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6 **UNITED STATES DISTRICT COURT**
FOR THE CENTRAL DISTRICT OF CALIFORNIA
7 **EASTERN DIVISION**

8 Lazaro MALDONADO BAUTISTA;
Ana FRANCO GALDAMEZ; Ananias
9 PASCUAL; Luiz Alberto DE AQUINO
DE AQUINO; on behalf of themselves
10 and others similarly situated, et al.,

11 Plaintiffs-Petitioners,

12 v.

13 Kristi NOEM, Secretary, Department of
Homeland Security; DEPARTMENT OF
14 HOMELAND SECURITY; Pam
BONDI, Attorney General;
15 EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Sirce
16 OWEN, Acting Director for Executive
Office for Immigration Review;
17 ADELANTO IMMIGRATION COURT;
Todd M. LYONS, Acting Director
18 of Immigration and Customs
Enforcement (ICE); IMMIGRATION
19 AND CUSTOMS ENFORCEMENT;
Ernesto SANTACRUZ, Los Angeles
20 ICE Field Office Director; and Fereti

Case No. 5:25-cv-01873-SSS-BFM

**CLASS ACTION COMPLAINT
AND AMENDED PETITION FOR
WRIT OF HABEAS CORPUS**

1 SEMAIA, Warden of Adelanto ICE
2 Processing Center,

3 Defendants-Respondents.
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INTRODUCTION

1
2 1. Plaintiffs-Petitioners Lazaro Maldonado Bautista, Ana Franco
3 Galdamez, Ananias Pascual, and Luiz Alberto De Aquino De Aquino (Plaintiffs)
4 are noncitizens and longtime residents of the United States who are harmed by
5 Defendants-Respondents' (Defendants) new, draconian policy reinterpreting the
6 immigration detention statutes to preclude Plaintiffs from eligibility for bond under
7 the Immigration and Nationality Act (INA), 8 U.S.C. § 1226(a), and for bond
8 hearings under 8 C.F.R. §§ 1003.19(a), 1236.1(d). Instead, pursuant to this new
9 policy, Defendants now consider Plaintiffs as subject to mandatory detention under
10 8 U.S.C. § 1225(b)(2)(A), without the opportunity for release on bond during the
11 pendency of their lengthy removal proceedings.

12 2. Each Petitioner has lived here for years and even decades. All four
13 were detained during immigration raids and enforcement actions in Los Angeles,
14 and each is now detained at the Adelanto Immigration and Customs Enforcement
15 (ICE) Processing Center in Adelanto, California.

16 3. Plaintiffs are charged with, *inter alia*, having entered the United States
17 without inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

18 4. Based on this allegation in Plaintiffs' removal proceedings, DHS
19 denied each Plaintiff release from immigration custody. Those denials were
20 consistent with a new DHS policy issued on July 8, 2025, instructing all ICE

1 employees to consider anyone alleged to be inadmissible under § 1182(a)(6)(A)(i)
2 —i.e., those who entered the United States without inspection—to be subject to
3 mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and therefore eligible for
4 release only on parole.

5 5. Each Plaintiff sought a bond redetermination hearing before an
6 immigration judge (IJ) at the Adelanto Immigration Court, but the IJs denied each
7 Plaintiff bond. The IJs reached this conclusion by reasoning that, notwithstanding
8 the years or even decades Plaintiffs have lived in the United States, each Plaintiff is
9 nevertheless an “applicant for admission” who is “seeking admission” and subject
10 to mandatory detention under § 1225(b)(2)(A).

11 6. Plaintiffs’ detention on this basis violates the plain language of the
12 INA and its implementing regulations.

13 7. Subparagraph 1225(b)(2)(A) applies to individuals who are
14 apprehended on arrival in the United States. It states that an “applicant for
15 admission” who is “seeking admission” shall be detained for a removal
16 proceeding. *Id.* It does not apply to individuals like Plaintiffs, who are arrested and
17 detained by ICE after having entered and begun residing in the United States.
18 Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that
19 allows for release on conditional parole or bond. That statute expressly applies to
20

1 people who, like Plaintiffs, are charged as inadmissible for having entered the
2 United States without inspection.

3 8. Defendants' new legal interpretation is plainly contrary to the
4 statutory framework and its implementing regulations. Indeed, for decades,
5 Defendants have applied § 1226(a) to people like Plaintiffs. Defendants' new
6 policies are thus not only contrary to law, but arbitrary and capricious in violation
7 of the Administrative Procedure Act (APA). They were also adopted without
8 complying with the APA's procedural requirements.

9 9. Accordingly, Plaintiffs seek to represent two classes of noncitizens
10 harmed by these agency policies and practices denying them bond.

11 10. First, Plaintiffs seek to represent all noncitizens in the United States
12 without lawful status who (1) have entered or will enter the United States without
13 inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or
14 will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231
15 at the time DHS makes an initial custody determination. (Bond Eligible Class).

16 11. Second, Plaintiffs seeks to represent all noncitizens in the United
17 States without lawful status who (1) have or will have proceedings before the
18 Adelanto Immigration Court; (2) have entered or will enter the United States
19 without inspection; (3) were not or will not be apprehended upon arrival; and (4)
20 are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1),

1 or § 1231 at the time the noncitizen is scheduled for or requests a bond hearing.
2 (Adelanto Class).

3 12. Both classes seek declaratory relief that establishes that class
4 members are subject to detention under § 1226(a) and its implementing regulations
5 and are therefore entitled to an individualized custody determination following
6 apprehension by DHS and, if not released, a bond determination by the
7 Immigration Court.

8 13. Additionally, both classes seek relief under APA, 5 U.S.C. § 706(2),
9 that vacates and sets aside DHS's unlawful detention policy (for the Bond Eligible
10 Class) and the Adelanto Immigration Court's unlawful bond denial policy (for the
11 Adelanto Class).

12 **JURISDICTION**

13 14. Plaintiffs are in the physical custody of Defendants and are detained at
14 the Adelanto ICE Processing Center in Adelanto, California.

15 15. Plaintiffs' individual cases arise under 28 U.S.C. § 2241, and the
16 individual and class claims further arise under the INA, 8 U.S.C. §§ 1101–1538,
17 and its implementing regulations; the APA, 5 U.S.C. §§ 500–596, 701–706; and
18 the U.S. Constitution.

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16. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, as this is a civil action arising under the laws of the United States, and under 28 U.S.C. § 2241 (as to the Named Plaintiffs), as the case challenges Plaintiffs' unlawful detention.

17. The Court may grant relief pursuant to 28 U.S.C. § 2241; the Declaratory Judgment Act, 28 U.S.C. § 2201; the APA, 5 U.S.C. §§ 702, 706; the All Writs Act, 28 U.S.C. § 1651; Federal Rule of Civil Procedure 65; and the Court's inherent equitable powers.

VENUE

18. Venue properly lies within the Central District of California under 28 U.S.C. § 1391(e), because this is a civil action in which Defendants are employees, officers, and agencies of the United States, Plaintiffs are detained in this District, and a substantial part of the events or omissions giving rise to this action occurred in the District because Plaintiffs had their bond hearings before the Adelanto Immigration Court, which is in this District.

PARTIES

19. Plaintiff Lazaro Maldonado Bautista was arrested by the Department of Homeland Security (DHS) on June 6, 2025. He is currently detained at the Adelanto ICE Processing Center. After arresting him, ICE did not set bond and, on July 17, 2025, an IJ at the Adelanto Immigration Court denied him bond because

1 they deemed him subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

2 Mr. Maldonado has resided in the Los Angeles area for approximately four years.

3 20. Plaintiff Ana Franco Galdamez was arrested by DHS on June 19,
4 2025. She is currently detained at the Adelanto ICE Processing Center. After
5 arresting her, ICE did not set bond and on July 22, 2025, an IJ at the Adelanto
6 Immigration Court denied her bond because the judge they deemed her subject to
7 mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Ms. Franco has resided in
8 the United States for over twenty years.

9 21. Plaintiff Ananias Pascual was arrested by DHS on June 6, 2025. He is
10 currently detained at the Adelanto ICE Processing Center. After arresting him, ICE
11 did not set bond and on July 15, 2025, an IJ at the Adelanto Immigration Court
12 denied him bond because they both deemed him subject to mandatory detention
13 under 8 U.S.C. § 1225(b)(2)(A). Mr. Pascual has resided in the United States for
14 over twenty years.

15 22. Plaintiff Luiz Alberto De Aquino De Aquino was arrested by DHS on
16 June 6, 2025. After arresting him, ICE did not set bond and on July 21, 2025, an IJ
17 at the Adelanto Immigration Court denied him bond because they both deemed
18 him subject to mandatory detention under 8 U.S.C. 1225(b)(2)(A). Mr. De Aquino
19 has resided in the United States since 2022.

1 23. Defendant Kristi Noem is the Secretary of the Department of
2 Homeland Security. She is responsible for the implementation and enforcement of
3 the INA, and oversees ICE, which is responsible for Plaintiffs' detention.
4 Defendant Noem has ultimate custodial authority over Plaintiffs and is sued in her
5 official capacity.

6 24. Defendant Department of Homeland Security (DHS) is the federal
7 agency responsible for implementing and enforcing the INA, including the
8 detention and removal of noncitizens.

9 25. Defendant Pamela Bondi is the Attorney General of the United States.
10 She is responsible for the Department of Justice, of which the Executive Office for
11 Immigration Review and the immigration court system it operates is a component
12 agency. She is sued in her official capacity.

13 26. Defendant Executive Office for Immigration Review (EOIR) is the
14 federal agency responsible for implementing and enforcing the INA in removal
15 proceedings, including for custody redeterminations in bond hearings.

16 27. Defendant Sirce Owen is the Acting Director of EOIR and has
17 ultimate responsibility for overseeing the operation of the immigration courts and
18 the Board of Immigration Appeals, including bond hearings. She is sued in her
19 official capacity.

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1 28. The Adelanto Immigration Court is the adjudicatory body within
2 EOIR with jurisdiction over the removal and bond cases of the Adelanto Class
3 members.

4 29. Defendant Todd M. Lyons is the Acting Director of U.S. Immigration
5 and Customs Enforcement and is sued in his official capacity. Defendant Lyons is
6 responsible for Plaintiffs' detention.

7 30. Defendant Immigration and Customs Enforcement (ICE) is the agency
8 within DHS responsible for implementing and enforcing the INA, including the
9 detention and removal of noncitizens.

10 31. Defendant Ernesto Santacruz is the ICE Field Office Director of the
11 Los Angeles ICE Field Office and is sued in his official capacity. Defendant
12 Santacruz is the immediate custodian of Plaintiffs and is responsible for Plaintiffs'
13 detention and removal.

14 32. Defendant Fereti Semaia is employed by The GEO Group as Warden
15 of the Adelanto ICE Processing Center, where Plaintiffs are detained. He has
16 immediate physical custody of Plaintiffs and is sued in his official capacity.

17 **LEGAL FRAMEWORK**

18 33. The INA prescribes three basic forms of detention for the vast
19 majority of noncitizens in removal proceedings.

20

1 34. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in
2 standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in
3 § 1226(a) detention are generally entitled to a bond hearing at the outset of their
4 detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been
5 arrested, charged with, or convicted of certain crimes are subject to mandatory
6 detention until their removal proceedings are concluded, *see* 8 U.S.C. § 1226(c).

7 35. Second, the INA provides for mandatory detention of noncitizens
8 subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent
9 arrivals “seeking admission” referred to under § 1225(b)(2).

10 36. Last, the INA also provides for detention of noncitizens who have
11 received a final order of removal from the United States, including individuals in
12 withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

13 37. This case concerns the detention provisions at § 1226(a) and
14 § 1225(b)(2).

15 38. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted
16 as part of the Illegal Immigration Reform and Immigrant Responsibility Act
17 (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546,
18 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended
19 earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

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1 39. Following the enactment of the IIRIRA, EOIR drafted new
2 regulations explaining that, in general, people who entered the country without
3 inspection were not considered detained under § 1225 and that they were instead
4 detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens;
5 Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
6 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants
7 for admission, aliens who are present without having been admitted or paroled
8 (formerly referred to as aliens who entered without inspection) will be eligible for
9 bond and bond redetermination”).

10 40. Thus, in the decades that followed, most people who entered without
11 inspection and were thereafter arrested and placed in standard removal proceedings
12 were considered for release on bond and also received bond hearings before an IJ,
13 unless their criminal history rendered them ineligible. That practice was consistent
14 with many more decades of prior practice, in which noncitizens who had entered
15 the United States, even if without inspection, were entitled to a custody hearing
16 before an IJ or other hearing officer. In contrast, those who were stopped at the
17 border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); *see*
18 *also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
19 “restates” the detention authority previously found at § 1252(a)).

20

1 41. In recent weeks, Defendants have adopted an entirely new
2 interpretation of the statute. On May 22, 2025, the Board of Immigration Appeals
3 (BIA), issued an unpublished decision holding that all noncitizens who entered the
4 United States without admission or parole are considered applicants for admission,
5 and are therefore ineligible for IJ bond hearings under 8 U.S.C. § 1225(b)(2)(A).
6 *See* ECF No. 5-2 at Exh. J.

7 42. On July 8, 2025, ICE, “in coordination with the Department of Justice
8 (DOJ),” announced a corresponding policy that rejected the well-established
9 understanding of the statutory and regulatory framework and reversed decades of
10 practice. *See* ECF No. 5-2 at Exh. I.

11 43. The new policy, entitled “Interim Guidance Regarding Detention
12 Authority for Applicants for Admission,” claims that all persons who entered the
13 United States without inspection shall now be deemed subject to mandatory
14 detention under § 1225(b)(2)(A). *Id.* The policy applies regardless of when a
15 person is apprehended, and affects those who have resided in the United States for
16 months, years, and even decades.

17 44. It is estimated that this novel interpretation of the INA would require a
18 person’s detention any time that immigration authorities arrest one of the millions
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1 of immigrants residing in the United States who entered without inspection and
2 who has not since been admitted or paroled.¹

3 45. According to news reports, immigration officials within the Trump
4 administration requested this new policy in response to Congress's recent
5 appropriation of billions of dollars to expand the immigration system, given that
6 the ICE will soon have capacity to detain more than twice as many people on any
7 given day.²

8 46. The IJs of the Adelanto Immigration Court followed suit. These IJs
9 are now holding that they lack jurisdiction to determine bond for any person who
10 has entered the United States without inspection, even if that person has resided
11 here for months, years or decades. Instead, consistent with the unpublished BIA
12 decision and the new DHS policy, the IJs are concluding such people are subject to
13 mandatory detention under § 1225(b)(2)(A).

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17 ¹ Maria Sacchetti & Carol D. Leonnig, *ICE declares millions of undocumented*
18 *immigrants ineligible for bond hearings*, Washington Post (July 14, 2025),
[https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-](https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/)
[undocumented-immigrants-bond-hearings/ \[https://perma.cc/5ZTR-EN4B\]](https://perma.cc/5ZTR-EN4B).

19 ² See Michelle Hackman, *New ICE Policy Blocks Detained Migrants*
20 *From Seeking Bond*, Wall Street Journal (July 15, 2025),
[https://www.wsj.com/politics/policy/new-ice-policy-blocks-detained-migrants-](https://www.wsj.com/politics/policy/new-ice-policy-blocks-detained-migrants-from-seeking-bond-f557402a)
[from-seeking-bond-f557402a \[https://perma.cc/K8NY-DAAZ\]](https://perma.cc/K8NY-DAAZ).

1 47. Nationwide, pursuant to its July 8, 2025, policy, DHS is now asserting
2 that all persons who entered without inspection are subject to mandatory detention
3 under 8 U.S.C. § 1225(b)(2)(A).

4 48. While some IJs in other immigration courts have continued to grant
5 bond to people like Plaintiffs, consistent with its new policy, DHS also has begun
6 filing Form EOIR-43, Notice of Service Intent to Appeal Custody
7 Redetermination. This notice not only appeals any IJ decision granting bond but
8 also triggers an automatic stay of the bond decision during the appeal. *See* 8 C.F.R.
9 § 1003.19(i)(2).

10 49. The “auto-stay” provision of 8 C.F.R. § 1003.19(i)(2) prevents
11 noncitizens from posting bond and being released even in jurisdictions where IJs
12 have rejected DHS’s unlawful reinterpretation of § 1225(b)(2) and have granted
13 bond.

14 50. ICE and DOJ have adopted this new and unprecedented position on
15 bond even though federal courts have rejected this exact conclusion. For example,
16 in the Tacoma, Washington, immigration court, IJs previously stopped providing
17 bond hearings for persons who entered the United States without inspection and
18 who have since resided here, reasoning such people are subject to mandatory
19 detention under § 1225(b)(2)(A). There, in granting preliminary injunctive relief,
20 the U.S. District Court for the Western District of Washington found that such a

1 reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to
2 noncitizens who are not apprehended upon arrival to the United States. *Rodriguez*
3 *Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, --- F. Supp. 3d ---, 2025 WL
4 1193850 (W.D. Wash. Apr. 24, 2025); *see also* *Gomes v. Hyde*, No. 1:25-CV-
5 11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas
6 petition based on same conclusion); *Diaz Martinez v. Hyde*, No. CV 25-11613-
7 BEM, --- F. Supp. 3d ---- 2025 WL 2084238, at *9 (D. Mass. July 24, 2025)
8 (ordering release where noncitizen was redetained based on ICE's assertion of
9 detention authority under § 1225(b)).

10 51. DHS's and DOJ's interpretation defies the INA. As the *Rodriguez*
11 *Vazquez* court and other courts explained, the plain text of the statutory provisions
12 demonstrates that § 1226(a), not § 1225(b), applies to people like Plaintiffs.

13 52. Section 1226(a) applies by default to all persons "pending a decision
14 on whether the [noncitizen] is to be removed from the United States." These
15 removal hearings are held under § 1229a, to "decid[e] the inadmissibility or
16 deportability of a[] [noncitizen]."

17 53. The text of § 1226 also explicitly applies to people charged as being
18 inadmissible, including those who entered without inspection. *See* 8 U.S.C.
19 § 1226(c)(1)(E). Just this year, Congress enacted subparagraph (E) in the Laken
20 Riley Act to exclude certain noncitizens who entered without inspection from

1 § 1226(a)'s default bond provision. Subparagraph (E)'s reference to persons
2 inadmissible under § 1182(6)(A), i.e., persons inadmissible for entering without
3 inspection, makes clear that, by default, such people are afforded a bond hearing
4 under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress
5 creates "specific exceptions" to a statute's applicability, it "proves" that absent
6 those exceptions, the statute generally applies. *Rodriguez Vazquez*, 2025 WL
7 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*,
8 559 U.S. 393, 400 (2010)). Section 1226 therefore leaves no doubt that it applies to
9 people who face charges of being inadmissible to the United States, including
10 those who are present without admission or parole.

11 54. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry
12 or who very recently entered the United States. The statute's entire framework is
13 premised on inspections at the border of people who are "seeking admission" to the
14 United States. 8 U.S.C. § 1225(b)(2)(A); *see also Diaz Martinez*, 2025 WL
15 2084238, at *8 ("[O]ur immigration laws have long made a distinction between
16 those [noncitizens] who have come to our shores seeking admission . . . and those
17 who are within the United States after an entry, irrespective of its legality.'" (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958))). Indeed, the Supreme
18 Court has explained that this mandatory detention scheme applies "at the Nation's
19 borders and ports of entry, where the Government must determine whether a[]
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1 [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*,
2 583 U.S. 281, 287 (2018).

3 55. Accordingly, the mandatory detention provision of § 1225(b)(2) does
4 not apply to people like Plaintiffs, who have already entered and were residing in
5 the United States at the time they were apprehended.

6 **FACTS**

7 **Plaintiff Lazaro Maldonado Bautista**

8 56. Plaintiff Lazaro Maldonado Bautista has lived in Los Angeles,
9 California for approximately four years. He has no criminal record and no previous
10 contact with immigration authorities.

11 57. Mr. Maldonado has deep ties to the Los Angeles area, as he has
12 several U.S. citizen family members who live in the area. He has worked at the
13 same company, Blue Dot USA, Inc. as a warehouse packer since 2021. As support
14 letters from his submission in support of bond attest, he is a hard worker who is
15 loving, respectful, and missed dearly by his family.

16 58. On June 6, 2025, Mr. Maldonado was arrested by immigration
17 authorities as part of a largescale immigration enforcement action in Los Angeles.
18 He is now detained at the Adelanto ICE Processing Center.

19 59. DHS placed Mr. Maldonado in removal proceedings before the
20 Adelanto Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged him

1 with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone
2 who allegedly entered the United States without inspection.

3 60. ICE denied Mr. Maldonado release on bond, and he requested a bond
4 redetermination hearing before an IJ.

5 61. On July 17, 2025, an Adelanto IJ issued a decision that the
6 immigration court lacked jurisdiction to conduct a bond redetermination hearing
7 because Mr. Maldonado is subject to mandatory detention under 8 U.S.C.
8 § 1225(b)(2)(A).

9 62. As a result, Mr. Maldonado remains in detention. Without relief from
10 this Court, he faces the prospect of months, or even years, in immigration custody,
11 separated from his family and community.

12 63. Any appeal to the BIA is futile. DHS's new policy was issued "in
13 coordination with" DOJ. EOIR—the immigration court system—is a component
14 agency of DOJ. Further, as noted, a recent unpublished BIA decision held that
15 persons like Mr. Maldonado are subject to mandatory detention as applicants for
16 admission. Finally, in the *Rodriguez Vazquez* litigation, where EOIR and the
17 Attorney General are defendants, DOJ has affirmed its position that individuals
18 like Mr. Maldonado are subject to detention under § 1225(b)(2)(A). *See, e.g.*, Mot.
19 to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash.
20 June 6, 2025), Dkt. 49 at 27–30.

1 **Plaintiff Ana Franco Galdamez**

2 64. Plaintiff Ana Franco Galdamez has resided in the United States for
3 over twenty years. She has no criminal record and no previous contact with
4 immigration authorities.

5 65. Ms. Franco has two U.S. citizen children who rely on her for financial
6 support, and she recently completed treatment for breast cancer. Since being in
7 detention, she has missed an important follow up mammogram. As support letters
8 from her submission in support of bond attest, she is a woman of integrity, is an
9 involved and loving mother, and works hard to provide for her family as a single
10 mother.

11 66. On June 19, 2025, Ms. Franco was arrested by immigration authorities
12 as part of a largescale immigration enforcement action in Los Angeles. She is now
13 detained at the Adelanto ICE Processing Center.

14 67. DHS placed Ms. Franco in removal proceedings before the Adelanto
15 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged her with, *inter*
16 *alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who
17 allegedly entered the United States without inspection.

18 68. ICE did not set a bond for Ms. Franco, and she requested a bond
19 redetermination hearing before an IJ.

1 69. On July 22, 2025, an Adelanto IJ issued a decision that the
2 immigration court lacked jurisdiction to conduct a bond redetermination hearing
3 because Ms. Franco is subject to mandatory detention under 8 U.S.C.
4 § 1225(b)(2)(A).

5 70. As a result, Ms. Franco remains in detention. Without relief from this
6 Court, she faces the prospect of months, or even years, in immigration custody,
7 separated from her family and community.

8 71. As stated *supra* ¶ 63, any appeal to the BIA is futile.

9 **Plaintiff Ananias Pascual**

10 72. Plaintiff Ananias Pascual has resided in the United States for over
11 twenty years. He has no criminal record and no previous contact with immigration
12 authorities.

13 73. Mr. Pascual has resided in California since 2003. He and his wife
14 have four U.S. citizen children, who range in age from 10 months old to ten years
15 old. The youngest child was recently admitted to the Children's Hospital of Los
16 Angeles. In addition to his immediate family, Mr. Pascual has six siblings who live
17 in the United States. He has been employed by the same apparel company since
18 2016, working hard to provide for his family and paying taxes. Mr. Pascual is a
19 kind, hardworking, and dedicated man and father whose separation from his family
20 has been devastating, as letters in his bond case attest.

1 74. On June 6, 2025, Mr. Pascual was arrested by immigration authorities
2 as part of a largescale immigration enforcement action in Los Angeles. He is now
3 detained at the Adelanto ICE Processing Center.

4 75. DHS placed Mr. Pascual in removal proceedings before the Adelanto
5 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged him with, *inter*
6 *alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who
7 allegedly entered the United States without inspection.

8 76. ICE did not set a bond for Mr. Pascual, and he requested a bond
9 redetermination hearing before an IJ.

10 77. On July 15, 2025, an Adelanto IJ issued a decision that the
11 immigration court lacked jurisdiction to conduct a bond redetermination hearing
12 because Mr. Pascual is subject to mandatory detention under 8 U.S.C.
13 § 1225(b)(2)(A).

14 78. As a result, Mr. Pascual remains in detention. Without relief from this
15 Court, he faces the prospect of months, or even years, in immigration custody,
16 separated from his family and community.

17 79. As stated *supra* ¶ 63, any appeal to the BIA is futile.
18
19
20

1 **Luiz Alberto De Aquino De Aquino**

2 80. Plaintiff Luiz Alberto De Aquino De Aquino has resided in the United
3 States since 2022. He has no criminal record and no previous contact with
4 immigration authorities.

5 81. Mr. De Aquino has worked for the same apparel company since 2022.
6 He has been together with his spouse for seventeen years, and has been separated
7 from her since his arrest. He is a hard-working and family-oriented man of
8 character and integrity, as the many letters submitted in support of his bond case
9 attest.

10 82. On June 6, 2025, Mr. De Aquino was arrested by immigration
11 authorities as part of a largescale immigration enforcement action in Los Angeles.
12 He is now detained at the Adelanto ICE Processing Center.

13 83. DHS placed Mr. De Aquino in removal proceedings before the
14 Adelanto Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged him
15 with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone
16 who allegedly entered the United States without inspection.

17 84. ICE did not set a bond for Mr. De Aquino, and he requested a bond
18 redetermination hearing before an IJ.

19 85. On July 21, 2025, an Adelanto IJ issued a decision that the
20 immigration court lacked jurisdiction to conduct a bond redetermination hearing

1 because Mr. De Aquino is subject to mandatory detention under 8 U.S.C.

2 § 1225(b)(2)(A).

3 86. As a result, Mr. De Aquino remains in detention. Without relief from
4 this Court, he faces the prospect of months, or even years, in immigration custody,
5 separated from her family and community.

6 87. As stated *supra* ¶ 63, any appeal to the BIA is futile.

7 **CLASS ACTION ALLEGATIONS**

8 88. Plaintiffs bring this action on behalf of themselves and all other
9 persons who are similarly situated, pursuant to Federal Rules of Civil Procedure
10 23(a) and 23(b)(2). A class action is proper because this action involves questions
11 of law and fact common to the class; the class is so numerous that joinder of all
12 members is impractical; the claims of Plaintiffs are typical of the claims of the
13 class; Plaintiffs will fairly and adequately protect the interests of the class; and
14 Defendants have acted on grounds that apply generally to the class, so that final
15 declaratory relief is appropriate with respect to the class as a whole.

16 **Bond Eligible Class**

17 89. Plaintiffs seek to represent a “Bond Eligible Class” comprised of the
18 following:

- 19 All noncitizens in the United States without lawful status who
20 (1) have entered or will enter the United States without inspection;
(2) were not or will not be apprehended upon arrival; and (3) are not or

1 will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1),
2 or § 1231 at the time DHS makes an initial custody determination.

3 90. The Bond Eligible Class is so numerous that joinder of all members is
4 impracticable. Plaintiffs are not aware of the exact number of putative class
5 members, as Defendants are uniquely positioned to identify such persons. Upon
6 information and belief, there are at least thousands of individuals detained each
7 year at immigration detention centers across the country to whom the DHS's no-
8 bond policy applies. The class is also comprised of many future potential members,
9 given the large numbers of persons residing in the United States who entered
10 without inspection. *See supra* pp.11–12 nn. 2–3.

11 91. The proposed class meets the commonality requirement of Federal
12 Rule of Civil Procedure 23(a)(2). All class members present at least one core
13 common question of whether § 1225(b)(2)'s mandatory detention provisions apply
14 to them and prevent them from being considered for release on bond under
15 § 1226(a) and its implementing regulations.

16 92. The Named Plaintiffs' claims are typical of the class, as they face the
17 same injury as the class and assert the same claims and rights as the class.

18 93. The proposed class meets the adequacy requirement of Federal Rule
19 of Civil Procedure 23(a)(4). The Named Plaintiffs seek a declaration of rights and
20 relief under the APA applicable to the whole class, are represented by competent
class counsel, and will fairly and adequately protect the class's interest.

1 **Adelanto Class**

2 94. Plaintiffs also seek to represent an “Adelanto Class” comprised of the
3 following:

4 All noncitizens in the United States without lawful status who (1) have
5 or will have proceedings before the Adelanto Immigration Court;
6 (2) have entered or will enter the United States without inspection;
7 (3) were not or will not be apprehended upon arrival; and (4) are not or
8 will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1),
9 or § 1231 at the time the noncitizen is scheduled for or requests a bond
10 hearing.

11 95. The Adelanto Class is so numerous that joinder of all members is
12 impracticable. Plaintiffs are not aware of the exact number of putative class
13 members, as Defendants are uniquely positioned to identify such persons. Upon
14 information and belief, there are at least hundreds of individuals detained each year
15 with removal proceedings before the Adelanto Immigration Court to whom the no-
16 bond policy applies. The class is also comprised of many future members.

17 96. The proposed class meets the commonality requirement of Federal
18 Rule of Civil Procedure 23(a)(2). All class members present at least one common
19 question of whether § 1225(b)(2)’s mandatory detention provisions apply to them
20 and prevent them from receiving a bond hearing under § 1226(a) and its
implementing regulations.

97. The Named Plaintiffs’ claims are typical of the class, as they face the
same injury as the class and assert the same claims and rights as the class.

98. The proposed class meets the adequacy requirement of Federal Rule of Civil Procedure 23(a)(4). The Named Plaintiffs seek a declaration of rights and relief under the APA applicable to the whole class, are represented by competent class counsel, and will fairly and adequately protect the class's interest.

CLAIMS FOR RELIEF

COUNT I

**Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Release on Bond
(on Behalf of Plaintiffs and both classes)**

99. Plaintiffs incorporate by reference the allegations of fact set forth in the preceding paragraphs.

100. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Defendants. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

101. Nonetheless, DHS and the Adelanto Immigration Court have adopted a policy and practice of applying § 1225(b)(2) to Plaintiffs, Bond Eligible Class members, and Adelanto Class members.

1 102. The unlawful application of § 1225(b)(2) to Bond Eligible Class
2 members and Adelanto Class members unlawfully mandates their continued
3 detention and violates the INA.

4 **COUNT II**

5 **Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19**
6 **Unlawful Denial of Release on Bond**
7 **(On Behalf of Plaintiffs and both classes)**

8 103. Plaintiffs incorporate by reference the allegations of fact set forth in
9 paragraphs 1–98 as if fully set forth herein.

10 104. In 1997, after Congress amended the INA through IIRIRA, EOIR and
11 the then-Immigration and Naturalization Service issued an interim rule to interpret
12 and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and
13 Detention of [Noncitizens],” the agencies explained that “[d]espite being
14 applicants for admission, [noncitizens] who are present without having been
15 admitted or paroled (formerly referred to as [noncitizens] who entered without
16 inspection) *will be eligible for bond and bond redetermination.*” 62 Fed. Reg. at
17 10323 (emphasis added). The agencies thus made clear that individuals who had
18 entered without inspection were eligible for consideration for bond and bond
19 hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

20 105. Nonetheless, DHS and the Adelanto Immigration Court have adopted
a policy and practice of applying § 1225(b)(2) to Plaintiffs, Bond Eligible Class
members, and Adelanto Class members.

CLASS ACTION COMPL. & AM. PET. FOR
WRIT OF HABEAS CORPUS - 26

106. The application of § 1225(b)(2) to Bond Eligible Class members and Adelanto Class members unlawfully mandates their continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
Violation of the Administrative Procedure Act
Contrary to Law and Arbitrary and Capricious Agency Policy
(On Behalf of Plaintiffs and both classes)

107. Plaintiffs incorporate by reference the allegations of fact set forth in paragraphs 1–98 as if fully set forth herein.

108. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

109. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Defendants. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

1 110. Nonetheless, DHS and the Adelanto Immigration Court IJs have a
2 policy and practice of applying § 1225(b)(2) to Bond Eligible Class members and
3 Adelanto Class members.

4 111. Moreover, Defendants have failed to articulate reasoned explanations
5 for their decisions, which represent changes in the agencies' policies and positions;
6 have considered factors that Congress did not intend to be considered; have entirely
7 failed to consider important aspects of the problem; and have offered explanations
8 for their decisions that run counter to the evidence before the agencies.

9 112. The application of § 1225(b)(2) to both sets of class members is
10 arbitrary, capricious, and not in accordance with law, and as such, it violates the
11 APA. *See* 5 U.S.C. § 706(2).

12 **COUNT IV**
13 **Violation of the Administrative Procedure Act**
14 **Failure to Observe Required Procedures**
(On Behalf of Plaintiffs and both classes)

15 113. Plaintiffs incorporate by reference the allegations of fact set forth
16 paragraphs 1–98 as if fully set forth herein.

17 114. The APA provides that a “reviewing court shall . . . hold unlawful
18 and set aside agency action, findings, and conclusions found to be . . . without
19 observance of procedure required by law.” 5 U.S.C. § 706(2)(D). Specifically, the
20 APA requires agencies to follow public notice-and-comment rulemaking

1 procedures before promulgating new regulations or amending existing regulations.

2 *See* 5 U.S.C. § 553(b), (c).

3 115. Defendants failed to comply with the APA by adopting its policy and
4 departing from its regulations without any rulemaking, let alone any notice or
5 meaningful opportunity to comment. Defendants failed to publish any such new
6 rule despite affecting the substantive rights of thousands of noncitizens under the
7 INA, as required under 5 U.S.C. § 553(d).

8 116. Had Defendants complied with the advance publication and notice-
9 and-comment rulemaking requirements under the APA, members of the public and
10 organizations that advocate on behalf of noncitizens like Plaintiffs and the proposed
11 classes would have submitted comments opposing the new policies.

12 117. The APA's notice and comment exceptions related to "foreign affairs
13 function[s] of the United States," *id.* § 553(a)(1), and "good cause," *id.* § 553(d)(3),
14 are inapplicable.

15 118. Defendants' adoption of their no-bond policies therefore violates the
16 public notice-and-comment rulemaking procedures required under the APA.

17 **COUNT V**
18 **Violation of Fifth Amendment Due Process Clause**
(On behalf of Plaintiffs and Both Classes)

19 119. Plaintiffs incorporate by reference the allegations of fact set forth
20 paragraphs 1–98 as if fully set forth herein.

1 120. The Fifth Amendment provides that “[n]o person” shall be “be
2 deprived of life, liberty, or property, without due process of law.”

3 121. “Freedom from imprisonment—from government custody, detention,
4 or other forms of physical restraint—lies at the heart of the liberty that Clause
5 protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

6 122. Moreover, “[t]he Due Process Clause applies to all ‘persons’ within
7 the United States, including aliens, whether their presence here is lawful, unlawful,
8 temporary, or permanent.” *Id.* at 693.

9 123. Defendants’ mandatory detention of Plaintiffs and the proposed
10 classes without consideration for release on bond or access to a bond hearing violates
11 their due process rights.

12 **PRAYER FOR RELIEF**

13 WHEREFORE,

14 A. Plaintiffs respectfully request that this Court:

- 15 1. Assume jurisdiction over this matter;
- 16 2. Certify this case as a class action, and certify the Bond Eligible Class
17 and the Adelanto Class;
- 18 3. Appoint Named Plaintiffs Maldonado, Franco, Pascual, and De
19 Aquino as representatives of the Bond Eligible Class;
- 20

1 4. Appoint Named Plaintiffs Maldonado, Franco, Pascual, and De
2 Aquino as representatives of the Adelanto Class;

3 5. Appoint undersigned counsel as class counsel pursuant to Federal
4 Rule of Civil Procedure 23(g);

5 B. As remedies for each of the causes of action asserted above, Plaintiffs and
6 proposed class members request that this Court:

7 1. Declare that Defendants' policy and practice of denying consideration
8 for bond on the basis of § 1225(b)(2) to Plaintiffs Maldonado,
9 Pascual, Franco, and De Aquino, Bond Eligible Class members, and
10 Adelanto Class members, violates the INA, its implementing
11 regulations, the APA, and the Due Process Clause;

12 2. Declare that DHS's practice of using Form EOIR-43 to subject Bond
13 Eligible Class members to detention after an IJ sets bond to violate the
14 INA, its implementing regulations, and the APA where the basis for
15 Form EOIR-43 is DHS's new policy;

16 3. Issue a writ of habeas corpus requiring that Defendants release Named
17 Plaintiffs Maldonado Bautista, Franco Galdamez, Pascual, and De
18 Aquino or provide them with a bond hearing pursuant to 8 U.S.C.
19 § 1226(a) or the Due Process Clause within 7 days;

- 1 4. Set aside the denial of bond hearing that Defendants issued to
2 Maldonado Bautista, Franco Galdamez, Pascual, and De Aquino, and
3 order Defendants to provide a new bond hearing pursuant to 8 U.S.C.
4 § 1226(a) within 7 days;
- 5 5. Set aside Defendants' unlawful detention policy under the APA, 5
6 U.S.C. § 706(2), as contrary to law, arbitrary and capricious, and
7 contrary to constitutional right;
- 8 6. Award reasonable attorneys' fees and costs pursuant to the Equal
9 Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412(d), 5
10 U.S.C. § 504, and on any other basis justified under law; and
- 11 7. Grant any other and further relief that this Court deems just and
12 appropriate, including individual injunctions when requested as
13 necessary to secure the rights of class members.

14 DATED this 28th of July, 2025.

15 s/ Niels W. Frenzen*

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CLASS ACTION COMPL. & AM. PET. FOR
WRIT OF HABEAS CORPUS - 32

1 this matter. Participation by clinic faculty and students in this case reflects
2 their professional obligations to clients and does not represent the views or
3 positions of the University of Southern California or the USC Gould School
4 of Law.

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CLASS ACTION COMPL. & AM. PET. FOR
WRIT OF HABEAS CORPUS - 33

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4 **Applications for admission pro hac vice forthcoming

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CLASS ACTION COMPL. & AM. PET. FOR
WRIT OF HABEAS CORPUS - 34