UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA DIVISION

CARMELO ARCOS-ALONSO, Petitioner, v. SCOTT LADWIG, *ICE Field Office Director of the New Orleans Field Office;* DAVID VENTURELLA, *Acting Director of Immigration and Customs Enforcement;* MARKWAYNE MULLIN, *Secretary of Homeland Security;* and TODD BLANCHE, *Acting U.S. Attorney General,* Respondents.	)	CASE NO.: 1:26-cv-293

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. This Petition challenges the unlawful detention of Petitioner, CARMELO ARCOS ALONSO ("Petitioner"), A# [redacted], by U.S. Immigration and Customs Enforcement (ICE). On or about October 13, 2026, at approximately 9:00 a.m., ICE officers apprehended Petitioner—without a warrant—while he was riding as a passenger in a vehicle driven by his employer on his way to work, in the interior of the United States. Petitioner, a 43-year-old national of Mexico, entered the United States in 2000 and has resided here continuously for roughly twenty-five years.

2. As of filing, counsel has had only limited communication regarding Petitioner because the arrest occurred on the morning of October 13, 2026. The ICE Online Detainee Locator System lists Petitioner in ICE custody in ICE's Chattanooga, Tennessee sub-office. A copy of the search result is attached as Exhibit 1 (ICE locator). Upon information and belief, Respondents intend to transfer him to the Etowah County Jail in Gadsden, Alabama, and from there to Louisiana or Mississippi.

3. Petitioner was apprehended in the interior of the United States in a warrantless ICE enforcement action, roughly twenty-five years after his entry, and DHS is treating him as subject to mandatory detention without bond under 8 U.S.C. § 1225(b)(2)(A).

4. Petitioner independently challenges the circumstances of his warrantless arrest as a violation of 8 U.S.C. § 1357(a)(2) and the Fourth Amendment. As set forth in Section VI.B below, ICE seized Petitioner—a cooperative passenger traveling to work—without a warrant and without any individualized basis to believe he was likely to escape before a warrant could be obtained. Petitioner reserves the right to seek leave to amend or supplement these allegations after receiving the Form I-200, Form I-213, Form I-286, Notice to Appear, and related records.

5. Binding Sixth Circuit precedent forecloses Respondents' detention theory. In *Lopez-Campos v. Raycraft*, 175 F.4th 713 (6th Cir. 2026), the Sixth Circuit affirmed habeas relief for noncitizens detained under 8 U.S.C. §

1225(b)(2)(A), holding that § 1225(b)(2)(A) does not apply to interior noncitizens like petitioners who had resided in the United States for years and were not actively seeking lawful entry when arrested.

6. The Sixth Circuit held that, although such noncitizens may be "applicants for admission," they are not necessarily "seeking admission" within the meaning of § 1225(b)(2)(A).

7. The Sixth Circuit explained that "seeking admission" requires present action directed toward lawful entry into the United States through inspection and authorization by an immigration officer.

8. The Sixth Circuit further held that § 1226, not § 1225(b)(2)(A), governs detention of noncitizens already present in the United States pending removal proceedings unless a specific mandatory-detention provision applies.

9. Petitioner is materially situated like the petitioners in *Lopez-Campos*: he entered without inspection years ago, has lived in the United States for decades, was encountered in the interior, and was not seeking lawful entry at a border, port of entry, or inspection point when ICE assumed custody.

10. Respondents therefore may not classify Petitioner as categorically ineligible for bond under § 1225(b)(2)(A). Under binding Sixth Circuit law, Petitioner's custody must proceed, if at all, under § 1226 unless DHS proves that a specific mandatory-detention provision applies.

11. Upon information and belief, Respondents intend to transfer Petitioner out

of this District to the Etowah County Jail in Gadsden, Alabama. That transfer threatens to defeat this Court's habeas jurisdiction, to sever Petitioner's access to his counsel and his family in Tennessee, and to impair his ability to present live testimony and evidence regarding Respondents' unlawful conduct. Petitioner asks this Court to preserve the status quo and to ensure that the binding Sixth Circuit custody framework announced in *Lopez-Campos* governs his custody while this Petition is pending, regardless of any physical transfer.

12. Only the Fifth Circuit, in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026), and the Eighth Circuit, in *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026), have construed § 1225(b)(2)(A) to reach interior arrestees deemed applicants for admission; every other Circuit to address the question has interpreted the statutory provisions in agreement with the holding in *Lopez-Campos*. See *Barbosa da Cunha v. Freden*, 175 F.4th 61 (2d Cir. 2026); *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, 175 F.4th 1258 (11th Cir. 2026), *Santillan Quiroz*, 180 F.4th 1226 (10th Cir. 2026); *Cirrus Rojas v. Olson*, 183 F.4th 909 (7th Cir. 2026); *Rodriguez Vazquez v. Bostock*, 183 F.4th 1160 (9th Cir. 2026); *Guerrero Orellana v. Moniz*, 188 F.4th 1 (1st Cir. 2026); *Buele Morocho v. Warden*, --- F.4th ---, 2026 WL 2546223 (3d Cir. 2026). . The Supreme Court will decide the circuit split on this issue likely during its next term as the government sought certiorari in *Lopez-Campos*.

13. Independently, Petitioner challenges ICE's warrantless seizure. Section

1226(a) authorizes arrest and detention "[o]n a warrant issued by the Attorney General," and permits release on bond or conditional parole unless § 1226(c) applies.

14. The Seventh Circuit's decision in *Castañon-Nava v. U.S. Department of Homeland Security*, 175 F.4th 828, 2026 WL 1223250 (7th Cir. 2026), provides persuasive support for the same reading of the INA. In *Castañon-Nava*, the Seventh Circuit concluded that § 1225(b)(2)(A) applies to applicants for admission seeking lawful entry at the border or ports of entry, not to noncitizens living in the interior.

15. **Petitioner requests immediate release if Respondents cannot establish lawful authority for his *present* custody. Alternatively, if he is detainable under § 1226(a), he seeks a prompt individualized bond hearing and, as an as-applied due-process remedy, an order requiring the Government to prove danger or flight risk by clear and convincing evidence.** The Eastern District of Tennessee ordered that alternative in *Flores v. Cooper*, No. 3:26-CV-233, 2026 WL 1477831 (E.D. Tenn. May 27, 2026), while declining release on the record before it. A detailed statement of facts and procedural history follows, supporting Petitioner's claims for relief.

II. JURISDICTION

A. This Court Has Jurisdiction Under 28 U.S.C. § 2241 and § 1331

16. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody and challenges the legal authority for his civil immigration detention.

17. This Court also has federal question jurisdiction under 28 U.S.C. § 1331 because Petitioner raises claims arising under the Constitution and laws of the United States.

18. In *Lopez-Campos v. Raycraft*, the Sixth Circuit reviewed § 2241 habeas petitions challenging detention under § 1225(b)(2)(A) and affirmed habeas relief where the district courts concluded that § 1226(a), not § 1225(b)(2)(A), governed the petitioners' detention.

19. Petitioner challenges only the legal basis and procedures for his detention; he does not ask this Court to decide removability, terminate removal proceedings, or review any final order of removal.

20. Section 1226(e) does not bar this Court from reviewing Petitioner's legal and constitutional challenges to the statutory basis and procedures of detention, as *Lopez-Campos* reached the merits of the petitioners' statutory and due-process challenges to detention under § 1225(b)(2)(A).

21. To preserve this Court's habeas jurisdiction, Petitioner requests an order prohibiting Respondents from transferring him outside the Eastern District of Tennessee or changing his immediate custodian while this case is

pending.

B. This Court Has Jurisdiction Notwithstanding ICE's Failure to Disclose Petitioner's Place of Confinement and Immediate Custodian

22. The ordinary rule that a core habeas petition challenging present physical confinement must be filed in the district of confinement and name the petitioner's immediate, day-to-day custodian does not defeat jurisdiction here. See *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004).

23. At the time this Petition was filed, ICE's Online Detainee Locator System returned no matching record for Petitioner, and counsel had not been able to communicate with Petitioner. Respondents alone controlled the information identifying Petitioner's place of confinement and the official exercising immediate, day-to-day custody over him, and that information was not reasonably ascertainable to counsel through diligent inquiry before filing.

24. The Supreme Court has recognized that the immediate-custodian and district-of-confinement rules cannot be applied "when . . . a prisoner is held in an undisclosed location by an unknown custodian." *Padilla*, 542 U.S. at 450 n.17. Courts have accordingly exercised jurisdiction where, as here, the Government failed to disclose the detainee's location at the time of filing. See *Suri v. Trump*, 184 F.4th 260, 277 (4th Cir. 2026); *Ozturk v. Hyde*, 136 F.4th 382 (2d Cir. 2025) (applying 28 U.S.C. § 2242's direction to identify the custodian only "if known" where counsel could not determine the

detainee's location or immediate custodian when filing).

25. The Sixth Circuit has likewise recognized that "very limited and special circumstances" may justify treating a remote official as custodian when necessary to preserve meaningful access to habeas review. *Roman v. Ashcroft*, 340 F.3d 314 (6th Cir. 2003). Those circumstances exist here, where ICE's own locator disclosed no record of Petitioner's detention.

26. Courts in this Circuit have exercised jurisdiction over materially identical petitions arising from the same ICE enforcement operation, applying the undisclosed-location exception where ICE's locator returned no results when the petition was filed. See *Mukeshbhai Patel v. Bullock*, No. 3:26-cv-01223, 2026 WL 2658597 (M.D. Tenn. Sept. 10, 2026); *Jigarkumar Patel v. Bullock*, No. 3:26-cv-01226, 2026 WL 2667367 (M.D. Tenn. Sept. 10, 2026); *Sejal Patel v. Bullock*, No. 3:26-cv-01225, 2026 WL 2667370 (M.D. Tenn. Sept. 10, 2026); *Heni Patel v. Bullock*, No. 3:26-cv-01224, 2026 WL 2676708 (M.D. Tenn. Sept. 11, 2026); *R.P. v. Bullock*, No. 3:26-cv-01227, 2026 WL 2676711 (M.D. Tenn. Sept. 11, 2026); *K.G.P. v. Bullock*, No. 3:26-cv-01228, 2026 WL 2676792 (M.D. Tenn. Sept. 11, 2026).

27. Because jurisdiction attached when the Petition was filed, any subsequent transfer of Petitioner to another district does not defeat it. See *Anariba v. Director, Hudson County Correctional Center*, 17 F.4th 434 (3d Cir. 2021); *Mahmoud Khalil v. President of the United States*, 164 F.4th 259 (3d Cir. 2026).

28. If the Court concludes that the filing-time custodian must be named with

greater specificity, Petitioner requests leave under Federal Rules of Civil Procedure 15(a) and 21 to amend the Petition to name, or to substitute, the official who exercised immediate custody over Petitioner once Respondents identify that official, with any amendment relating back under Rule 15(c). Misjoinder of a party is not a ground for dismissal. Fed. R. Civ. P. 21.

29. In the alternative, if the Court finds that it lacks jurisdiction, it should transfer this action to the district of confinement under 28 U.S.C. § 1631—or, if venue is improper, under 28 U.S.C. § 1406(a)—rather than dismiss it, so as to preserve the original filing date and avoid needless refiling, service, expense, and delay. See *Roman*, 340 F.3d 314 (directing transfer of an immigration habeas petition under § 1631, or alternatively § 1406(a), rather than dismissal).

III. VENUE

30. Venue is proper in the United States District Court for the Eastern District of Tennessee because Petitioner was apprehended on October 13, 2026 and taken to the ICE office in Chattanooga, Tennessee, which lies within this District and Division, and was in the custody of Respondents within this District at the time this Petition was filed. Respondent Bullock, as the ICE Field Office Director whose office exercises authority over Petitioner's custody, operates within the jurisdiction of this Court. Habeas petitions are generally filed in the district court with jurisdiction over the petitioner's

place of custody, pursuant to 28 U.S.C. § 2241. This Court retains jurisdiction notwithstanding any subsequent transfer, because jurisdiction is fixed by the petitioner's place of confinement at the time of filing. *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35, 440–41 (2004); *Roman v. Ashcroft*, 340 F.3d 314, 322, 326 (6th Cir. 2003).

31. With respect to Petitioner's non-habeas claims seeking prospective declaratory and injunctive relief against federal officials sued in their official capacities, venue is also proper under 28 U.S.C. § 1391(e)(1)(B) because the Respondents are officers of United States agencies and Petitioner is detained within this District.

IV. PARTIES

32. Petitioner, CARMELO ARCOS ALONSO, is a 43-year-old national of Mexico who entered the United States in 2000 and has resided in Cleveland, Tennessee. Petitioner is currently detained in ICE custody following his warrantless arrest on or about October 13, 2026, while he was riding as a passenger in a vehicle driven by his employer on his way to work.

33. Respondent Scott Ladwig is the Field Office Director (FOD) of the ICE New Orleans Field Office, which exercises jurisdiction over immigration enforcement operations in Tennessee, including Chattanooga. Respondent Ladwig is the immediate legal and physical custodian of Petitioner and is sued in his official capacity.

34. Respondent David Venturella is the Acting Director of Immigration and Customs Enforcement (ICE). As such, Respondent Venturella is responsible for the oversight of ICE operations and is the head of the federal agency responsible for immigration enforcement in the United States. Respondent Venturella is being sued in his official capacity.

35. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Mullin is the cabinet-level official responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official capacity.

36. Respondent Todd Blanche is the Acting Attorney General of the United States and is sued in his official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal cases and applications for bond and relief from removal do so as his designees at the Executive Office for Immigration Review (EOIR).

37. Petitioner names the federal agency officials in their official capacities solely to preserve individualized, non-habeas avenues for prospective declaratory and injunctive relief under 28 U.S.C. § 1331, 5 U.S.C. § 702, the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and the All Writs Act, 28 U.S.C. § 1651. Such relief is necessary to prevent transfer, preserve jurisdiction, ensure compliance with custody regulations, and effectuate any release or custody-hearing order issued by this Court.

38. Petitioner acknowledges, consistent with *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that the proper respondent to the habeas claim is the immediate custodian, and does not rely on the federal officials as "habeas respondents." Rather, Petitioner names these federal officials in their official capacities solely to ensure that the Court can issue effective relief on non-habeas claims, such as declaratory and injunctive relief, and to direct agency action to those with actual authority to implement it. Should the Court find these officials improper as respondents to the habeas count, Petitioner respectfully requests that any dismissal be limited to that claim and without prejudice to their continued status as respondents for the non-habeas claims. Maintaining these officials as parties is necessary only to ensure effective individualized prospective relief, including implementation of any release, transfer, or custody-hearing order. This approach is consistent with *Padilla* and ensures that the Court's orders are both effective and enforceable.

V. STATEMENT OF FACTS AND PROCEDURAL HISTORY

39. Petitioner, CARMELO ARCOS ALONSO, is a 43-year-old national of Mexico, born on [redacted], 1983. He entered the United States in 2000 without inspection and was not encountered or stopped by immigration authorities at the time of entry. He has resided continuously in the United States for roughly twenty-five years, most recently in Cleveland, Tennessee.

40. Petitioner is the head of his household and the primary breadwinner for his family. He has two minor biological children, ages 11 and 5; the younger child has kidney issues. Petitioner has also raised his partner's three—now ages 25, 24, and 18, all born and raised in the United States—for the past 13 years approximately.

41. Petitioner works in construction. He previously broke both feet in a fall at a construction site and underwent surgery on one foot; he continues to experience pain when walking for extended periods and had only recently returned to work after his surgery when he was arrested.

42. Petitioner has no significant criminal history. His only reported contact with the criminal justice system is a single citation for driving without a license approximately eight years ago. He has never been placed in removal proceedings, has no prior immigration applications or orders.

43. On or about October 13, 2026, at approximately 9:00 a.m., ICE officers seized Petitioner in the interior of the United States while he was riding as a passenger in a vehicle driven by his employer on the way to work. Upon information and belief, ICE officers did not present or serve a validly issued warrant of arrest before taking Petitioner into custody, and did not identify any individualized basis to believe that Petitioner was likely to escape before a warrant could be obtained. He was given no opportunity to respond or to be heard before a neutral decisionmaker prior to his detention. Petitioner was held at the ICE office in Chattanooga, Tennessee,

and Respondents have indicated that he will be transferred to the Etowah County Jail in Gadsden, Alabama. *See* Exhibit 1 (ICE Locator).

44. Undersigned counsel has not yet been able to communicate directly with Petitioner since his arrest on October 13, 2026. Accordingly, certain facts regarding the circumstances of his apprehension and current custody are alleged upon information and belief, based on counsel's communications with Petitioner's family, and Petitioner reserves the right to supplement these allegations once direct contact is established.

45. The governing regulations contemplate that, following a warrantless immigration arrest, immigration authorities will examine the detained person and ordinarily make a custody determination within 48 hours, including whether to issue a Notice to Appear and a warrant of arrest. 8 C.F.R. § 287.3.

46. A Form I-200 may be issued when a Notice to Appear is issued or afterward while removal proceedings remain pending. 8 C.F.R. § 1236.1.

47. DHS is detaining Petitioner as if he were an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), even though he was not apprehended while seeking entry at the border or port of entry.

48. Petitioner was encountered in the interior of the United States years after entry, and not at or near any border, port of entry, or inspection point.

49. Petitioner is not an arriving alien seeking lawful entry into the United States, and he was not taking any cognizable step to obtain admission when

he was seized.

50. Upon information and belief, Petitioner was not yet placed in removal proceedings.

51. Under *Lopez-Campos*, that factual posture places Petitioner outside § 1225(b)(2)(A)'s no-bond detention regime.

52. Under *Lopez-Campos*, Petitioner's detention is governed by § 1226 unless another specific mandatory detention provision applies.

53. Upon information and belief, Petitioner is not subject to mandatory detention under § 1226(c), and DHS has not identified any criminal conviction, terrorism-related ground, or other statutory basis requiring mandatory detention.

VI. EXHAUSTION OF REMEDIES

54. **No statutory exhaustion requirement applies to habeas cases.** Exhaustion is not required, or should be excused, because Petitioner presents a pure legal question controlled by binding Sixth Circuit precedent: whether § 1225(b)(2)(A) authorizes his no-bond detention. In *Lopez-Campos*, the Sixth Circuit resolved that issue on habeas review and affirmed relief for interior EWI petitioners detained under DHS's § 1225(b)(2)(A) theory. Any administrative bond request would be inadequate if DHS or EOIR treats Petitioner as categorically ineligible for bond under § 1225(b)(2)(A). To the extent Petitioner seeks procedural protections at any court-ordered §

1226(a) bond hearing, exhaustion should also be excused because that issue presents a constitutional due process question not within the BIA's authority to finally resolve.

55. Petitioner has exhausted administrative remedies to the extent required by law, and no adequate administrative remedy exists for the constitutional and statutory violations alleged here.

56. In *Lopez-Campos v. Raycraft*, the Sixth Circuit rejected DHS's interpretation that § 1225(b)(2)(A) mandates detention without bond for interior noncitizens who previously entered without inspection but were not actively seeking lawful entry when arrested.

57. The Sixth Circuit held that § 1225(b)(2)(A)'s phrase "seeking admission" has independent meaning and does not automatically include every "applicant for admission."

58. The Sixth Circuit concluded that "seeking admission" requires active pursuit of lawful entry into the United States through inspection and authorization by an immigration officer.

59. The Sixth Circuit held that noncitizens who had resided in the United States for years and were not seeking lawful entry when apprehended were not subject to § 1225(b)(2)(A)'s mandatory-detention scheme.

60. Petitioner falls within *Lopez-Campos* because he was encountered in the interior years after entry and was not seeking lawful entry into the United States when seized.

61. Accordingly, DHS cannot lawfully deny Petitioner bond eligibility by classifying him as subject to mandatory detention under § 1225(b)(2)(A).

A. Section 1226 governs Petitioner's custody unless DHS proves a specific mandatory-detention provision applies

62. In *Lopez-Campos*, the Sixth Circuit relied on the statutory distinction between § 1225 detention for certain noncitizens seeking admission and § 1226 detention for noncitizens already present in the country pending removal proceedings.

63. Section 1226(a) authorizes detention pending a removal decision and permits release on bond of at least $1,500 or conditional parole unless § 1226(c) applies.

64. Section 1226(c) requires custody for specified categories, including certain criminal, terrorism-related, and Laken Riley Act categories.

65. Petitioner is not alleged to fall within § 1226(c), and DHS has not identified any statutory mandatory-detention category applicable to him.

66. Petitioner therefore must receive the custody process available under § 1226(a), including an individualized custody determination.

67. Even measured against § 1226(a), Respondents have not established lawful authority for Petitioner's custody. Section 1226(a) authorizes arrest and detention only "[o]n a warrant issued by the Attorney General." 8 U.S.C. § 1226(a). The governing regulation likewise provides that a noncitizen may be arrested and taken into custody under a Form I-200, Warrant of Arrest,

that must be issued and served by authorized immigration officers. 8 C.F.R. § 236.1(b)(1). Petitioner was apprehended in the interior, while riding as a passenger in a vehicle on his way to work, without any warrant presented or served. Absent proof that a valid warrant was issued and served, Respondents have not satisfied the statutory predicate for custody under § 1226(a).

68. A Notice to Appear cannot cure the absence of a valid warrant. The NTA is a charging document that commences removal proceedings upon filing with the immigration court, 8 C.F.R. § 1239.1(a); it is not the Form I-200 warrant that § 1226(a) requires for arrest and detention. The NTA therefore cannot substitute for the missing statutory predicate.

69. Respondents have also not exercised lawful discretionary custody authority under § 1226(a). ICE's own detention policy identifies factors relevant to custody determinations, including criminal history, history of failure to appear, community ties and equities, availability and likelihood of relief, and prior immigration violations, and recognizes that not every person taken into custody must be placed in traditional detention and that low-risk individuals may be released on alternatives to detention. Respondents have produced no individualized custody determination showing that DHS weighed those factors before detaining Petitioner. That omission matters because Respondents have instead treated Petitioner as subject to mandatory, no-bond detention under § 1225(b)(2)(A) rather than as a person

entitled to individualized custody consideration under § 1226(a). Petitioner has substantial equities supporting release, including roughly twenty-five years of continuous residence in the United States; deep family and community ties, including two minor children (one of whom has a monitored kidney condition) and three young adults he has raised since childhood; his role as the head of household and sole breadwinner; steady employment in construction; a serious medical history of bilateral foot fractures and surgery; and the absence of any significant criminal history or any history of failing to appear.

70. Petitioner is not subject to mandatory detention under § 1226(c). Section 1226(c) requires custody only for specified criminal, terrorism-related, and Laken Riley Act categories, and DHS has not identified any conviction, charge, or other ground placing Petitioner within any such category.

B. *ICE's warrantless interior arrest of Petitioner during a vehicle stop independently violated 8 U.S.C. § 1357(a)(2) and the Fourth Amendment.*

71. Independent of the statutory-classification question, ICE's warrantless seizure of Petitioner was itself unlawful. Section 1357(a)(2) authorizes a warrantless interior arrest only where the officer has reason to believe both that the noncitizen is unlawfully present **and** that he "is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2). The implementing regulation makes a warrant the default and the escape-risk exception narrow: "A warrant of arrest shall be obtained except when the

designated immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained." 8 C.F.R. § 287.8(c)(2)(ii). Mere removability does not satisfy the escape-risk requirement. *Arizona v. United States*, 567 U.S. 387, 407 (2012). Reported long residence, household ties, and travel to work are relevant to an individualized escape assessment, but do not prove what officers knew or negate a risk they may be able to document.

72. Respondents should produce any pre-arrest warrant and proof of issuance and service, or, if relying on the warrantless exception, contemporaneous facts meeting both § 1357(a)(2) conditions. They should identify when any subsequent warrant issued. A Notice to Appear is not itself proof that a pre-arrest warrant existed; nor does a defect in initial arrest necessarily defeat a later lawful custody basis.

73. Applying Sixth Circuit law, *United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863 (S.D. Ohio 2016), holds that even assuming probable cause of unlawful presence, ICE lacks authority for a warrantless arrest under § 1357(a)(2) where the Government "put forth no evidence" that the person posed a risk of escape, and that the flight-risk determination "is not mere verbiage." Because unlawful presence is only a civil infraction, suspicion of removability alone supplies neither criminal probable cause nor any basis to presume escape, so a warrantless civil arrest made without a flight-risk showing and without criminal probable cause violates the Fourth Amendment. Id.; see *United States v. Abdi*, 463 F.3d 547 (6th Cir. 2006)

(reserving that "the outcome would be different" where a warrantless arrest does not otherwise comply with the Fourth Amendment).

74. Petitioner's arrest fits that framework precisely. He was a cooperative, long-time resident of Tennessee with deep family and community ties, traveling to work as a passenger in a vehicle driven by his employer. He was taken not at a border or port of entry but in the interior, during an ordinary morning commute. On those facts, no reasonable officer could have believed Petitioner was "likely to escape before a warrant [could] be obtained." See *Alfaro v. Mullin*, 831 F. Supp. 3d 177 (E.D.N.Y. 2026) ("No twist of logic or sophistry" can transform a cooperative noncitizen with a documented history of lawful interaction with immigration officials into a "potential escapee"; warrantless arrest "plainly illegal" under § 1357 and 8 C.F.R. § 287.8(c)(2)(ii)); *Ger V. v. Mullin*, No. 26-CV-2543 (KMM/DTS), 2026 WL 1847044 (D. Minn. June 26, 2026) (warrantless arrest invalid where the record showed no reason to believe a supervision-compliant petitioner was likely to escape). This Court has recognized that the governing immigration-arrest regulations are "at least as stringent as" the Fourth Amendment and require reasonable suspicion based on specific, articulable facts, along with a warrant absent a genuine likelihood of escape. *Zelaya v. Hammer*, 516 F. Supp. 3d 778 (E.D. Tenn. 2021); see also *Aguilar Peralta v. U.S. Dep't of Homeland Sec.*, 2026 WL 2069917 (S.D. Ohio July 17, 2026) (warrantless ICE arrests unlawful absent an individualized likelihood-of-escape

determination).

75. Petitioner also challenges the seizure of the vehicle in which he was riding. Although he was a passenger, he was "seized" within the meaning of the Fourth Amendment from the moment ICE stopped the vehicle, and he has standing to challenge the lawfulness of that stop. *Brendlin v. California*, 551 U.S. 249 (2007); *United States v. Figueredo-Diaz*, 718 F.3d 568 (6th Cir. 2013); *United States v. Campbell*, 549 F.3d 364, 371 (6th Cir. 2008); *United States v. Torres-Ramos*, 536 F.3d 542, 549 (6th Cir. 2008).

76. A roving immigration stop of a vehicle requires "specific articulable facts, together with rational inferences from those facts, that reasonably warrant suspicion" that the vehicle contains noncitizens unlawfully present; apparent Mexican ancestry alone does not justify such a stop. *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975). Respondents must therefore identify the specific facts known to officers before they stopped the vehicle and seized Petitioner, the basis for any investigative lead predating the stop, and the grounds for Petitioner's subsequent warrantless arrest.

77. Accordingly, Petitioner requests that Respondents be ordered to produce and justify the legal basis for the vehicle stop, the arrest, and his continued custody, including any Form I-200 Warrant of Arrest, Form I-213, Form I-286 custody determination, notice of custody rights, detainer or hold documentation, and any document identifying the officer who authorized his arrest. Petitioner does not contend that any defect in the stop or arrest

automatically suppresses his identity or terminates removal proceedings. *INS v. Lopez-Mendoza*, 468 U.S. 1032 (1984). He asks only that Respondents be required to establish a lawful basis for his seizure and custody now.

78. That ICE conducted this warrantless enforcement action against a worker commuting to his job only compounds the violation. In *Castañon Nava v. Department of Homeland Security*, 806 F. Supp. 3d 823 (N.D. Ill. 2025), the court held that workers detained during a warrantless enforcement action were "seized" under the Fourth Amendment, that the arrest paperwork contained no facts showing the workers were likely to escape, and that mere removability—coupled with gainful employment and cooperation—did not establish flight risk, so the warrantless arrests violated § 1357(a)(2). Courts likewise recognize that egregious or widespread Fourth Amendment violations warrant suppression even in civil removal proceedings. See *Cotzojay v. Holder*, 725 F.3d 172 (2d Cir. 2013).

79. The post-arrest issuance of a Form I-200 warrant or a Notice to Appear does not cure the illegal arrest. *Alfaro*, 831 F. Supp. 3d 177. ICE may not manufacture authority for an unlawful warrantless arrest by generating the charging paperwork after the fact.

C. *Castañon-Nava* confirms the same statutory reading

80. In *Castañon-Nava v. U.S. Department of Homeland Security*, 175 F.4th 828 (7th Cir. 2026), the Seventh Circuit held that § 1225(b)(2)(A) applies to noncitizens seeking lawful entry at the border or ports of entry, not to

noncitizens living in the interior.

81. The Seventh Circuit found that the text, statutory context, legislative history, and longstanding Executive practice supported that conclusion.

82. The Seventh Circuit also explained that Congress's 2025 amendment to § 1226(c) would be redundant if all interior EWI noncitizens were already subject to mandatory detention under § 1225(b)(2)(A).

83. Although *Castañon-Nava* is persuasive rather than binding in this Court, its reasoning accords with the now-binding rule of *Lopez-Campos*.

D. Individualized process and the requested burden of proof

84. The regulations permit immigration-judge redetermination of eligible initial custody decisions; the bond matter is separate from the removal merits, and the court for an initial detained-person bond request is ordinarily the immigration court with jurisdiction over the place of detention. 8 C.F.R. § 1236.1; 8 C.F.R. § 1003.19. DHS should disclose its I-286 and notice of custody rights and afford review under the correct classification if Petitioner is eligible. His recent arrest does not itself prove a missed regulatory deadline or a prolonged-detention claim.

85. If a court-ordered hearing is needed, Petitioner seeks an as-applied due-process ruling that DHS must justify detention by clear and convincing evidence of danger or flight risk, with consideration of less restrictive alternatives and ability to pay. His long residence, dependents, recent surgery, and reported limited license history are relevant, but an adjudicator

must also consider any adverse records and the risk of nonappearance. *Flores v. Cooper*, No. 3:26-CV-233, 2026 WL 1477831 (E.D. Tenn. May 27, 2026) ordered release or a bond hearing with that Government burden within ten days.

86. This requested burden is constitutional, not a textual command of § 1226(a). *Jennings*, 583 U.S. 281 rejected a statutory construction imposing a clear-and-convincing Government burden and periodic hearings; it did not resolve the distinct constitutional question. Nor has the Sixth Circuit established that burden for every initial § 1226(a) hearing. *Flores v. Cooper*, No. 3:26-CV-233, 2026 WL 1477831 (E.D. Tenn. May 27, 2026). The short time since this arrest makes the prolonged-detention decisions less analogous, but the interest in avoiding an erroneous categorical denial of bond remains substantial.

87. The burden issue is contested. The ordinary agency custody regulation places an initial showing on the noncitizen. 8 C.F.R. § 1236.1. Courts have adopted contrary approaches; Petitioner requests the more protective as-applied procedure rather than asserting that every court has already mandated it. The facts and any actual denial of bond must be developed to assess the risk of erroneous detention here. *Flores v. Cooper*, No. 3:26-CV-233, 2026 WL 1477831 (E.D. Tenn. May 27, 2026).

VII. LEGAL FRAMEWORK FOR THE RELIEF SOUGHT

88. This Court has fundamental authority and a constitutional duty under 28 U.S.C. § 2241 to remedy Petitioner's unlawful detention. The Supreme Court has consistently affirmed that the Great Writ is the primary instrument for challenging the legality of civil immigration detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *I.N.S. v. St. Cyr*, 533 U.S. 289, 314 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 285–86 (2018). As "perhaps the most important writ known to the constitutional law," habeas corpus is an equitable tool that empowers this Court not just to review custody, but to "dispose of the matter as law and justice require" under 28 U.S.C. § 2243. *Fay v. Noia*, 372 U.S. 391, 400 (1963); *Schlup v. Delo*, 513 U.S. 298, 319 (1995). That power explicitly includes ordering a petitioner's immediate release. *Boumediene v. Bush*, 553 U.S. 723, 787 (2008). This Court's jurisdiction is secure, as the concept of "custody" is broad, attaching at the time of filing and persisting despite subsequent release due to the significant ongoing restraints on Petitioner's liberty. *See Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973).

89. The Court must grant the petition for writ of habeas corpus or order Respondent to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondent must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

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

X. CAUSES OF ACTION AND CLAIMS FOR RELIEF

COUNT ONE
Unlawful Detention Under the INA and 28 U.S.C. § 2241

91. Respondents are detaining Petitioner under § 1225(b)(2)(A) even though he was arrested in the interior years after entry and was not seeking lawful entry when seized.

92. In *Lopez-Campos v. Raycraft*, the Sixth Circuit held that § 1225(b)(2)(A) does not authorize mandatory no-bond detention of similarly situated interior noncitizens who were not seeking admission when arrested.

93. Respondents' continued classification of Petitioner as subject to § 1225(b)(2)(A) is contrary to binding Sixth Circuit law.

94. Petitioner's detention must instead proceed, if at all, under § 1226(a).

95. Petitioner is entitled to habeas relief requiring Respondents to cease detaining him under § 1225(b)(2)(A) and to provide release or a prompt custody hearing under § 1226(a).

96. Respondents have not identified any particular provision of § 1226(c) that allegedly requires Petitioner's detention.

97. If Respondents cannot establish a lawful basis for mandatory detention, the Court should order Petitioner's release. Alternatively, the Court should order Respondent to place Petitioner within the § 1226(a) custody framework and provide immediate access to an individualized custody determination.

COUNT TWO
Violation of the Fifth Amendment of the U.S. Constitution
Procedural and Substantive Due Process

98. The Fifth Amendment protects noncitizens who have entered the United States, even unlawfully, from deprivation of liberty without due process of law. In *Lopez-Campos v. Raycraft*, 175 F.4th 713 (6th Cir. 2026), the Sixth Circuit reaffirmed that noncitizens within the interior of the United States are protected by the Due Process Clause.

99. If Respondents deny any individualized review on an erroneous mandatory-detention theory, Petitioner is deprived of a meaningful opportunity to contest continued civil custody. His liberty, family-support obligations, and recovery from surgery make the interest concrete. Erroneous classification or a hearing that ignores relevant risk and release

alternatives heightens the possibility of unnecessary confinement; the Government retains legitimate interests in appearance and public safety. *Lopez-Campos*, 175 F.4th 713. Petitioner requests individualized process under § 1226(a), and, if necessary to remedy a constitutional violation established on this record, the Government burden specified above.

100. Physical detention implicates a fundamental liberty interest because freedom from government custody lies at the core of the liberty protected by the Due Process Clause. In *Lopez-Campos*, the Sixth Circuit relied on that principle in affirming due-process relief for interior noncitizens detained without individualized bond hearings.

101. Civil immigration detention pending removal proceedings is permissible only insofar as it serves the regulatory purposes of ensuring appearance at future proceedings and protecting the community. In *Lopez-Campos*, the Sixth Circuit recognized those regulatory purposes as the relevant justification for detention pending removal proceedings.

102. Respondents have deprived Petitioner of liberty by treating him as categorically subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), even though binding Sixth Circuit precedent holds that § 1225(b)(2)(A) does not apply to similarly situated interior noncitizens who were not seeking admission when apprehended. In *Lopez-Campos*, the Sixth Circuit held that § 1225(b)(2)(A)'s mandatory-detention scheme did not apply to petitioners

who had resided in the United States for years and were not seeking lawful entry when detained

103. Because Petitioner is not properly detained under § 1225(b)(2)(A), Respondents may not deny him any individualized custody determination on that basis. Section 1226(a) permits detention pending a removal decision but also permits release on bond or conditional parole unless § 1226(c) applies.

104. Procedural due process requires, at minimum, a meaningful opportunity to be heard before a neutral decisionmaker when the government deprives a person of a protected liberty interest. In *Lopez-Campos*, the Sixth Circuit affirmed the district courts' conclusions that detention without bond hearings under § 1226(a) violated the petitioners' Fifth Amendment due-process rights.

105. The risk of erroneous deprivation is substantial where Respondents unilaterally classify Petitioner as bond-ineligible under a detention statute that does not govern him. That risk is heightened because Petitioner remains detained without any individualized determination that he presents a danger to the community or a risk of flight. Petitioner remains detained under a statutory classification that conflicts with the circumstances alleged in this Petition and the Sixth Circuit's controlling construction of the detention statutes.

106. The government has no legitimate interest in continuing to detain Petitioner under an unlawful mandatory-detention classification. The government has no legitimate interest in denying access to the custody procedures made available by the statute that actually governs Petitioner's detention. Any governmental interest in securing Petitioner's appearance or protecting the community can be addressed through individualized custody procedures under § 1226(a).

107. The current procedures are constitutionally inadequate because Respondents have denied Petitioner any meaningful opportunity to contest his categorical bond ineligibility before a neutral decisionmaker. The *Mathews v. Eldridge* factors favor relief because Petitioner's private liberty interest is substantial, the risk of erroneous deprivation is high where DHS applies a detention statute that does not govern him, and the government has no legitimate interest in continuing detention under an unlawful mandatory-detention classification .

108. Under the *Mathews v. Eldridge* balancing framework, Petitioner's private liberty interest, the risk of erroneous deprivation, and the lack of any valid interest in categorical no-bond detention all weigh in favor of relief. In *Lopez-Campos*, the Sixth Circuit affirmed due-process relief where similarly situated petitioners were detained without individualized bond hearings.

109. Petitioner is therefore entitled to immediate release because Respondents lack lawful authority to continue detaining him under § 1225(b)(2)(A). In the

alternative, Petitioner is entitled to a prompt, constitutionally adequate bond hearing under § 1226(a).

110. At any such hearing, DHS should bear the burden of justifying continued detention through individualized evidence that Petitioner presents a danger to the community or a risk of flight, and the Immigration Judge should consider non-detention alternatives, ability to pay, and conditions reasonably tailored to any proven risk.

XII. REMEDIES

111. When a person is detained without lawful statutory authority, immediate release is an appropriate habeas remedy. Here, Respondents lack authority to detain Petitioner under 8 U.S.C. § 1225(b)(2)(A), and DHS has not established that any mandatory-detention provision applies.

112. Immediate release is the appropriate primary remedy. Respondents are detaining Petitioner under 8 U.S.C. § 1225(b)(2)(A), but *Lopez-Campos v. Raycraft*, 175 F.4th 713 (6th Cir. 2026), holds that § 1225(b)(2)(A) does not govern materially similar interior noncitizens who were not seeking admission when apprehended.

113. Section 1226(a), not § 1225(b)(2)(A), is the governing detention framework unless DHS establishes that a mandatory-detention provision applies.

114. Section 1226(a) permits release on bond or conditional parole pending a

removal decision, except as provided in § 1226(c). DHS has not identified any mandatory-detention ground applicable to Petitioner.

115. A later bond hearing cannot cure Respondents' unlawful conduct. This is not merely a delayed-bond-hearing case: Respondents have not established lawful authority under § 1225(b)(2)(A), which binding Sixth Circuit law forecloses for interior noncitizens not seeking lawful entry when apprehended; they have not established lawful authority under § 1226(a), because they arrested Petitioner without a valid warrant; and they have not shown that § 1226(c) applies. Where Respondents cannot identify lawful statutory authority for current custody, immediate release—not a belated opportunity to justify detention—is the appropriate habeas remedy. *See Cardona v. Ladwig*, No. 3:25-CV-01451, 2025 WL 3722009, at *7 (M.D. Tenn. Dec. 3, 2025) (a bond hearing after the fact cannot cure the constitutional violation of detention without lawful authority); *Villafranca Lara v. Ladwig*, No. 26-CV-02079, 2026 WL 401204, at *10 (W.D. Tenn. Feb. 12, 2026) (declining to order a § 1226(a) bond hearing where ICE purported to detain the petitioner under § 1225(b)(2)(A)); *Ronny Jose Viloria Campos v. Bullock*, No. 2:26-CV-02318-TLP-ATC, 2026 WL 1195595, at *7 (W.D. Tenn. May 1, 2026); *Hernandez v. Ladwig*, No. 2:26-CV-02081-SHL-ATC, 2026 WL 324020, at *8 (W.D. Tenn. Feb. 6, 2026) ("immediate release is the appropriate remedy"); *Meza v. Lewis*, No. 4:25-CV-171-RGJ, 2026 WL 92102, at *12 (W.D. Ky. Jan. 13, 2026); *Rodriguez v. Woosley*, No. 4:25-CV-168-RGJ, 2026 WL 36345, at *11–12

(W.D. Ky. Jan. 6, 2026) (collecting cases and ordering immediate release); *de Jesus Aguilar v. Eng*, No. 3:25-CV-898 DRL-SJF, 2025 WL 3280219, at *9 (N.D. Ind. Nov. 25, 2025) (declining to give the government "a pass for not securing a warrant before . . . arrest"). Allowing Respondents to provide a bond hearing now would merely extend an illegal confinement and give them a second opportunity to justify a detention they had no statutory authority to initiate.

116. Ordering a bond hearing would also be an inadequate remedy given serious and well-documented concerns about the neutrality, independence, and reliability of immigration-court bond proceedings. Recent district courts have recognized that a delayed bond hearing may be inadequate where the immigration-court bond process is unlikely to provide a neutral, individualized, and constitutionally meaningful custody determination. *See Gurjant Singh v. Valdez*, No. 26-CV-1109-WJM, 2026 WL 890240, at *5 (D. Colo. Apr. 1, 2026); *Zheng v. Rokosky*, No. 26-CV-01689, 2026 WL 800203, at *7, *11 (D.N.J. Mar. 23, 2026); *Garcia Ortiz v. Henkey*, No. 1:26-CV-00043-BLW, 2026 WL 948275, at *2, *4 (D. Idaho Apr. 7, 2026); *Alvarado Lopez v. Dillman*, 2026 WL 688958, at *6–7 (E.D. Va. Mar. 11, 2026); *Mancia v. Bondi*, No. CV-26-01392, 2026 WL 1085090, at *3 (D. Ariz. Apr. 22, 2026). These concerns reinforce that immediate release, rather than remand to an inadequate bond process, is the appropriate remedy.

117. In the alternative, if the Court declines to order immediate release, it should

order a prompt individualized bond hearing under § 1226(a). Immigration Judge bond-redetermination procedures are governed by 8 C.F.R. § 1003.19, which provides for custody and bond review separate from the removal proceeding.

If Court Grants Bond Hearing – Ensure Burdens Are Met

118. Should this Court nonetheless order a bond hearing as an alternative to immediate release, it is critical that the order contain specific procedural safeguards to make that remedy meaningful. A bond hearing will be meaningful only if the Court specifies the applicable burden, standard of proof, timing, and required consideration of alternatives to detention. To ensure Petitioner is afforded a constitutionally adequate hearing, this Court should place the burden of proof squarely on the government, consistent with the majority of circuits that have decided the issue and with the requirements of the Due Process Clause.

119. Section 1226(a) does not assign the burden of proof at a bond hearing; it provides only that, pending a removal decision, the Attorney General may continue detention or release the noncitizen on bond or conditional parole. 8 U.S.C. § 1226(a). Although the regulations place the burden on the noncitizen to demonstrate that release would not pose a danger and that he is likely to appear, 8 C.F.R. § 1236.1(c)(8), that regulatory allocation does not resolve the constitutional question before this Court. Following *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 412 (2024), the Court owes no

deference to an agency's regulatory choice on a question of statutory meaning. The Constitution requires that the government bear the burden at a bond hearing for a noncitizen whose detention is challenged on constitutional grounds.

120. If the Court orders a bond hearing rather than immediate release, due process requires an immediate hearing before a neutral decisionmaker, at which DHS bears the burden of proving by clear and convincing evidence that Petitioner presents a danger or flight risk, and at which the decisionmaker must consider alternatives to detention and Petitioner's ability to pay. Although the Sixth Circuit has not squarely resolved the burden and standard of proof for a court-ordered § 1226(a) bond hearing in these circumstances, *Lopez-Campos* applied *Mathews v. Eldridge*, 424 U.S. 319 (1976), principles in recognizing the substantial liberty interest at stake and the heightened risk of erroneous deprivation—analysis that supports placing the burden on the Government here. Courts of appeals addressing constitutionally required immigration bond hearings have overwhelmingly placed the burden on the government to justify continued detention. *See Velasco Lopez v. Decker*, 978 F.3d 842, 853–56 (2d Cir. 2020); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 39, 46 (1st Cir. 2021); *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213–14 (3d Cir. 2020).[1]

[1] There is contrary out-of-circuit authority declining to place the burden on the Government in § 1226(a) bond proceedings. For example, *Rodriguez Diaz v. Garland*, 53

121. District courts across the Sixth Circuit have overwhelmingly reached the same conclusion in recent 2026 decisions, holding that due process requires the Government to bear the burden of proving dangerousness or flight risk by clear and convincing evidence at a § 1226(a) bond hearing. *See Flores v. Cooper*, No. 3:26-CV-233, 2026 WL 1477831 (E.D. Tenn. May 27, 2026) (granting the petition in part and ordering a § 1226(a) bond hearing at which the Government bears the burden); *Soto-Medina v. Lynch*, 817 F. Supp. 3d 612, 627–29 (W.D. Mich. 2026) (applying *Mathews* and requiring the Government to prove both dangerousness and flight risk by clear and convincing evidence); *Jaimes v. King*, No. 2:26-CV-11327, 2026 WL 2030810 (E.D. Mich. July 14, 2026) (observing that "district courts within the Sixth Circuit overwhelmingly find that under the Due Process Clause, the Government bears the burden to prove by clear and convincing evidence"); *Munoz Soto v. Raycraft*, No. 1:26-CV-509, 2026 WL 1615277 (S.D. Ohio June 5, 2026) (Government must adduce clear and convincing evidence and address less-restrictive alternatives); *Diallo v. Raycraft*, No. 1:26-CV-423,

F.4th 1189 (9th Cir. 2022), reflects a contrary approach in the Ninth Circuit, while recognizing that other circuits have reached different conclusions under *Mathews*. Likewise, *Miranda v. Garland*, 34 F.4th 338 (4th Cir. 2022), upheld placing the burden on the noncitizen under § 1226(a). Those decisions are not binding here and are less persuasive in this case because Respondents have not shown lawful statutory authority for detention in the first instance. The better rule here is the one supported by *Lopez-Campos*'s recognition of the substantial liberty interest at stake, the high risk of erroneous detention, and the Government's lack of any legitimate interest in detaining a person it cannot show is dangerous or a flight risk. Furthermore *Lopez-Campos* utilized the *Mathews v. Eldridge* analysis which would support placing the burden on a government, rather than mandating the noncitizen to prove a negative.

2026 WL 1487286 (S.D. Ohio May 18, 2026) (enforcing habeas order requiring the Government to bear the burden of persuasion); *Ba v. Raycraft*, No. 26-10838, 2026 WL 1213803 (E.D. Mich. May 4, 2026); *Castaneda-Castano v. Daley*, No. CV 26-145-DLB, 2026 WL 1223095 (E.D. Ky. May 4, 2026); *Sehajveer Singh Gill v. Mullin*, No. 4:26-CV-00523, 2026 WL 1215055, at *2–3 (N.D. Ohio May 4, 2026); *Perez-Perez v. Raycraft*, No. 26-10533, 2026 WL 1121930, at *20 (E.D. Mich. Apr. 24, 2026); *Rodriguez v. Greene*, No. 26-cv-333, 2026 WL 574961, at *40 (N.D. Ohio Mar. 2, 2026); *E.V. v. Raycraft*, No. 25-cv-2069, 2025 WL 3122837, at *29 (N.D. Ohio Nov. 7, 2025); *M.T.B. v. Byers*, No. 24-cv-028, 2024 WL 2881843, at *5 (E.D. Ky. Aug. 20, 2024). At any court-ordered hearing, Respondents should be required to prove by clear and convincing evidence that detention remains necessary because Petitioner presents a danger or flight risk, and the Immigration Judge, as a neutral arbiter, should be required to consider alternatives to detention and Petitioner's ability to pay. *See Black v. Decker*, 103 F.4th 133, 158 (2d Cir. 2024); *Abdi v. Nielsen*, 287 F. Supp. 3d 327, 338 (W.D.N.Y. 2018).

122. The *Mathews v. Eldridge* factors support the same result here. Some circuits place the burden of proof in such bond hearing on the noncitizen, similar to agency regulations in 8 C.F.R. 236 and 1226. However, due process requires more and it is more difficult to prove a negative. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024) confirms that courts must exercise independent judgment in deciding whether an agency has acted within its

statutory authority. Therefore, this Court is not obligated to give deference to agency regulations.

123. The Court should follow the burden of proof adopted in the foregoing cases and determine that the government must prove, by clear and convincing evidence, that Petitioner is either a flight risk or a danger to the community. The reason for that is the Congress's assumption was that for non-criminal noncitizens who are detained pursuant to § 1226(a) the default is release, not detention (in contrast to § 1226(c) that deals with mandatory detention for criminal aliens). Therefore, to prevent a perfunctory and meaningless hearing that would only prolong Petitioner's unlawful detention, any order for a bond hearing must explicitly direct that the government bears the burden of establishing by clear and convincing evidence that Petitioner's detention is necessary.

XIII. CONCLUSION AND PRAYER FOR RELIEF

124. The continued detention of Petitioner violates due process rights. But for intervention by this Court, Petitioner has no means of release from ICE custody. Petitioner faces ongoing and irreparable harm as a result of unlawful detention, including deprivation of liberty, loss of employment, and separation from family. These injuries cannot be remedied by monetary damages and will continue absent immediate judicial intervention. The balance of equities and the public interest strongly favor expedited

consideration and equitable relief, including immediate release or a prompt bond hearing. Without such relief, Petitioner will continue to suffer irreparable harm, and the constitutional and statutory violations at issue will persist.

125. Given the statutory and constitutional violations underlying Petitioner's continued detention, immediate release is the appropriate primary remedy. In the alternative, the Court should order a prompt, constitutionally adequate bond hearing under 8 U.S.C. § 1226(a).

WHEREFORE, Petitioner prays that this Court grant the following relief. Petitioner respectfully requests expedited consideration of this Petition due to the ongoing deprivation of liberty and irreparable harm:

(1) **Grant the Petition for Writ of Habeas Corpus and order Respondents to immediately release Petitioner from ICE custody** because Respondents lack lawful authority to detain him under 8 U.S.C. § 1225(b)(2)(A), and DHS has not established that any mandatory-detention provision applies;

(2) **Declare** that, on the facts alleged and established, Petitioner may not be detained under 8 U.S.C. § 1225(b)(2)(A) solely because he is deemed an applicant for admission when he was apprehended in the interior and was not affirmatively seeking admission;

(3) **In the alternative**, order Respondents to provide Petitioner with

a bond hearing before an Immigration Judge under 8 U.S.C. § 1226(a) within forty-eight (48) hours, at which DHS shall bear the burden of proving by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk; the Immigration Judge shall make an individualized determination based on the evidence presented; and the Immigration Judge shall consider non-bond alternatives to detention and, if setting bond, Petitioner's financial circumstances and ability to pay;

(4) Order that any release conditions must be individualized and reasonably related to a demonstrated risk of flight or danger, and may not be imposed categorically or as a substitute for unlawful detention;

(5) **Issue an Order to Show Cause** directing Respondents to file a return within three (3) days, pursuant to 28 U.S.C. § 2243, justifying in fact and law why the writ should not be granted;

(6) Pending final resolution of this Petition, issue a temporary order pursuant to 28 U.S.C. §§ 1651(a) and 2241 prohibiting Respondents from transferring Petitioner outside the Eastern District of Tennessee, or otherwise changing Petitioner's immediate custodian, and from removing Petitioner from the United States, absent prior leave of this Court, so as to preserve this Court's habeas jurisdiction under the district-of-confinement

and immediate-custodian rule recognized in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004);

(7) **Award** Petitioner reasonable attorney's fees and costs including under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and any other applicable fee-shifting statute; and

(8) **Grant** such other and further relief as this Court deems just, proper or equitable under the circumstances.

Respectfully Submitted,

This 13th Day of October, 2026.

/s/ Karen Weinstock
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. Petitioner cannot personally verify this Petition because he was arrested by ICE on October 13, 2026, counsel has not yet been able to communicate directly with him, and his transfer and detention conditions prevent execution. I am authorized to act on Petitioner's behalf based on a signed retainer agreement for representation. The allegations concerning Petitioner's background, family, and the circumstances of his arrest are based on information provided by Petitioner's family members. The allegations concerning Petitioner's current place of detention and statutory custody classification are based on the ICE Online Detainee Locator System and my familiarity with general ICE operations and detention practices. The allegations expressly made on information and belief are based on the sources identified above. I have not represented as established any fact that is currently unknown to me. I have reviewed the foregoing Petition. Based on the identified records and information provided by the identified persons, I verify that its factual allegations are true and correct to the best of my knowledge and belief pursuant to 28 U.S.C. § 2242.

This 13th Day of October, 2026.

/s/ Karen Weinstock
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