UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

JULIO PARRA ANGULO,
Petitioner,

v.

MARKWAYNE MULLIN, in his official capacity as Secretary of the Department of Homeland Security;
DAVID J. VENTURELLA, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;
MARY DE ANDA-YBARRA, in her official capacity as Lead of the El Paso Field Office of ICE, Enforcement and Removal Operations;
WARDEN of the El Paso Processing Center; and;
SIRCE E. OWEN, in his official capacity as Acting Director of the Executive Office for Immigration Review,
Respondents.

Civil Action No. 3:26-cv-2211

Immigration No. [redacted]

PLAINTIFF'S VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. Petitioner Julio Parra Angulo ([redacted]4), hereinafter referred to as "*Petitioner*" or "*Mr. Parra-Angulo*" is a native and citizen of Cuba who has resided in the United States for nearly (4) years. He is currently subject to indefinite detention after his apprehension by U.S. Immigration and Customs Enforcement ("ICE") in Texas and is detained at the El Paso Processing Center, El Paso, Texas. *See* Petitioner's Ex. 1, ICE Detainee Locator Search Results.

2. Mr. Parra-Angulo has been placed in removal proceedings pursuant to Section 240 of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1229a.

3. In recent months, immigration judges have routinely denied requests for an individualized custody redeterminations to individuals. These denials have relied on recent Board of Immigration Appeals ("BIA") precedent in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and specifically in the Fifth Circuit, *Buenrostro-Mendez v. Bondi,* Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026).

4. The Department of Homeland Security ("DHS") has taken the position that, based on *Matter of Yajure Hurtado* and subsequent agency guidance, Petitioner is categorically ineligible for any custody redetermination before an immigration judge and may be detained for the duration of his removal proceedings absent discretionary parole.

5. As a result of this categorical denial of custody review, Petitioner now faces prolonged and potentially indefinite civil detention without any meaningful opportunity for an individualized determination of whether his continued confinement is necessary or lawful. DHS has not conducted any neutral, individualized assessment of Petitioner's danger to the community, risk of flight, or suitability for less restrictive alternatives to detention.

6. Petitioner has no criminal record, no history of violence nor criminal charges. *See* Petitioner's Ex. 2, Texas DPS Criminal Conviction Search results. His continued detention is not based on any individualized finding that confinement is necessary to serve a legitimate governmental purpose.

7. Petitioner's continued detention without any individualized custody determination violates the Due Process Clause of the Fifth Amendment, the Administrative Procedure Act, the Suspension Clause of the United States Constitution, and binding agency regulations. DHS's reliance on a

categorical jurisdictional bar has resulted in prolonged civil confinement without adequate procedural safeguards or meaningful judicial review.

8. Mr. Parra-Angulo therefore petitions this Court for habeas relief under 28 U.S.C. § 2241, and seeks immediate injunctive relief, including a preliminary injunction directing Respondents to release him under reasonable conditions or provide him an individualized custody determination before a neutral decision-maker with authority to order release. For the foregoing reasons, the Court should grant the writ and restore Petitioner's liberty.

II. JURISDICTION AND VENUE

9. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202. This Court also has jurisdiction under 28 U.S.C. § 2241, which grants federal district courts authority to hear habeas petitions filed by persons held in custody in violation of federal law or the Constitution. This action also invokes the Court's authority under the All-Writs Act, 28 U.S.C. § 1651.

10. The Court may grant relief under the *habeas corpus* statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651. Congress has preserved judicial review of challenges to immigration detention, including claims raising statutory and constitutional questions. *See*, e.g., *Nielsen v. Preap*, 139 S. Ct. 954, 961–62 (2019); *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (distinguishing reviewable legal and constitutional claims from unreviewable discretionary determinations under 8 U.S.C. § 1226(e)).

11. Federal district courts have jurisdiction to hear *habeas corpus* claims brought by noncitizens challenging the lawfulness of their immigration detention. *See Demore v. Kim,* 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over challenges to immigration detention); *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001) (same). That jurisdiction extends

to claims alleging that detention exceeds statutory authority, violates constitutional guarantees, or results from agency action that is arbitrary, capricious, or contrary to law.

12. Although certain provisions of the INA limit judicial review of discretionary custody determinations, *see* 8 U.S.C. § 1226(e), those provisions do not preclude *habeas* review of constitutional claims, questions of law, or challenges to the legal basis for detention itself. Petitioner does not ask this Court to review or second-guess any discretionary bond decision. Rather, he challenges Respondents' authority to continue detaining Petitioner without any individualized custody determination, the constitutionality of prolonged detention without meaningful review, the lawfulness of DHS's blanket detention policy under the Administrative Procedure Act, and the legality of his warrantless arrest and resulting detention under binding agency regulations. Such claims fall squarely within the scope of *habeas* review. The Supreme Court has long recognized that federal courts retain *habeas* jurisdiction to review the statutory and constitutional bases of immigration detention notwithstanding jurisdiction-stripping provisions, as such review lies at the core of the Great Writ. *See Demore v. Kim*, 538 U.S. at 516–17; *Zadvydas v. Davis*, 533 U.S. at 687–88.

13. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar this suit. Petitioner does not challenge a final order of removal, nor seek class-wide relief. Detention-based habeas claims are not channeled by Section 1252(b)(9). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018). Section 1252(g) is narrowly construed and does not foreclose review of unlawful custody or V *ultra vires* attempts to switch a non-final INA § 240 case into expedited removal. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999) (hereinafter also referred to as "*Reno v. AADC*"). Individual injunctive relief is not barred by Section 1252(f)(1). *See Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 2065–66 (2026).

14. Venue is proper in this District, and in the El Paso Division, because Petitioner is detained at the El Paso Processing Center, El Paso, Texas, within this Court's jurisdiction, whereas Petitioner's immigration detention is controlled by the El Paso Office of ICE – Enforcement and Removal Operations. *See* Petitioner's Ex. 1.

III. PARTIES

15. Petitioner, JULIO PARRA ANGULO, is a citizen and national of Cuba who has lived in the United States for nearly (4) years, having arrived in the United States on or about March 19, 2022, when he entered the United States at or near Lukeville, Arizona. On or about August 6, 2022, he was detained and transferred to the El Paso Processing Center, where he remains detained. *See* Petitioner's Ex. 1.

16. Respondent MARKWAYNE MULLIN is the Secretary of the U.S. Department of Homeland Security ("DHS"). He is sued in his official capacity.

17. Respondent DAVID J. VENTURELLA is the Acting Director of Immigration and Customs Enforcement ("ICE"), an executive branch agency within the Department of Homeland Security. He is sued in his official capacity.

18. Respondent MARY DE ANDA-YBARRA is the Acting Lead of the El Paso Field Office of ICE – Enforcement and Removal Operations ("ERO"), and therefore, she oversees the El Paso Processing Center of ERO San Antonio, which has jurisdiction over Petitioner. She is sued in her official capacity as Petitioner's local custodian and DHS's local decisionmaker.

19. Respondent WARDEN of the El Paso Processing Center, is responsible for housing noncitizens from various regions of Texas in ICE custody pending the completion of their removal proceedings. The El Paso Processing Center is located at 8915 Montana Ave., El Paso, Texas

79925. Respondent is sued in their official capacity as Petitioner's immediate physical custodian as of the filing of this petition.

20. Respondent, Sirce E. Owen, in his official capacity as Acting Director of the Executive Office for Immigration Review. As such, he is responsible for directing and coordinating policy for the United States Immigration Court system, including policies relating to immigration bond applications and requests for custody redeterminations in immigration court. He is sued in his official capacity only.

21. Respondents MULLIN and VENTURELLA, who represent DHS and ICE, are properly included herein as the executives of federal agencies within the meaning of the APA ("APA").

IV. FACTUAL BACKGROUND

22. Mr. Parra-Angulo is a citizen and national of Cuba, born on [redacted]. He has lived continuously in the United States since his initial entry on or about March 19, 2022, when he entered at or near Lukeville, Arizona, and was released on recognizance on March 22, 2022. He entered the United States at approximately 45 years of age. Since that time, he has continuously resided in the United States, and he has established strong family and community ties. These ties demonstrate that Mr. Parra-Angulo is not a flight risk and has a strong incentive to appear for and comply with his immigration proceedings.

23. On August 6, 2026, Petitioner was detained and taken into ICE custody after appearing at his regular check-in with ICE Enforcement and Removal Operations in El Paso, Texas. Mr. Parra-Angulo was then transported to the El Paso Processing Center.

24. Following his apprehension, Mr. Parra-Angulo was placed into ICE custody and transferred to the El Paso Processing Center, El Paso, Texas, where he remains detained. His

detention at the facility is confirmed by ICE's detainee Locator System. *See* Petitioner's Ex. 1, ICE Detainee Locator Search Results.

25. Prior to his detention, Mr. Parra-Angulo had lived in United States for nearly (4) years. He has developed meaningful community ties. Mr. Parra-Angulo had applied for an Application to Register Permanent Residence or Adjust Status (I-485), based on the Cuban Adjustment Act, Application for Employment Authorization and Application for Asylum and for Withholding of Removal, his circumstances causing him to fear harm or mistreatment if he return his home country persist, there is a possibility that he could be imprisoned and the government of Cuba may take reprisals against his family. In addition, Petitioner filed a timely appeal before the Board of Immigration Appeals (BIA). *See* Petitioner's Ex. 3, Immigration Documents.

26. Mr. Parra-Angulo has no history of violence and no criminal record. *See* Petitioner's Ex. 2, Texas DPS Criminal Conviction Search results. This demonstrates that he does not pose flight risk or a danger to the community. His current detention stems from an arbitrary detention after he complied with his obligations and diligently appeared at his check-in with Immigration and Customs Enforcement.

27. On or about March 21, 2022, the DHS, served Mr. Parra-Angulo with a Notice to Appear ("NTA"), charging him as removable under INA § 212(a)(6)(A)(i) [8 U.S.C. § 1182(a)(6)(A)(i)] based on his entry without admission or paroled. *See* Petitioner's Ex. 4, Notice to Appear.

28. As of the filing of this petition, Petitioner remains detained at the El Paso Processing Center. *See* Petitioner's Ex. 1. As a result, his detention continues without meaningful administrative or judicial review.

29. Mr. Parra-Angulo's continued detention fails to account for his residence in the United States and his individualized circumstances. Furthermore, he was released on recognizance since

March 2022, and he has been living at liberty pursuant to the issuance of this order; demonstrating his stability, his integration, and that he is not a danger to the community nor a flight risk. Mr. Parra-Angulo is entitled to the protections of due process guaranteed by the Immigration and Nationality Act and the Fifth Amendment, including the opportunity for an individualized custody determination under INA § 236(a).

30. Instead, current immigration policy treats Mr. Parra-Angulo as categorically ineligible for an individualized custody determination. ICE has denied him any opportunity to demonstrate that he is neither a danger to the community nor a flight risk. This denial is not based on any individualized assessment of Mr. Parra-Angulo's circumstances.

31. The government's position relies on recent Board of Immigration Appeals decisions, including *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and in the Fifth Circuit: *Buenrostro-Mendez v. Bondi,* Nos. 25-20496 & 25-40701 (5th Cir Feb, 2026), which purports to limit immigration judges' authority to conduct bond hearings. These decisions have resulted in the prolonged civil detention of noncitizens without individualized custody determinations.

32. As a result of ICE's actions, Mr. Parra-Angulo remains detained at the El Paso Processing Center, a facility located far from his community and support network. *See* Petitioner's Ex. 1. He is detained under conditions comparable to those imposed on individuals subject to mandatory detention, despite the absence of any criminal conviction that would render him ineligible for bond under INA § 236(c).

33. In sum, Mr. Parra-Angulo is an intention to be a long-term resident of the United States with deep ties to the country, avenues of immigration relief, and no criminal record.

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

34. Petitioner has not filed a motion for bond before the Immigration Court following his entry into ICE custody on or about August 6, 2022. Any such filing would be futile, as immigration judges in the Fifth Circuit are currently declining to exercise bond jurisdiction pursuant to *Buenrostro-Mendez v. Bondi,* Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026).

35. Further administrative exhaustion would be futile. On or about January 19th, 2026, Chief Immigration Judge Teresa L. Riley issued guidance instructing immigration judges in the Fifth Circuit that: "For cases arising in the 5th Circuit, the court did not overrule or vacate the recent 5th Circuit precedential decision" (referring to *Buenrostro-Mendez*) Judge Riley instructed immigration judges: "Nor did the court overrule or vacate well-established precedent requiring administrative agencies to apply binding circuit court precedent to cases arising within that circuit." *See* Petitioner's Ex. 5, Maia Spoto & Megan Crepeau, *Immigration Judge's Guidance Sets Up Race to Avoid Fifth Circuit*, Bloomberg L. (Feb. 20, 2026, 12:32 PM CST). Under these circumstances, no administrative body within EOIR has authority to provide the relief sought.

36. DHS's discretionary parole authority does not constitute an available or adequate administrative remedy that must be exhausted prior to habeas review. Parole decisions are committed to agency discretion, are not subject to neutral adjudication, and provide no mechanism for Petitioner to challenge the legality of his detention. Courts have consistently held that discretionary parole is not an exhaustion prerequisite to habeas corpus relief.

37. Therefore, Petitioner has been categorically denied access to any administrative custody review, and no adequate alternative remedy exists; exhaustion is either satisfied or excused as futile. A *writ of habeas corpus* is the sole avenue to vindicate Petitioner's constitutional, statutory, and regulatory rights and to restore his liberty.

VI. LEGAL FRAMEWORK

38. The Immigration and Nationality Act ("INA") establishes multiple detention authorities governing noncitizens in removal proceedings, depending on procedural posture and statutory classification. These detention provisions operate against the backdrop of constitutional limitations on civil confinement and long-recognized principles of individualized custody review.

39. First, INA § 236(a), 8 U.S.C. § 1226(a), authorizes the discretionary detention of noncitizens placed in full removal proceedings under INA § 240, 8 U.S.C. § 1229a. Historically, individuals in section 1226(a) detention are entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).

40. Second, INA § 235(b), 8 U.S.C. § 1225(b), governs the detention of noncitizens classified as "applicants for admission," including individuals subject to expedited removal under § 1225(b)(1) and those referred to full removal proceedings under § 1225(b)(2). Section 1225(b)(2)(A) provides that certain applicants for admission "shall be detained" pending removal proceedings, subject to limited parole authority.

41. Finally, the Act also provides for the detention of noncitizens who have previously been ordered removed, including those in withholding-only proceedings. See 8 U.S.C. § 1231(a)–(b).

42. The detention provisions at section 1226(a) and 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226(c) was most recently amended earlier this year by the LRA, Pub. L. No. 119-1, 139 Stat. 3

(2025). Congress enacted these provisions against a longstanding background principle that civil immigration detention must remain tied to legitimate regulatory purposes and must comport with constitutional due-process requirements.

43. Following IIRIRA's enactment, the Executive Office for Immigration Review promulgated regulations explaining that, as a general matter, noncitizens who entered without inspection and were placed in § 1229a removal proceedings were detained under § 1226(a), not § 1225(b). See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). In the decades that followed, most noncitizens who entered without inspection—unless they were subject to some other detention authority—received bond hearings. This practice was also consistent with pre-IIRIRA procedure, in which noncitizens not deemed "arriving" were entitled to a custody hearing before an Immigration Judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that section 1226(a) simply "restates" the detention authority previously found at section 1252(a)).

44. On July 8, 2025, DHS issued a memo to all employees of Immigration and Customs Enforcement ("ICE") stating that "[t]his message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA) [8 U.S.C. § 1225], rather than section 236 [8 U.S.C. § 1226], is the applicable immigration detention authority for all applicants for admission. The following interim guidance is intended to ensure immediate and consistent application of the Department's legal interpretation while additional operational guidance is developed." The memo further stated DHS' new position with regard to custody determinations as follows:

> An "applicant for admission" is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. INA § 235(a)(1). Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole. These aliens are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated.
>
> **The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).**
>
> Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286. *See* https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authorityfor-applications-for-admission (last accessed August 4, 2025) (emphasis original).

45. As a result, DHS now considers all noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including longtime U.S. residents, are now considered to be subject to mandatory detention under section § 1225(b) and ineligible for release on bond. Conversely, according to DHS "[t]he only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)]." *Id.*

46. On September 5, 2025, the BIA issued a precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding that, based on the plain language of 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to noncitizens who are present in the United States without admission.

47. On February 6, 2026, the United States Court of Appeals for the Fifth Circuit endorsed that statutory interpretation in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026), foreclosing purely statutory claims to bond hearings under § 1226(a) within this Circuit. However, there is currently a circuit split as the Second Circuit, Eleventh Circuit, Sixth Circuit and Twelfth Circuit have ruled that detention for aliens who entered without inspection are rightfully detained pursuant to 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2)(A). *See Cunha v. Freden*, 2026 U.S. App. LEXIS 12201 (2nd Cir. April 28, 2026[A); *Alvarez v. Warden*, Fed. Det. Ctr. Mia., No. 25-14065, No. 25-14075. 2026 WL 1243395 (11th Cir. May 6, 2026); *Lopez-Campos v. Raycraft*, No. 25-1965, 2026 WL 1283891 (6th Cir. May 11, 2026); *Castañon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048 (7th Cir. 2025); see also *Castañon-Nava v. U.S. Dep't of Homeland Sec.*, No. 25-3050, 2026 WL 1223250 (7th Cir. May 5, 2026).

48. On February 18, 2026, a California District Court in *Yajure Hurtado* found that it violated the law under the Administrative Procedures Act. *See Lazaro Maldonado Bautista v. Santacruz,* No. 5:25-cv-01873-SSS-BFM, slip op. at 1 (C.D. Cal. Feb. 18, 2026) (Sykes, J.) (order granting plaintiffs' motion to enforce judgment). This order is currently stayed by the Ninth Circuit Court of Appeals.

49. On March 6, 2026, the Ninth Circuit Court of Appeals issued a stay of the California District Court order vacating *Yajure Hurtado*. *See Maldonado Bautista v. U.S. Dep't of Homeland*

Sec., No. 26-1044, slip op. at 1 (9th Cir. Mar. 6, 2026) (order granting administrative stay pending appeal).

50. However, neither *Yajure Hurtado* nor *Buenrostro-Mendez* addressed—much less resolved—the independent constitutional, administrative-law, equal-protection, Suspension Clause, or *Accardi*-based limitations on prolonged civil detention without individualized review. As the Supreme Court made clear in *Jennings v. Rodriguez,* 583 U.S. 281, 203-03 (2018), the absence of a statutory bond entitlement does not eliminate constitutional constraints on detention or foreclose habeas review.

51. On July 2, 2026, the Fifth Circuit Court of Appeals issued a decision in the case *Sosnava Rodriguez v. Ortega*, Nos. 26-50183, 26-50219, 26-50221, ___ F.4th ___, 2026 WL _____ (5th Cir. July 2, 2026). The Fifth Circuit recognized that "Freedom from physical restraint [is] a fundamental right." *Foucha v. Louisiana*, 504 U.S. 71, 86 (1992). The Court concluded that the Due Process Clause requires the Government to provide a bond hearing to aliens held under Section 1225(b)(2)(A) within a reasonable time of detention. *Sosnava Rodriguez*, slip op. at 33. The Court further concluded that the Government may detain aliens under Section 1225(b)(2)(A) for ninety days but no longer without a bond hearing. *Id.*at 36. The Court order that a bond hearing must be held within 90 days of the commencement of detention and that at the hearing, the Government must articulate an individualized justification for further detention without bond. *Id.* at 37.

52. On July 10, the Fifth Circuit Court of Appeals issued an order vacating its July 2, 2026 panel opinion in *Sosnava Rodriguez* and granting rehearing of the case en banc. *Sosnava Rodriguez v. Ortega*, Nos. 26-50183, 26-50219 & 26-50221, slip op. at 3 (5th Cir. July 10, 2026) (per curiam) (order granting rehearing en banc and vacating panel opinion).

53. Accordingly, even where § 1225(b)(2)(A) is assumed to govern detention, continued civil confinement remains subject to the Due Process Clause, the Administrative Procedure Act, the Suspension Clause, and binding agency regulations. Detention that becomes prolonged, indefinite, arbitrary, or wholly insulated from meaningful review exceeds the lawful authority conferred by Congress and violates fundamental constitutional guarantees.

THE FIFTH CIRCUIT'S FEBRUARY 6, 2026, DECISION IN *BUENROSTRO-MENDEZ v. BONDI* FORECLOSES PETITIONER'S PURELY STATUTORY CLAIM TO A BOND HEARING UNDER 8 U.S.C. § 1226(a) BUT DOES NOT PRECLUDE HABEAS RELIEF ON CONSTITUTIONAL AND OTHER GROUNDS

A. *Buenrostro-Mendez* forecloses Petitioner's purely statutory entitlement theory under § 1226(a), but it does not deprive this Court of habeas jurisdiction or resolve Petitioner's independent constitutional and other claims.

54. On February 6, 2026, a panel of the United States Court of Appeals for the Fifth Circuit issued its published opinion in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026). The panel held that noncitizens who are present in the United States without having been admitted or paroled—including those apprehended years after entry—are "applicants for admission" under 8 U.S.C. § 1225(a)(1) and are subject to mandatory detention under § 1225(b)(2)(A) pending removal proceedings under § 1229a. The panel further held that such individuals are not eligible for discretionary release on bond under § 1226(a) and that immigration judges lack jurisdiction to conduct bond hearings in their cases. The panel endorsed the Board of Immigration Appeals' precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and reversed two district court orders that had granted habeas relief on statutory grounds.

55. This Court is bound by the Fifth Circuit's holding on the purely statutory question of whether § 1225(b)(2)(A) or § 1226(a) governs Petitioner's detention and whether he has a

statutory entitlement to a bond hearing before an immigration judge. Petitioner respectfully acknowledges that, under *Buenrostro-Mendez*, Petitioner has no statutory right to such a hearing.

56. However, the Fifth Circuit's decision does not resolve—and expressly did not reach—the independent constitutional and other claims raised in this Petition. The panel in *Buenrostro-Mendez* addressed only the statutory interpretation dispute and reversed the district courts solely because they had granted bond hearings as a matter of statutory entitlement under § 1226(a). The panel had no occasion to consider due process challenges to prolonged or indefinite mandatory detention without any individualized hearing, nor did it address claims under the Administrative Procedure Act, the equal protection component of the Fifth Amendment, the Suspension Clause, or the *Accardi* doctrine.

57. The Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), similarly held that there is no statutory right to periodic bond hearings under §§ 1225(b), 1226(a), or 1226(c), but it explicitly remanded for the lower courts to consider constitutional arguments in the first instance. *Id.* at 302–03. The Fifth Circuit's statutory holding in *Buenrostro-Mendez* leaves those constitutional questions open, just as *Jennings* did.

B. Habeas jurisdiction remains available to test the legality of detention and the constitutionality of detention procedures; § 1226(e) does not bar review of legal and constitutional claims.

58. Nothing in *Buenrostro-Mendez* strips this Court of jurisdiction under 28 U.S.C. § 2241 to adjudicate constitutional challenges to immigration detention or to review whether the Executive's custody scheme violates governing law. *Jennings* itself distinguishes unreviewable discretionary custody judgments from reviewable questions of law and constitutional claims. Likewise, *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Demore v. Kim*,

538 U.S. 510 (2003), both proceeded through § 2241 habeas and underscore that civil immigration detention must remain tethered to lawful purposes and must satisfy due process.

59. Petitioner does not ask this Court to second-guess a discretionary bond determination. He challenges DHS's asserted authority to hold him in prolonged civil detention without any meaningful individualized custody determination by a neutral decision-maker empowered to order release, and he challenges the lawfulness of the government's detention process as applied to him.

AS-APPLIED DUE PROCESS VIOLATION FROM PROLONGED OR INDEFINITE DETENTION WITHOUT INDIVIDUALIZED HEARING

60. Even accepting the Fifth Circuit's interpretation that § 1225(b)(2)(A) mandates detention and provides no statutory bond hearing, Petitioner's ongoing and potentially indefinite detention without any individualized custody determination violates the Due Process Clause of the Fifth Amendment as applied to him.

61. Civil immigration detention is permissible only to the extent it serves the statutory purposes of ensuring appearance at proceedings and protecting the community from danger. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 527–28 (2003). When detention becomes prolonged or indefinite and is no longer tied to those purposes, it becomes punitive and unconstitutional. *Id.*

62. Although Petitioner's detention is nearly one month, since August 6, 2022, his pending claims for relief of removal are complex and typically require extended proceedings– often lasting one to three years or more, given required evidence, testimony, and case backlog. Also, his appeal for removal proceedings remains ongoing. Absent any mechanism for individualized review, Petitioner faces a substantial risk of indefinite detention under penal conditions despite having no criminal history, no disciplinary

infractions, and no individualized finding of danger or flight risk.

63. Numerous district courts, including within the Fifth Circuit, have held post-*Jennings* that due process requires an individualized bond hearing, with the government bearing the burden of proof by clear and convincing evidence, when mandatory detention under §§ 1225(b) or 1226(c) becomes prolonged. While the Fifth Circuit has not adopted a bright-line rule, district courts in this Circuit and others commonly find six months presumptively unreasonable absent individualized justification. *See*, e.g., practice advisories and district court orders cited in post-*Jennings* litigation, collecting cases requiring hearings after 6–12 months under analogous mandatory detention provisions.

64. The constitutional Concerns are heightened here because the governments new interpretation upheld in *Buenrostro-Mendez*—extends mandatory detention without bond or hearing to noncitizens who have lived openly in the United States for significant periods, here, over two years, accrued equities, and were not detained at the time of initial processing. Traditional "arriving alien" detention under § 1225(b) historically applied to those apprehended at or near the border or port of entry, where detention was typically brief pending expedited processing. Extending it to individuals in full § 1229a proceedings with meritorious relief claims raises far graver liberty interests than the brief detention upheld in *Demore* or contemplated for true arriving aliens.

65. Petitioner has no criminal history, no history of violence, and pending claims for relief from removal. Continued categorical detention without any hearing—where the government never has to justify his confinement by evidence—serves no legitimate purpose and is punitive in effect.

VII. CLAIMS FOR RELIEF

COUNT I: UNLAWFUL DETENTION IN VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT ("INA") AND IMPLEMENTING REGULATIONS

66. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

67. The Immigration and Nationality Act authorizes immigration detention only to the extent it serves legitimate, non-punitive statutory purposes—namely, to ensure an individual's appearance at future proceedings or to protect public safety. Detention that does not advance those purposes, or that becomes arbitrary and indefinite, exceeds the government's statutory authority. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Clark v. Martinez*, 543 U.S. 371, 381 (2005).

68. Petitioner entered the United States on or about March 19, 2022. Petitioner was placed into removal proceedings under 8 U.S.C. § 1229a (INA § 240) on or about March 21, 2022. His removal proceedings remain ongoing.

69. Petitioner has no criminal convictions, no record of violence and has never exhibited conduct suggesting danger to the community or risk of flight. Nothing in his immigration file indicates that he poses a threat to public safety or that he would fail to appear for his hearings if released.

70. Petitioner has been continuously detained in civil immigration custody since August 2026, following his arrest by immigration authorities, and is currently confined at the El Paso Processing Center in El Paso, Texas.

71. No neutral decision-maker has considered any individualized custody factors and did not evaluate Petitioner's lack of criminal history, his non-dangerousness, his cooperation with immigration authorities, or the feasibility of alternatives to detention.

72. Rather, EOIR has determined that Immigration Judges lack jurisdiction to make custody determinations for noncitizens in Petitioner's position. Petitioner now has no administrative mechanism for custody review, effectively subjecting him to prolonged and potentially indefinite detention without statutory authority or procedural safeguards.

73. Petitioner acknowledges that, under the Fifth Circuit's decision in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026), he does not possess a purely statutory entitlement to a bond hearing before an immigration judge under 8 U.S.C. § 1226(a).

74. However, neither *Buenrostro-Mendez* nor *Matter of Yajure Hurtado* authorizes unlimited, unreviewable civil detention untethered from the INA's non-punitive purposes. The INA does not permit detention to operate as punishment, deterrence, or coercion, nor does it authorize prolonged confinement absent a meaningful mechanism to assess whether continued detention is necessary to serve its legitimate aims. *Zadvydas*, 533 U.S. at 690–91; Clark, 543 U.S. at 380–81.

75. Even where detention is initially authorized under INA § 235(b)(2)(A), the statute must be applied consistent with its limited purpose and in conjunction with the INA's broader detention framework, including DHS's continuing discretionary authority to release noncitizens through parole, supervision, or other conditions where detention no longer serves a legitimate statutory objective. *See* 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5.

76. DHS has not conducted any individualized assessment of whether Petitioner's continued detention is necessary to ensure appearance or protect public safety, nor has it articulated any reasoned basis for rejecting less restrictive alternatives to detention. The categorical reliance on *Yajure Hurtado* as a blanket bar to custody review effectively transforms

a civil detention scheme into one of indefinite confinement without statutory justification.

77. Petitioner's continued detention bears no reasonable relationship to the purposes of the INA. It is not tied to imminent removal, is not supported by any individualized finding of danger or flight risk and persists solely as a result of a categorical legal interpretation that eliminates all meaningful custody review.

78. Detention under these circumstances exceeds the detention authority Congress conferred in the INA and contravenes the statute's non-punitive design, its implementing regulations, and controlling Supreme Court precedent limiting civil immigration detention to what is reasonably necessary to achieve its lawful purposes.

79. Accordingly, Petitioner's continued detention is unlawful under the Immigration and Nationality Act and its implementing regulations. Petitioner respectfully requests that this Court grant habeas relief by ordering his immediate release, or, in the alternative, ordering Respondents to provide a prompt, lawful, and meaningful individualized custody determination consistent with the INA and governing law.

COUNT II: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

80. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

81. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Noncitizens physically present in the United States—including those who entered without inspection—are "persons" within the meaning of the Fifth Amendment and entitled to full procedural due process protections. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Landon v. Plasencia,* 459 U.S. 21, 32 (1982).

82. Petitioner is a noncitizen who entered the United States on or about March 19, 2022. He was placed into full removal proceedings under 8 U.S.C. § 1229a (INA § 240) on or about March 21, 2022, and released on recognizance on March 22, 2022. His removal proceedings remain pending, since the decision from the immigration judge adjudicating his case is on appeal and pending with the Board of Immigration Appeals (BIA).

83. Petitioner has no criminal convictions, no record of violence, and no pending criminal charges, and has never exhibited conduct suggesting danger to the community or risk of flight. Petitioner has been continuously detained in civil immigration custody since August 2026, when he was taken into ICE custody, and he remains confined at the El Paso Processing Center in El Paso, Texas.

84. Immigration detention implicates a fundamental liberty interest. Moreover, when this interest was granted by the released-on recognizance and allowed the Petitioner to lived freely. Congress may authorize civil detention in the immigration context, such detention must remain reasonably related to its non-punitive purposes—ensuring appearance at proceedings and protecting public safety—and must comport with basic procedural due process. *Zadvydas*, 533 U.S. at 690; *Demore v. Kim*, 538 U.S. 510, 527–28 (2003).

85. Even accepting the Fifth Circuit's statutory interpretation in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026), which forecloses a purely statutory entitlement to a bond hearing under 8 U.S.C. § 1226(a), that decision does not authorize prolonged or potentially indefinite civil detention without any individualized custody hearing and does not resolve the constitutional question presented here.

86. The Supreme Court has made clear that the absence of a statutory right to a bond hearing does not foreclose as-applied constitutional challenges to immigration detention. In

Jennings v. Rodriguez, 583 U.S. 281 (2018), the Court rejected a statutory bond-hearing requirement but expressly remanded for consideration of constitutional due process claims. *Id.* at 302–03.

87. Detention is likely to continue for many additional months or years. Absent any mechanism for individualized review, Petitioner faces a substantial risk of prolonged or indefinite detention under penal-like conditions without any finding that his confinement is necessary to serve the government's legitimate interests.

88. The constitutional infirmity here is not merely the length of detention but the complete absence of any meaningful custody process. Petitioner is detained pursuant to a regime in which:

A. No immigration judge may conduct a bond hearing;

B. DHS is not required to justify continued detention with evidence; and

C. No neutral decisionmaker is empowered to order release, regardless of the Petitioner's lack of danger or flight risk.

89. This categorical denial of any individualized custody determination violates procedural due process. Fundamental fairness requires, at a minimum, a meaningful opportunity to be heard before a neutral adjudicator when the government restrains physical liberty for a prolonged period. *Zadvydas,* 533 U.S. at 690; *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

90. The government's detention of Petitioner without any individualized assessment also violates substantive due process. Detaining a noncitizen with a viable claim for immigration relief, with no criminal history, no dangerousness, and no flight risk—without requiring the government to justify detention or consider less restrictive alternatives—renders the

confinement excessive and punitive in effect.

91. Because the EOIR has disclaimed jurisdiction and DHS has provided no alternative constitutionally adequate custody process, habeas corpus is the only effective mechanism by which Petitioner may test the legality of his confinement. Continued detention under these circumstances offends the core protections of the Due Process Clause.

92. Accordingly, Petitioner's continued detention without an individualized custody determination violates the Fifth Amendment as applied to him. *Habeas* relief is warranted. Petitioner respectfully requests that this Court order his immediate release from ICE custody; or in the alternative, order Respondents to provide a prompt, constitutionally adequate individualized custody hearing before a neutral decisionmaker with authority to grant release, at which the government bears the burden of justifying continued detention.

COUNT III: VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT – ARBITRARY AND CAPRICIOUS AGENCY ACTION

93. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

94. The Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2), requires courts to "hold unlawful and set aside" agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. An agency acts arbitrarily and capriciously when it fails to examine relevant factors, ignores important aspects of the problem, departs from settled practice without reasoned explanation, or treats discretion as categorically unavailable where Congress has not so provided. *Judulang v. Holder*, 565 U.S. 42, 53–55 (2011).

95. Petitioner does not challenge the Fifth Circuit's statutory holding in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026), regarding

immigration-judge bond jurisdiction. Rather, Petitioner challenges DHS's independent-agency action in implementing and applying a blanket detention policy that treats *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), as eliminating all meaningful individualized custody discretion and review.

96. The Department of Homeland Security has acted arbitrarily and capriciously by continuing to detain Petitioner without any individualized custody assessment or reasoned explanation. Petitioner has no criminal convictions, has no pending criminal charges, has not engaged in violence or dangerous behavior, and has consistently cooperated with immigration authorities since his transfer into ICE custody.

97. Despite these facts, DHS is willing to maintain Petitioner's detention for an extended and potentially indefinite period without providing any reasoned explanation or evidence that continued confinement serves a legitimate statutory purpose. DHS has failed to articulate why release under supervision, bond, or other alternatives would be insufficient.

98. DHS's reliance on *Matter of Yajure Hurtado* to justify continued detention is arbitrary and contrary to law. *Yajure Hurtado* addresses the jurisdiction of Immigration Judges to conduct bond hearings. It does not compel DHS to detain noncitizens indefinitely, nor does it eliminate DHS's longstanding discretionary authority to release noncitizens on parole, recognizance, supervision, or bond.

99. By treating *Yajure Hurtado* as an absolute bar to any form of individualized custody consideration, DHS has unlawfully transformed a discretionary detention framework into a blanket detention rule, substituting categorical inaction for the case-by-case decision-making required by the INA and the APA.

100. DHS has failed to consider relevant factors in Petitioner's case, including but not

limited to:

a) Petitioner's lack of criminal history and non-dangerousness;

b) His demonstrated compliance with immigration authorities;

c) His available claims for relief from removal in his immigration proceedings;

d) The absence of any individualized flight-risk finding; and

e) The availability of less restrictive alternatives to detention.

101. DHS has also failed to provide a reasoned explanation for its abrupt departure from decades of settled administrative practice (1997–2025), during which noncitizens in Petitioner's posture routinely received individualized custody determinations and were considered for release under supervision or bond. Such an unexplained reversal of course is arbitrary and capricious under the APA. *Judulang*, 565 U.S. at 55.

102. Civil immigration detention is statutorily limited to non-punitive purposes—ensuring appearance at proceedings and protecting public safety. DHS's continued detention of Petitioner, without individualized justification and without consideration of alternatives, does not advance either purpose and therefore exceeds lawful agency discretion.

103. DHS's actions are arbitrary, capricious, an abuse of discretion, and not in accordance with law within the meaning of 5 U.S.C. § 706(2)(A). The agency has effectively nullified its own discretionary authority through categorical non-exercise, which the APA prohibits.

104. Habeas relief is warranted to remedy this unlawful agency conduct. Petitioner respectfully requests that this Court order his immediate release or, in the alternative, direct DHS to conduct a prompt, individualized, and reasoned custody determination consistent with the Administrative Procedure Act, the Immigration and Nationality Act, and governing

constitutional principles.

COUNT IV: VIOLATION OF THE EQUAL PROTECTION GUARANTEE OF THE FIFTH AMENDMENT

105. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

106. The Due Process Clause of the Fifth Amendment contains an implicit guarantee of equal protection that prohibits the federal government from treating similarly situated individuals differently without a rational and legitimate governmental purpose. *Reno v. Flores*, 507 U.S. 292, 302 (1993); *Plyler v. Doe*, 457 U.S. 202, 210 (1982); *Bolling v. Sharpe,* 347 U.S. 497, 499 (1954).

107. Petitioner is in removal proceedings under 8 U.S.C. § 1229a (§ 240 of the Immigration and Nationality Act)—the same adjudicatory framework that governs millions of noncitizens nationwide, whose cases proceed before immigration judges and whose liberty interests are assessed through individualized custody determinations.

108. Petitioner is similarly situated, for custody purposes, to other noncitizens in § 1992a (§ 240) proceedings who have no criminal convictions and no record of violence or dangerous behavior. He has cooperated fully with immigration authorities since entering ICE custody. Yet Petitioner alone is categorically denied access to any individualized custody review.

109. Petitioner's disparate treatment rests solely on DHS's *post-hoc* classification of him as an "applicant for admission" under INA § 235(b), based on disputed and unreviewed allegations regarding the manner and timing of his entry—facts never adjudicated in a custody hearing and never tested before a neutral decisionmaker.

110. Equal protection requires that detention classifications bear a rational relationship to a

legitimate governmental purpose. *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000). Civil immigration detention is permissible only insofar as it serves the non-punitive purposes of ensuring appearance at proceedings or protecting public safety. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

111. DHS's classification scheme fails rational-basis review as applied to Petitioner. The government has never alleged—let alone established—that Petitioner poses a danger or flight risk, nor has it explained how denying him any custody review advances detention's legitimate purposes.

112. Instead, DHS relies on a categorical rule that treats similarly situated individuals differently based solely on entry-related labels that bear no rational relationship to present-day custody concerns. Such arbitrary line-drawing is constitutionally impermissible even under deferential review. *See Zadvydas*, 533 U.S. at 690; *Plyler*, 457 U.S. at 216.

113. Moreover, federal courts have recognized that immigration detention classifications must comport with fundamental fairness and may not be applied arbitrarily or discriminatorily. *See*, e.g., *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011) (government must justify detention with individualized evidence); *Rodriguez v. Robbins*, 804 F.3d 1060, 1074–76 (9th Cir. 2015) (due process prohibits prolonged detention without meaningful review).

114. The irrationality of this classification is heightened by the government's own prior practice. For nearly three decades, DHS and EOIR treated noncitizens in Petitioner's posture as eligible for individualized custody determinations. DHS's abrupt departure from that settled practice—without individualized justification—underscores the arbitrariness of the disparate treatment imposed here.

115. By denying Petitioner any opportunity to obtain an individualized custody determination while granting such a process to similarly situated noncitizens, DHS has violated the equal protection component of the Fifth Amendment.

116. *Habeas* relief is therefore warranted to remedy this unconstitutional disparate treatment. Petitioner respectfully requests that this Court order his immediate release or, in the alternative, direct Respondents to provide him with a prompt and meaningful individualized custody determination under constitutionally adequate standards.

COUNT V: VIOLATION OF THE SUSPENSION CLAUSE OF THE UNITED STATES CONSTITUTION

117. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

118. The Suspension Clause of the United States Constitution provides that "[t]he Privilege of the *Writ of Habeas Corpus* shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. art. I, § 9, cl. 2. The Clause guarantees the availability of judicial review to challenge the lawfulness of executive detention. *Boumediene v. Bush*, 553 U.S. 723, 745–46 (2008); *INS v. St. Cyr*, 533 U.S. 289, 300–05 (2001).

119. *Habeas corpus* remains available to all persons in the United States who are detained by executive authority, including noncitizens in civil immigration custody. The Supreme Court has repeatedly held that Congress—and a fortiori the Executive—may not eliminate all avenues of meaningful judicial review of the legality of detention. *St. Cyr*, 533 U.S. at 305–06; *Boumediene*, 553 U.S. at 779.

120. Petitioner is detained solely under civil immigration authority and is currently confined at the El Paso Processing Center in El Paso, Texas. He has no criminal convictions, no

pending criminal charges, no history of violence, and his removal proceedings remain pending before the Board of Immigration Appeals.

121. The Immigration Judges in the Fifth Circuit are categorically denying jurisdiction to consider bond or conduct any individualized custody determination, relying exclusively on *Buenrostro-Mendez v. Bondi*. This classification—based on disputed and unreviewed allegations regarding the manner and timing of Petitioner's entry—foreclosed access to the custody redetermination process available to other § 1229a (§ 240) respondents.

122. Because the Immigration Judges are concluding that the Court lacks jurisdiction, Petitioner has no administrative pathway to challenge the legality, duration, or necessity of his detention. The Board of Immigration Appeals likewise lacks jurisdiction to review custody determinations in which no bond hearing can be held. ICE has also declined to provide any individualized parole or custody assessment.

123. As a result, no adequate or effective substitute for habeas corpus exists through which Petitioner may obtain judicial review of the legality of his confinement. Neither the Immigration Courts nor the Board of Immigration Appeals possesses jurisdiction to review custody challenges arising from DHS's classification decisions.

124. The Suspension Clause forbids the government from implementing a detention scheme that eliminates all meaningful opportunities for detainees to test the legality of their confinement. *Boumediene*, 553 U.S. at 779 ("The writ must be effective."). When no adequate and effective substitute exists, *habeas* review is constitutionally required. *St. Cyr*, 533 U.S. at 305.

125. Petitioner's detention—prolonged, non-punitive in name but punitive in effect, and wholly insulated from individualized review—implicates the core protections of the Suspension Clause. Without *habeas corpus*, Petitioner has no judicial or administrative forum in which

to contest the legality of his ongoing confinement.

126. The government's application of *Buenrostro-Mendez* in the Fifth Circuit to categorically bar all custody review, combined with DHS's refusal to conduct any individualized discretionary assessment, results in a detention regime that violates the Suspension Clause by eliminating any effective means to challenge unlawful detention.

127. Accordingly, *habeas corpus* relief is constitutionally required. Petitioner respectfully requests that this Court grant the writ and order Petitioner's immediate release from ICE custody or, in the alternative, direct Respondents to provide a prompt, meaningful, and individualized custody determination before a neutral decisionmaker with authority to order release.

COUNT VI: VIOLATION OF THE *ACCARDI* DOCTRINE WITH RESPECT TO 8 C.F.R. § 287.8(C)(2)(I) AND (II)

128. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

129. Under the *Accardi* doctrine, federal agencies are required to follow their own binding regulations, and failure to do so renders resulting agency action unlawful. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267–68 (1954); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974). This principle applies with full force in immigration proceedings and is enforceable through habeas corpus where regulatory violations result in unlawful detention.

130. The United States has also failed to follow immigration-specific arrest and processing regulations. Regulations governing immigration enforcement require that warrantless arrests comply with the standards set forth in 8 C.F.R. § 287.8(c). Specifically, for any arrest, immigration officers must have reason to believe that an individual committed an offense against the United States or was present in the United States illegally. 8 C.F.R. §

287.8(c)(2)(i). And, for a warrantless arrest, officers must also have reason to believe that an individual is "likely to escape before a warrant can be obtained." 8 C.F.R. § 287.8(c)(2)(ii).

131. These regulatory requirements are mandatory, not discretionary. They impose substantive limitations on ICE's authority to conduct warrantless arrests in the interior of the United States and are designed to protect against arbitrary deprivations of liberty.

132. At the time he was taken into ICE custody on or about August 6, 2022, and at all times thereafter, Petitioner has complied with all immigration requirements, he has pending relief claims of his removal proceedings, which remain ongoing. On August 6, 2022, Petitioner was detained and taken into ICE custody after appearing at his regular check-in with ICE Enforcement and Removal Operations in El Paso, Texas. Mr. Parra-Angulo was then transferred to the El Paso Processing Center.

133. Petitioner was not evading law enforcement, posed no danger to any person or to the community, and presented no risk of flight. There was no factual basis to conclude that Petitioner was "likely to escape before a warrant could be obtained," as required by 8 C.F.R. § 287.8(c)(2)(ii).

134. ICE officers, therefore, failed to comply with a mandatory regulatory prerequisite to a lawful warrantless arrest. This violation of DHS's own binding regulations renders Petitioner's arrest unlawful under the *Accardi* doctrine.

135. The consequences of this regulatory violation are not limited to the moment of arrest. Petitioner's ongoing detention flows directly from—and is predicated upon—the unlawful warrantless arrest conducted in violation of 8 C.F.R. § 287.8(c). Continued detention based on an arrest that contravenes binding regulations is itself unlawful.

136. Federal courts have repeatedly recognized that habeas corpus is an appropriate

vehicle to remedy detention that results from an agency's failure to follow its own regulations, particularly where those regulations are designed to protect individual liberty. *See Accardi*, 347 U.S. at 267–68; *St. Cyr*, 533 U.S. at 301–05.

137. By arresting Petitioner without a warrant and without satisfying the regulatory requirements governing such arrests, DHS violated the *Accardi* doctrine and deprived Petitioner of liberty in a manner not authorized by law.

138. *Habeas* relief is therefore warranted. Petitioner respectfully requests that this Court grant the writ and order his immediate release from ICE custody or, in the alternative, provide appropriate relief to remedy the unlawful detention resulting from DHS's regulatory violations.

VIII. PRAYER FOR RELIEF

139. For the above and foregoing reasons, Petitioner respectfully requests that this Court take the following actions:

a. Grant the writ of habeas corpus and order Petitioner's immediate release from ICE custody; OR in the alternative, order Respondents to provide Petitioner with a prompt, constitutionally adequate, and individualized custody determination before a neutral decisionmaker with actual authority to order release, at which the government bears the burden of proving—by clear and convincing evidence—that continued detention is necessary to serve a legitimate governmental purpose and that no less restrictive conditions of supervision would suffice;

b. Enjoin the Respondents from removing the Petitioner from the United States or transferring Petitioner from the current detention center where he is being held in custody or outside the jurisdiction of this Court;

c. Declare that Petitioner's continued detention violates the Constitution and laws of the United States, including but not limited to the Due Process Clause of the Fifth Amendment; the equal protection component of the Fifth Amendment; the Suspension Clause of Article I, Section 9 of the United States Constitution; the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and the Accardi doctrine, based on Respondents' failure to comply with binding immigration arrest regulations;

d. Order Respondents to return any of Petitioner's identity documents confiscated upon detention including Petitioner's passport, government issued-identification, driver's license, and immigration case documentation;

e. Grant permanent injunctive relief as appropriate;

f. Award Plaintiff reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 552(a)(4)(E), and any other applicable provision of law; and

g. Grant such other relief as this Court deems just and proper.

DATE: August 26, 2026

Respectfully submitted,

RIVERA HERNANDEZ CAMPOS, PLLC
5835 Callaghan Rd., Suite 503
San Antonio, TX 78228
Tel: (210) 922-8541
Fax: (210) 922-8547
Email: rcampos@rhc.law

By: */s/ Roberto A. Campos Garduno*
Roberto A. Campos Garduno
Texas Bar No. 24116159
ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I, Roberto A. Campos Garduno, hereby certify that on August 26, 2026, a true copy of the above document was filed via the Court's CM/ECF and that a copy will be sent automatically to all counsel of record.

Date: August 26, 2026

/s/Roberto A. Campos Garduno
Roberto A. Campos Garduno
Attorney
Texas Bar No. 24116159
5835 Callaghan Rd, Suite 503
San Antonio, TX 78228
Tel. (210) 922-8541
Fax. (210) 922-8547
Email: rcampos@rhc.law