which does not turn on the statutory classification at all. The route begins with a denial for lack of jurisdiction and produces, at best, review of a legal classification rather than the individualized merits determination Petitioner seeks. Controlling agency precedent forecloses the classification theory in advance, so the outcome is known before the motion is filed. And Petitioner remains confined throughout, suffering an irreparable loss of liberty that no later administrative ruling can restore. Exhaustion is not required where the available administrative remedy is inadequate or futile. See McCarthy v. Madigan, 503 U.S. 140, 147-48 (1992).

PARTIES

17. Petitioner AITEGIN SAGYNBEK UULU is a national and citizen of the Kyrgyz Republic, born in 2002. He bears Alien Registration Number [redacted]. He is detained at the Otay Mesa Detention Center, 7488 Calzada de la Fuente, San Diego, California 92154.

18. Respondent CHRISTOPHER J. LaROSE is the Senior Warden of the Otay Mesa Detention Center. He is Petitioner's immediate custodian and is the proper respondent to this petition. See Doe v. Garland, 109 F.4th 1188, 1197-99 (9th Cir. 2024); Rumsfeld v. Padilla, 542 U.S. 426, 435 (2004). He is sued in his official capacity.

19. Respondent FIELD OFFICE DIRECTOR, San Diego Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, is named by office and in an official capacity. The individual holding that office is substituted automatically under Federal Rule of Civil Procedure 25(d).

20. Respondent DAVID J. VENTURELLA is the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement. He is sued in his official capacity.

21. Respondent MARKWAYNE MULLIN is the Secretary of the U.S. Department of Homeland Security. He is sued in his official capacity.

22. Respondent U.S. DEPARTMENT OF HOMELAND SECURITY is the federal agency responsible for Petitioner's detention.

23. Respondent TODD BLANCHE is the Attorney General of the United States. He was sworn in on August 10, 2026, succeeding himself in the acting role. He exercises supervisory authority over the Executive Office for Immigration Review. He is sued in his official capacity.

24. Respondent EXECUTIVE OFFICE FOR IMMIGRATION REVIEW is the component of the Department of Justice that houses the immigration courts.

25. Petitioner names Warden LaRose as his immediate custodian. Petitioner names the remaining Respondents not as habeas custodians but because they are the officers and agencies that would have to carry out the relief sought: the alternative remedy Petitioner requests is a custody hearing, and only the immigration court system can produce one. Naming them is not necessary to this Court's jurisdiction, which rests on Warden LaRose. Any successor in office is substituted automatically under Federal Rule of Civil Procedure 25(d).

STATUTORY AND REGULATORY FRAMEWORK

26. Three provisions of the Immigration and Nationality Act govern the detention of noncitizens. Section 1225(b) governs the detention of persons arriving at the border and at ports of entry while the government determines whether they may be admitted. Section 1226 governs the detention of persons already in the United States while removal proceedings are pending. Section 1231 governs detention after a removal order becomes administratively final.

27. Section 1226(a) is the default. It provides that the Attorney General may arrest and detain a noncitizen pending a decision on whether the alien is to be removed from the United States, and that pending such a decision the noncitizen may be released on bond or on conditional parole. Removal proceedings under 8 U.S.C. § 1229a exist to decide the inadmissibility or deportability of an alien, which confirms that persons charged as inadmissible are within § 1226.

28. The text of § 1226 applies on its face to people charged as inadmissible. Section 1226(c)(1)(E) carves out a specific subset of inadmissible noncitizens for mandatory detention. When Congress creates specific exceptions to a statute's applicability, that proves that absent those exceptions the statute generally applies. The existence of subparagraph (E) therefore confirms that inadmissible noncitizens are ordinarily detained under § 1226(a) with access to a bond hearing.

29. By contrast, § 1225(b)(2)(A) is a border provision, and it is triggered only where an examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted. As the Supreme Court has explained, this scheme operates at the Nation's borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is admissible. Jennings v. Rodriguez, 583 U.S. 281, 287 (2018).

30. The implementing regulations reflect that division. Sections 236.1 and 1236.1 of Title 8 of the Code of Federal Regulations set out the procedures by which an immigration officer makes an initial custody determination under § 1226(a), and 8 C.F.R. § 1003.19 provides for redetermination of that custody decision by an

immigration judge. When the agencies issued the interim rule implementing IIRIRA in 1997, they wrote that "[d]espite being applicants for admission, aliens who are present without having been admitted or paroled" would be eligible for bond and bond redetermination. 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

31. Parole is not admission. Under 8 U.S.C. § 1101(a)(13)(B), a noncitizen paroled under section 212(d)(5) is not considered to have been admitted. Petitioner has therefore been a person present without admission from the day he was released into the country in May 2023.

STATEMENT OF FACTS

A. Petitioner's Entry and Release

32. Petitioner presented himself for inspection at the Hidalgo, Texas port of entry on May 13, 2023 and applied for admission to the United States. He did not enter surreptitiously. He came to the government and asked for protection.

33. The Department of Homeland Security released Petitioner into the United States that same day. His Form I-94 arrival record, number [redacted], reflects a class of admission of DT and an authorized period through May 11, 2025. (Ex. B.)

34. Also on May 13, 2023, the Department served Petitioner with a Notice to Appear, Form I-862, charging him as inadmissible under section 212(a)(7)(A)(i)(I) of the Act as an immigrant not in possession of a valid entry document. That is the only charge. (Ex. A.)

35. The Notice to Appear placed Petitioner directly into removal proceedings under section 240 of the Act. The box indicating that the notice was issued after an asylum officer found a credible fear of persecution or torture is not checked. The box indicating that an expedited removal order under section 235(b)(1) was vacated is not checked. The presently available record contains no expedited removal order and no credible fear referral, and the charging document reflects neither. (Ex. A.)

36. The certificate of service on the Notice to Appear states that oral notice of the time and place of the hearing was provided to Petitioner in Spanish. Petitioner's asylum application identifies his native language as Kyrgyz, states that he also speaks Russian, and states that he is not fluent in English. (Ex. A; Ex. C.)

B. More Than Three Years in the Community

37. After his release, Petitioner settled in Illinois. He lived there continuously from May 2023 until the events of June 2026 described below.

38. On October 4, 2023, less than five months after his arrival and well within the one-year deadline, Petitioner filed an application for asylum and for withholding of removal, with protection under the Convention Against Torture, with the Chicago Immigration Court. (Ex. C.)

39. Petitioner reports that he obtained a Social Security number in October 2023.

40. The Department granted Petitioner employment authorization under category C11 effective October 18, 2023 and valid through May 11, 2025. (Ex. D.)

41. On October 31, 2025, United States Citizenship and Immigration Services approved a further application for employment authorization under category C08, valid from October 30, 2025 through October 29, 2030. (Ex. E.) Category C08 is the classification for applicants with a pending application for asylum. The approval notice is the government's own contemporaneous record that Petitioner's asylum application was pending and that he was authorized to work.

42. Petitioner reports that he worked lawfully as a commercial driver for United Cargo Freight, located at 1321 Newport Street, Mundelein, Illinois.

43. The status of Petitioner's parole between May 2023 and August 2026 cannot be established from the presently available record. The Form I-94 bears an authorized period ending May 11, 2025. (Ex. B.) The Notice to Appear was served the same day the Form I-94 issued, May 13, 2023. (Ex. A.) Under 8 C.F.R. §

212.5(e)(2)(i), service of a charging document constitutes written notice of termination of parole unless otherwise specified. The presently available record does not establish the sequence of those same-day actions, the terms of any parole instrument, or the legal effect of either. Petitioner requests production of the administrative record so that these questions can be resolved, and pleads the alternatives below.

44. What the record does establish is that Respondents did not return Petitioner to custody until August 2026. Section 212(d)(5)(A) provides that when the purposes of parole have been served, the alien shall forthwith return or be returned to the custody from which he was paroled. Under either chronology the present record will support, that did not happen forthwith. Respondents instead left Petitioner in the community for more than three years, granted him employment authorization twice, and took no custodial action of any kind until August 2026.

45. Petitioner has never been ordered removed. His removal proceedings remain pending, no decision has issued, and no appeal has been taken to the Board of Immigration Appeals. (Ex. H.) No in absentia order has ever been entered against him, and the immigration court record reflects no failure to appear.

C. The Virginia Misdemeanor

46. On June 30, 2026, while Petitioner was working as a truck driver, his trailer broke down on a road in Frederick County, Virginia. The trailer was displaying a printed paper copy of its registration number in place of a missing metal plate. Responding officers observed the printed copy, and Petitioner was arrested and charged with a single Class 1 misdemeanor under Virginia Code § 46.2-722. (Ex. F.)

47. On August 4, 2026, the Frederick County General District Court entered a finding of guilt and imposed a fine of $500 with $400 suspended, together with costs and a period of probation. No sentence of imprisonment was imposed. (Ex. F.) Petitioner does not challenge that judgment in this proceeding.

48. The offense is not an aggravated felony, is not a controlled substance offense, is not a firearms offense, and is not a crime of violence. Because the maximum penalty for a Virginia Class 1 misdemeanor does not exceed one year and no sentence of imprisonment was imposed, the petty offense exception at section 212(a)(2)(A)(ii)(II) of the Act applies, and Petitioner is therefore not inadmissible under section 212(a)(2)(A)(i)(I). Section 1226(c)(1)(A) is therefore not triggered.

49. Section 1226(c)(1)(E) is likewise not triggered, and Petitioner addresses it directly because he is charged as inadmissible under section 212(a)(7). That subparagraph requires two things together. The person must be inadmissible under paragraph (6)(A), (6)(C), or (7) of section 212(a), and the person must also be charged with, arrested for, convicted of, or admit committing acts constituting the essential elements of burglary, theft, larceny, shoplifting, or assault of a law enforcement officer, or any crime resulting in death or serious bodily injury. 8 U.S.C. § 1226(c)(1)(E). The second requirement is not met. Petitioner's single offense is a motor vehicle registration offense under Title 46.2 of the Virginia Code. It is not burglary, theft, larceny, or shoplifting as those terms are defined in Virginia, which is the governing jurisdiction under 8 U.S.C. § 1226(c)(2); it is not an assault of a law enforcement officer; and it resulted in no death or bodily injury of any kind. No provision of § 1226(c) authorizes mandatory detention here.

D. Re-Detention Without Notice, Without Process, and Without a Forum

50. On or about August 5, 2026, upon the conclusion of the Virginia criminal matter, Immigration and Customs Enforcement took Petitioner into custody. Petitioner requests production of the administrative record so that the precise date and stated basis of that custody decision can be established.

51. Petitioner was then transported from Virginia to the Otay Mesa Detention Center in San Diego, California, far from his home in Illinois, from his employer, and from the immigration court where his case had been pending. (Ex. G.)

52. Petitioner reports that before taking him into custody, Respondents gave him no written notice of the basis for his detention, no opportunity to respond, and no interview concerning danger or flight risk. No such notice, opportunity, or interview has been disclosed or appears in the presently available record, and no individualized determination that Petitioner poses a danger to the community or a risk of flight has been disclosed to him or appears in that record.

53. Respondents have identified no changed circumstance between the government's decision to release Petitioner in May 2023, its decision to leave him at liberty for more than three years, its grant of employment authorization through 2030 in October 2025, and its decision to jail him in August 2026. The only intervening event is a misdemeanor that produced no jail sentence.

54. To the extent Respondents are treating Petitioner as detained under 8 U.S.C. § 1225(b)(2)(A) as an arriving alien, that classification renders him ineligible for a custody redetermination before an immigration judge under 8 C.F.R. § 1003.19(h)(2)(i)(B). No adjudicator within the agency may weigh whether this particular person needs to be jailed.

55. The consequence is that Petitioner faces confinement for the duration of his asylum proceedings without any disclosed individualized custody determination by an officer and without any merits custody determination by an immigration judge or other neutral decisionmaker. This Court is the only forum that can order the individualized determination he has never received.

CLAIMS FOR RELIEF

COUNT ONE

DETENTION WITHOUT STATUTORY AUTHORITY

(8 U.S.C. § 1226(a); 8 U.S.C. § 1225(b)(2)(A))

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

57. Section 1225(b)(2)(A) does not reach every noncitizen who is subject to a ground of inadmissibility, and it does not supply perpetual detention authority over a person who was released into the country years earlier. It is triggered where an examining officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted. A person who has lived in the interior for years and is taken into custody there is detained under § 1226(a) unless § 1225(b)(1), § 1226(c), or § 1231 applies. None of those provisions applies to Petitioner.

58. The Ninth Circuit so held in Rodriguez Vazquez v. Bostock, No. 25-6842 (9th Cir. July 30, 2026), concluding that noncitizens present without admission who are apprehended in the interior of the United States are subject to the detention regime of § 1226 rather than § 1225(b)(2)(A). The petitioner class there entered without inspection, while Petitioner entered at a port of entry and was released on parole, and the opinion did not separately address the agency's parole-restoration theory. But the court's construction of § 1225(b)(2)(A) as a border provision reaching only those who are seeking admission is binding, and Petitioner contends it requires the same result for a person taken into custody in the interior more than three years after his release.

59. Five other courts of appeals have reached the same conclusion. See Barbosa da Cunha v. Freden, 175 F.4th 61 (2d Cir. 2026); Lopez-Campos v. Raycraft, 175 F.4th 713 (6th Cir. 2026); Cirrus Rojas v. Olson, No. 25-3127 (7th Cir. July 30, 2026); Santillan Quiroz v. Mullin, 180 F.4th 1226 (10th Cir. 2026); Hernandez Alvarez v. Warden, Federal Detention Center Miami, 175 F.4th 1258 (11th Cir. 2026). The Fifth and Eighth Circuits have adopted the government's reading, and a petition for certiorari is pending. See Buenrostro-Mendez v. Bondi, 166 F.4th 494 (5th Cir. 2026), petition for cert. filed sub nom. Buenrostro-Mendez v. Blanche, No.

26-43 (U.S. July 2, 2026); Avila v. Bondi, 170 F.4th 1128 (8th Cir. 2026). Neither decision binds this Court, and the Ninth Circuit has resolved the question here.

60. Petitioner is a person present without admission. Parole is not admission. 8 U.S.C. § 1101(a)(13)(B). He was released into the country on May 13, 2023 and has never been admitted.

61. The detention Petitioner challenges did not begin on arrival. Petitioner presented himself to Customs and Border Protection at the Hidalgo port of entry on May 13, 2023, was inspected and processed, was served with a Notice to Appear, and was released into the country the same day. The custody at issue in this petition began more than three years later, when he was arrested in the interior of Virginia on June 30, 2026 by state law enforcement responding to a disabled trailer, and was taken into immigration custody in August 2026. He is not standing at a port of entry seeking admission. He has lived, worked, and pursued a pending application for protection in this country for years.

62. Even if Petitioner is deemed an applicant for admission, he is not seeking admission within the meaning of § 1225(b)(2)(A), and the statute is triggered only as to an alien seeking admission. The Seventh Circuit so reasoned, explaining that a person who can only seek to remain through forms of relief that are not admission is not seeking admission. Cirrus Rojas v. Olson, No. 25-3127 (7th Cir. July 30, 2026). That petitioner, like the class in Rodriguez Vazquez, entered without inspection. The reasoning nonetheless reaches Petitioner: the only relief he seeks is asylum, withholding of removal, and protection under the Convention Against Torture, and none of those is admission.

Matter of Q. Li does not control.

63. Petitioner anticipates that Respondents will rely on Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025), and addresses it directly. Q. Li holds that an applicant for admission arrested and detained without a warrant while arriving, whether or not at

a port of entry, is detained under section 235(b), and that such a person released on parole returns to section 235(b) custody when the parole is terminated. Id. at 66. It is the agency's strongest authority. It does not control this Court's judgment, for five reasons.

64. First, Q. Li binds the agency but is not an Article III construction of the statute, and it does not bind this Court on the meaning of § 1225(b)(2)(A). The Ninth Circuit has now construed that provision, and its construction controls here.

65. Second, Q. Li's holdings depend on predicates the present record does not establish. The first holding reaches an applicant for admission who is arrested and detained without a warrant while arriving, id. at 66, and the Board grounded it in the warrantless arrest authority of section 287(a)(2) of the Act. Id. at 70. The second holding reaches a person detained under section 235(b) who is released on parole from that custody and whose parole is later terminated. Id. at 66. Respondents therefore must establish that Petitioner was arrested and detained under section 235(b) at Hidalgo, that his May 13, 2023 release was a parole from that custody, and that the parole was legally terminated. The presently available record establishes none of these. It shows a Form I-94 with an authorized period running to May 11, 2025 and a Notice to Appear served the same day. The requested administrative record will resolve the question, and Petitioner does not concede the predicates in advance.

66. Third, even on its own terms Q. Li does not describe what happened here. The Board reasoned that when parole is terminated the person shall forthwith return or be returned to the custody from which he was paroled. Id. at 69-70 (quoting 8 U.S.C. § 1182(d)(5)(A)). In Q. Li the respondent was taken into custody at her next scheduled reporting appointment. Id. at 67. Petitioner, by contrast, was not returned to custody until August 2026, more than three years after his release. Respondents left him in the community throughout that period and granted him employment authorization running through 2030 during it.

67. Fourth, Q. Li rests on treating the phrase applicant for admission as coextensive with the statutory trigger. Both the Ninth and Seventh Circuits have now rejected that collapse, holding that § 1225(b)(2)(A) reaches only those who are also seeking admission. Petitioner contends that this intervening construction undermines Q. Li's statutory premise and controls in this Circuit. Petitioner further notes that the Board expressly declined to decide whether the respondent was an arriving alien under 8 C.F.R. § 1001.1(q) or bond-ineligible under 8 C.F.R. § 1003.19(h)(2)(i)(B). Id. at 68 n.2. Only the concurring member would have rested on the regulation. Id. at 71 (Mullane, concurring).

68. Fifth, Q. Li resolves a statutory classification and nothing more. It says nothing about whether the government may extinguish three years of government-sanctioned liberty without notice or an opportunity to be heard. Even if Respondents prevail on the classification, Count Three remains.

69. Because § 1225(b)(2)(A) does not authorize Petitioner's detention and no mandatory detention provision applies, his detention is governed by 8 U.S.C. § 1226(a), which entitles him to an individualized custody determination and the possibility of release on bond or conditional parole. Respondents' detention of Petitioner without that determination is contrary to law.

COUNT TWO

VIOLATION OF THE BOND REGULATIONS

(8 C.F.R. §§ 236.1, 1236.1, 1003.19; §§ 1001.1(q) and 1003.19(h)(2)(i)(B) as applied)

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

71. The regulations implementing § 1226(a) establish the machinery of custody review. Sections 236.1 and 1236.1 govern the initial custody determination

by an immigration officer, and 8 C.F.R. § 1003.19 provides for redetermination of that determination by an immigration judge. Those provisions apply to Petitioner because § 1226(a) supplies the authority for his detention.

72. The 1997 interim rule is historical evidence that § 1226 governed unadmitted persons living in the interior, and it supports the Ninth Circuit's rejection of perpetual § 1225 custody. Petitioner does not contend that the quoted sentence, which by its terms addresses persons present without having been admitted or paroled, was written with port of entry parolees in mind. He contends that its premise, that being an applicant for admission does not by itself place a person outside § 1226, is the premise the Ninth Circuit has now adopted, and that it applies to him with equal force after three years in the interior.

73. Respondents have departed from that framework. Upon information and belief, they rely on 8 C.F.R. § 1001.1(q), which defines an arriving alien to include a person paroled under section 212(d)(5) of the Act even after that parole has ended, and on 8 C.F.R. § 1003.19(h)(2)(i)(B), which excludes arriving aliens from the immigration judge's bond jurisdiction. Applied to Petitioner, those provisions operate to deny him any individualized custody determination on the merits.

74. A regulation cannot enlarge the reach of the statute it implements. Section 1225(b)(2)(A) applies to persons seeking admission at the border and at ports of entry. A regulatory definition cannot extend that provision to a person apprehended in the interior three years after entry, and it cannot withdraw the bond eligibility that § 1226(a) confers by statute.

75. As applied to Petitioner, 8 C.F.R. §§ 1001.1(q) and 1003.19(h)(2)(i)(B) produce a result the statutory scheme does not permit: detention under a provision that authorizes release on bond, administered by a system in which no adjudicator has jurisdiction to consider bond. Respondents' application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT THREE

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

(Re-Detention After Established Liberty, Without Notice or an Opportunity to Be Heard)

76. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs. This count is pleaded in the alternative and is independent of the statutory classification. Even if Respondents are correct that § 1225(b)(2)(A) supplies the authority for Petitioner's detention, the manner in which this re-detention was carried out violates procedural due process.

77. The Fifth Amendment provides that no person shall be deprived of liberty without due process of law. That protection extends to all persons within the United States, without regard to immigration status. Zadvydas v. Davis, 533 U.S. 678, 693 (2001).

78. Government conduct releasing a noncitizen into the community creates a liberty interest in remaining out of immigration custody, and the government may not extinguish that interest without notice and an opportunity to be heard. See Morrissey v. Brewer, 408 U.S. 471, 482 (1972); Singh v. LaRose, No. 3:26-cv-2278-JES-BLM (S.D. Cal. Apr. 21, 2026); Gergawi v. LaRose, No. 3:25-cv-3352-JES-MMP, 2025 WL 3719321, at *3-4 (S.D. Cal. Dec. 23, 2025); Pinchi v. Noem, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025).

79. This Court granted the writ in closely analogous circumstances earlier this year, ordering the immediate release of a petitioner held at Otay Mesa by the same Warden where the government had released him on parole, had made no individualized determination under 8 C.F.R. § 212.5(e), and had re-detained him

without notice or an opportunity to be heard. Singh v. LaRose, No. 3:26-cv-2278-JES-BLM (S.D. Cal. Apr. 21, 2026).

80. Petitioner's liberty interest here is substantial and closely analogous. He was released by the government at a port of entry and remained in the community for more than three years. The government twice granted him employment authorization. Petitioner reports that he worked lawfully and obtained a Social Security number, and the immigration court record reflects no failure to appear on his asylum application. The government knowingly left him in the community and authorized him to work while his proceedings remained pending, and it did so as recently as October 2025.

81. Respondents extinguished that liberty with no process at all. Upon information and belief, and on the presently available record, Petitioner received no advance notice, no written custody determination, no opportunity to respond, and no individualized assessment of flight risk, dangerousness, or changed circumstances before he was taken into custody and transported across the country.

82. If Respondents contend that Petitioner's parole terminated in 2023 upon service of the Notice to Appear, that contention makes the due process violation worse rather than better. On that account Respondents allowed Petitioner to build a life in the community for three years in a condition of liberty they now say had already ended, granted him employment authorization twice during that period, and then reclaimed the power to jail him without notice at a moment of their choosing. Liberty the government creates and sustains for three years cannot be withdrawn without process.

83. Respondents' re-detention of Petitioner without notice and an opportunity to be heard violated the Due Process Clause of the Fifth Amendment, and the appropriate remedy is release.

COUNT FOUR

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

(Detention Without an Individualized Merits Custody Determination)

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

85. Freedom from imprisonment, from government custody, detention, or other forms of physical restraint, lies at the heart of the liberty protected by the Due Process Clause. Zadvydas, 533 U.S. at 690. 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). 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).

86. Civil immigration detention is constitutionally permissible only insofar as it serves its regulatory purpose of ensuring appearance at proceedings or effectuating removal. Detention imposed without any process for testing whether it is necessary is not regulatory. It is arbitrary.

87. Applying Mathews v. Eldridge, 424 U.S. 319, 335 (1976), each factor favors Petitioner. First, the private interest is the most weighty the Constitution recognizes: physical liberty. Petitioner has been jailed, removed from his employment, and transported across the country away from his home.

88. Second, the risk of erroneous deprivation under the current procedures is not merely high; it is total, because on the presently available record there are no procedures. No interview concerning danger or flight risk has been disclosed to Petitioner or appears in the record. No custody review by a neutral decisionmaker has been disclosed or appears. On Respondents' own position, no immigration judge may conduct one. Where the process afforded is nothing at all, the probable value of additional safeguards is at its maximum.

89. That posture distinguishes Rodriguez Diaz v. Garland, 53 F.4th 1189 (9th Cir. 2022). There the Ninth Circuit found the risk of erroneous deprivation small precisely because the petitioner was detained under § 1226(a) and had received the procedural protections that provision supplies: an initial bond hearing before an immigration judge, representation by counsel, the opportunity to present evidence, a right of appeal, and the right to seek a further hearing on changed circumstances. Id. at 1209-10. The court declined to order a second hearing with a shifted burden for a petitioner who had already had the first. Petitioner here has had none of it, and on Respondents' position can never have any of it. Rodriguez Diaz did not abrogate Singh v. Holder, 638 F.3d 1196 (9th Cir. 2011), and its reasoning confirms rather than undermines Petitioner's claim: where the statutory protections that made the risk of error small are entirely absent, the constitutional calculus is different.

90. Third, the government's interest in detaining this particular person without any hearing is minimal. Petitioner has a pending application for asylum that gives him every incentive to appear. He held employment authorization from October 2023 through May 2025 and holds it again today through October 2030. The immigration court record reflects no failure to appear and no removal order. His sole criminal matter is a misdemeanor that produced a fine and no jail time. Administrative convenience does not outweigh a liberty interest of this magnitude.

91. Due process is not satisfied by detention whose individualized necessity no adjudicator may review. At a minimum Petitioner is entitled to a hearing before a neutral decisionmaker at which his continued detention must be justified on an individualized basis. Petitioner further requests, as the appropriate remedy for a deprivation carried out with no process whatever, that the government bear the burden of proving by clear and convincing evidence that detention is justified by danger or risk of flight, and that his financial circumstances and alternatives to detention be considered. See Singh v. Holder, 638 F.3d 1196, 1203-04 (9th Cir. 2011); Hernandez v. Sessions, 872 F.3d 976, 1000 (9th Cir. 2017).

92. Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Issue an order to show cause directing Respondents to show cause, within the time set by 28 U.S.C. § 2243 and Chief Judge Order No. 144, why the writ should not be granted, and directing Respondents to produce the administrative record of Petitioner's detention, including the Form I-213, the Form I-286 or other notice of custody determination, the Form I-385 booking records, and all parole documents and any notice of termination of parole;

c. Declare that Petitioner's detention is governed by 8 U.S.C. § 1226(a), and that his re-detention and continued detention without notice, an opportunity to be heard, or any individualized custody determination violate the Immigration and Nationality Act, the regulations promulgated thereunder, and the Due Process Clause of the Fifth Amendment;

d. Grant the writ and order Petitioner's immediate release from custody on appropriate conditions of supervision;

e. In the alternative, order Respondents to provide Petitioner an individualized bond hearing before an immigration judge within seven days, at which the government bears the burden of establishing by clear and convincing evidence that Petitioner is a danger to the community or a flight risk,

and at which the immigration judge must consider Petitioner's financial circumstances and alternatives to detention;

f. Order that at any such hearing Respondents shall not contend that 8 U.S.C. § 1225(b) requires or authorizes mandatory detention, or that agency precedent deprives the immigration judge of jurisdiction to decide bond;

g. Order that if no hearing occurs within seven days of the Court's order, Respondents shall release Petitioner from custody by 5:00 p.m. on the eighth day, and shall file a declaration stating the outcome of any hearing held or confirming that Petitioner has been released;

h. Enjoin Respondents from transferring Petitioner outside the Southern District of California during the pendency of these proceedings, and from re-detaining Petitioner during the pendency of his removal proceedings without first providing the process ordered by this Court;

i. Award Petitioner costs and reasonable attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable provision of law; and

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

Dated: August 14, 2026

Respectfully submitted,

MODERN LAW GROUP, P.C.

By: /s/ Deron E. Smallcomb
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Attorney for Petitioner

VERIFICATION

I, Deron E. Smallcomb, declare as follows:

I am the attorney for Petitioner Aitegin Sagynbek Uulu in this matter. I submit this verification on Petitioner's behalf pursuant to 28 U.S.C. § 2242, which permits an application for a writ of habeas corpus to be signed and verified by someone acting on the petitioner's behalf. Petitioner is detained, and I have prepared this petition on the basis of the documents in my possession and information provided to me.

I have read the foregoing Petition for Writ of Habeas Corpus. The factual allegations are true and correct to the best of my knowledge, information, and belief, and those allegations made on information and belief I believe to be true.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. 28 U.S.C. § 1746.

Executed on August 14, 2026, at Fort Worth, Texas.

/s/ Deron E. Smallcomb
Deron E. Smallcomb