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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 Javier CEJA GONZALEZ; Reynaldo
11 CUERVO-SILVERIO; Juan Francisco
12 DONIS-MANCILLA; Mario Francisco
13 GARCIA AGUILAR; Gregorio
14 MARTINEZ ZAMORA; Marlon
15 Adilson VELASQUEZ CINTO,

Petitioners,

16 v.

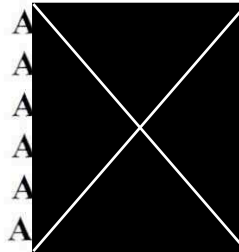
16 Kristi NOEM, Secretary, U.S.
17 Department of Homeland Security;
18 Pamela BONDI, U.S. Attorney General;
19 Todd LYONS, Acting Director,
20 Immigration and Customs Enforcement;
21 Ernesto SANTACRUZ JR., Acting
22 Director, Los Angeles Field Office,
23 Immigration and Customs Enforcement,
24 Enforcement and Removal Operations;
25 Fereti SEMAIA, Warden, Adelanto ICE
26 Processing Center; IMMIGRATION
27 AND CUSTOMS ENFORCEMENT;
28 DEPARTMENT OF HOMELAND
SECURITY,

Respondents.

Case No. 5:25-cv-2054

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

PETITIONERS' DHS NOS:



INTRODUCTION

1. Petitioners Javier CEJA GONZALEZ (A [REDACTED]); Reynaldo CUERVO-SILVERIO (A [REDACTED]); Mario Francisco GARCIA AGUILAR (A [REDACTED]); Gregorio MARTINEZ ZAMORA (A [REDACTED]); Juan Francisco DONIS-MANCILLA (A [REDACTED]); and Marlon Adilson VELASQUEZ CINTO (A [REDACTED]) are in the physical custody of Respondents at the Adelanto ICE Processing Center in Adelanto, California.

2. Petitioners are unlawfully detained. The Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have improperly concluded that Petitioners, despite being physically present within the interior of and residing in the United States and being arrested in Los Angeles County and Orange County, California, should be deemed to be seeking admission to the United States and therefore subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A).

3. DHS has placed Petitioners in removal proceedings pursuant to 8 U.S.C. § 1229a and has charged each Petitioner with being present in the United States without admission and therefore removable pursuant to 8 U.S.C. § 1182(a)(6)(A)(i).

4. Based on the charge of removability, DHS has denied Petitioners release from immigration custody, pursuant to a new DHS policy issued on July 8,

1 2025,¹ instructing all Immigration and Customs Enforcement (ICE) employees to
2 consider anyone inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) - i.e., present
3 without admission - to be an “applicant for admission” under 8 U.S.C. §
4 1225(b)(2)(A) and therefore subject to mandatory detention during the removal
5 hearing process.
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8 5. Petitioners each sought bond hearings before an immigration judge
9 (IJ), and the IJ denied bond. The IJ based their decisions on the same legal analysis
10 as set forth in the new DHS policy. Indeed, the DHS policy states it was issued “in
11 coordination with the Department of Justice (DOJ).” IJs function within EOIR
12 which is a component of the Department of Justice. The IJs concluded that
13 notwithstanding Petitioners’ presence and residence within the United States,
14 Petitioners should be deemed “applicants for admission” who are “seeking
15 admission” and subject to mandatory detention under § 1225(b)(2)(A).
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17

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19 6. Petitioners’ detention on this basis violates the plain language of the
20 Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* Section
21 1225(b)(2)(A) does not apply to individuals like Petitioners who previously entered
22 and are now present and residing in the United States. Instead, such individuals are
23 subject to a different statute, § 1226(a), that allows for release on conditional parole
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26 ¹ “Interim Guidance Regarding Detention Authority for Applicants for Admission”,
27 ICE, July 8, 2025. Available at: [https://immpolicytracking.org/policies/ice-issues-](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents)
28 [memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents)
[documents](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents).

1 or bond. That statute expressly applies to people who, like Petitioners, are charged
2 as removable for having entered the United States without inspection and being
3 present without admission.
4

5 7. Respondents' new legal interpretation of the INA is plainly contrary to
6 the statutory framework and contrary to decades of agency practice applying §
7 1226(a) to people like Petitioners who are present within the United States.
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9 8. In addition to Petitioners' statutory rights to a bond hearing under §
10 1226(a), individuals within the United States have constitutional rights. "[T]he Due
11 Process Clause applies to all 'persons' within the United States, including aliens,
12 whether their presence here is lawful, unlawful, temporary, or permanent."
13 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
14
15

16 9. Accordingly, Petitioners seek a writ of habeas corpus requiring that
17 they be released unless Respondents provide a bond hearing under § 1226(a).
18

19 JURISDICTION

20 10. Jurisdiction is proper and relief is available pursuant to 28 U.S.C. §
21 1331 (federal question), 28 U.S.C. § 1346 (original jurisdiction), 5 U.S.C. § 702
22 (waiver of sovereign immunity), 28 U.S.C. § 2241 (habeas corpus jurisdiction), and
23 Article I, Section 9, clause 2 of the United States Constitution (the Suspension
24 Clause).
25

26 11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
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1 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28
2 U.S.C. § 1651.


3
4 **VENUE**

5 12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
6 484, 493- 500 (1973), venue lies in the United States District Court for the Central
7 District of California, the judicial district in which Petitioners are currently
8 detained.

9
10 13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
11 because Respondents are employees, officers, and agencies of the United States,
12 and because a substantial part of the events or omissions giving rise to the claims
13 occurred in the Central District of California.



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16 **PARTIES**



17 ***Petitioners***

18 14. Petitioner Javier CEJA GONZALEZ (DHS No. A ) was
19 arrested by Border Patrol agents on June 28, 2025 in San Dimas, California. He has
20 been in immigration detention since that date. After arresting Petitioner, ICE did
21 not set bond and Petitioner requested review of his custody by an IJ. On July 24,
22 2025, Petitioner was denied bond by an IJ at the Adelanto Immigration Court
23 because he was deemed an “applicant for admission.”

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26 15. Petitioner Reynaldo CUERVO-SILVERIO (DHS No. A )
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1 was arrested by Homeland Security Investigations agents on June 6, 2025 at the
2 Ambiance Apparel clothing manufacturer in the Fashion District of Downtown Los
3 Angeles. He has been in immigration detention since that date. After arresting
4 Petitioner, ICE did not set bond and Petitioner requested review of his custody by
5 an IJ. On August 4, 2025, Petitioner was denied bond by an IJ at the Adelanto
6 Immigration Court because he was deemed an “applicant for admission.”
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9 16. Petitioner Juan Francisco DONIS-MANCILLA (DHS No. A 
10 ) was arrested by Border Patrol agents on July 8, 2025 in Los Angeles. He has
11 been in immigration detention since that date. After arresting Petitioner, ICE did
12 not set bond and Petitioner requested review of his custody by an IJ. On July 29,
13 2025, Petitioner was denied bond by an IJ at the Adelanto Immigration Court
14 because he was deemed an “applicant for admission.”
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17 17. Petitioner Mario Francisco GARCIA AGUILAR (DHS No. A 
18 ) was arrested by HSI agents and or ICE agents on June 6, 2025 at the
19 Ambiance Apparel clothing manufacturer in the Fashion District of Downtown Los
20 Angeles. He has been in immigration detention since that date. After arresting
21 Petitioner, ICE did not set bond and Petitioner requested review of his custody by
22 an IJ. On July 25, 2025, Petitioner was denied bond by an IJ at the Adelanto
23 Immigration Court because he was deemed an “applicant for admission.”
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26 18. Petitioner Gregorio MARTINEZ ZAMORA (DHS No. A )
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1 was arrested by immigration agents on June 6, 2025. He was arrested at or near at
2 the Ambiance Apparel clothing manufacturer in the Fashion District of Downtown
3 Los Angeles. He has been in immigration detention since that date. After arresting
4 Petitioner, ICE did not set bond and Petitioner requested review of his custody by
5 an IJ. On July 22, 2025, Petitioner was denied bond by an IJ at the Adelanto
6 Immigration Court because he was deemed an “applicant for admission.”
7

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9 19. Petitioner Marlon Adilson VELASQUEZ CINTO (DHS No. A 
10 ) was arrested by ICE agents on May 10, 2025 in Lake Forest, California.
11 He has been in immigration detention since that date. After arresting Petitioner, ICE
12 did not set bond and Petitioner requested review of his custody by an IJ. On August
13 1, 2025, Petitioner was denied bond by an IJ at the Adelanto Immigration Court
14 because the IJ concluded there was no jurisdiction pursuant to 8 U.S.C. § 1225(b).
15

16
17 ***Respondents***

18 20. Respondent Kristi NOEM is the Secretary of the Department of
19 Homeland Security. She is responsible for the implementation and enforcement of
20 the Immigration and Nationality Act and oversees ICE, which is responsible for
21 Petitioners’ detention. Ms. Noem has ultimate custodial authority over Petitioners.
22 She is sued in her official capacity.
23

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25 21. Respondent Pamela BONDI is the Attorney General of the United
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1 States. She is responsible for the Department of Justice, of which the Executive
2 Office for Immigration Review and the immigration court system it operates is a
3 component agency. She is sued in her official capacity.
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5 22. Todd LYONS is the Acting Director of Immigration and Customs
6 Enforcement, a federal law enforcement agency within the Department of
7 Homeland Security. ICE's responsibilities include operating the immigration
8 detention system. In his capacity as ICE Acting Director, Respondent Lyons
9 exercises control over and is a custodian of persons held at ICE facilities nationally.
10 He is Petitioners' immediate custodian and is responsible for Petitioners' detention.
11 At all times relevant to this Complaint, Respondent Lyons was acting within the
12 scope and course of his employment with ICE. He is sued in his official capacity.
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16 23. Respondent Ernesto SANTACRUZ JR. is the Acting Director of the
17 Los Angeles Field Office of ICE's Enforcement and Removal Operations division.
18 As such, he is the custodian of all persons held at the ICE facilities in the Los
19 Angeles Field Office. He is Petitioners' immediate custodian and is responsible for
20 Petitioners' detention. He is sued in his official capacity.
21

22 24. Respondent Fereti SEMAIA, is the Warden of the Adelanto ICE
23 Processing Center, Adelanto, California, where Petitioners are detained. He has
24 immediate physical custody of Petitioners. He is sued in his official capacity.
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LEGAL FRAMEWORK

25. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings conducted pursuant to 8 U.S.C. § 1229a.

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

27. Second, the INA provides for mandatory detention of noncitizens subject to an Expedited Removal order imposed pursuant to 8 U.S.C. § 1225(b)(1) and for other noncitizen applicants for admission to the U.S. who are deemed not clearly entitled to be admitted. *See* 8 U.S.C. § 1225(b)(2).

28. Last, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

29. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2).

30. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582

1 to 3009–583, 3009–585. Section 1226(a) was most recently amended in early 2025
2 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

3
4 31. Following the enactment of the IIRIRA, EOIR drafted new regulations
5 applicable to proceedings before immigration judges explaining that, in general,
6 people who entered the country without inspection – also referred to as being
7 “present without admission” - were not considered detained under § 1225 and that
8 they were instead detained under § 1226(a). *See* Inspection and Expedited Removal
9 of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
10 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

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12
13 32. Thus, in the decades that followed, most people who entered without
14 inspection and were placed in standard § 1229a removal proceedings received bond
15 hearings before IJs, unless their criminal history rendered them ineligible. That
16 practice was consistent with many more decades of prior practice, in which
17 noncitizens who were not deemed “arriving” were entitled to a custody hearing
18 before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R.
19 Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the
20 detention authority previously found at § 1252(a)).
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24 33. This practice both pre- and post-enactment of IIRIRA is consistent
25 with the fact that noncitizens present within the United States – as opposed to
26 noncitizens present at an international border and seeking admission - have
27 constitutional rights. “[T]he Due Process Clause applies to all ‘persons’ within the
28

1 United States, including aliens, whether their presence here is lawful, unlawful,
2 temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

3
4 34. On July 8, 2025, ICE, “in coordination with” the Department of Justice,
5 announced a new policy that rejected the well-established understanding of the
6 statutory framework and reversed decades of practice.

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8 35. The new policy, entitled “Interim Guidance Regarding Detention
9 Authority for Applicants for Admission,”² claims that all noncitizens present within
10 the United States who entered without inspection shall now be deemed “applicants
11 for admission” under 8 U.S.C. § 1225, and therefore are subject to mandatory
12 detention under § 1225(b)(2)(A). The policy applies regardless of when a person is
13 apprehended, and affects those who have resided in the United States for months,
14 years, and even decades.

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17 36. In a May 22, 2025 unpublished decision by the Board of Immigration
18 Appeals (BIA), EOIR adopted this same position.³ That decision holds that all
19 noncitizens who entered the United States without admission or parole and who are
20 present within the United States are considered applicants for admission and
21 ineligible for IJ bond hearings.

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24 37. ICE and EOIR have adopted this position even though federal courts

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26 ² Available at: [https://immpolicytracking.org/policies/ice-issues-memo-](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents)
27 [eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents).

28 ³ Available at [https://nwirp.org/our-work/impact-litigation/assets/vazquez/59-](https://nwirp.org/our-work/impact-litigation/assets/vazquez/59-1%20ex%20A%20decision.pdf)
[1%20ex%20A%20decision.pdf](https://nwirp.org/our-work/impact-litigation/assets/vazquez/59-1%20ex%20A%20decision.pdf).

1 have rejected this exact conclusion. For example, after IJs in the Tacoma,
2 Washington, immigration court stopped providing bond hearings for persons who
3 entered the United States without inspection and who have since resided here, the
4 U.S. District Court for the Western District of Washington found that such a
5 reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to
6 noncitizens who are not apprehended upon arrival to the United States. *Rodriguez*
7 *Vazquez v. Bostock*, --- F. Supp. 3d ---, [2025 WL 1193850](#) (W.D. Wash. Apr. 24,
8 [2025](#)); *see also* *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, [2025 WL 1869299](#), at *8
9 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion). *See*
10 *also Maldonado Bautista et al. v. Santacruz, et al.*, No. 5:25-cv-01873-SSS-BFM
11 (C.D. Calif July 28, 2025), Order Granting Temporary Restraining Order, [Dkt. 14](#)
12 [at 9](#) (TRO issued after DHS adopted “Interim Guidance Regarding Detention
13 Authority for Applicants for Admission.”)

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18 38. DHS’s and EOIR’s interpretation defy the INA. As the *Rodriguez*
19 *Vazquez* court explained, the plain text of the statutory provisions demonstrates that
20 § 1226(a), not § 1225(b), applies to people like Petitioners. Section 1226(a) applies
21 by default to all persons “pending a decision on whether the [noncitizen] is to be
22 removed from the United States.” *Rodriguez Vazquez*, [2025 WL 1193850](#) at *12.
23 *See also Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM (C.D. Calif July 28,
24 2025) Order Granting Temporary Restraining Order, [Dkt. 14 at 9](#) (“[T]he Court
25 finds that the potential for Petitioners’ continued detention without an initial bond
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1 hearing would cause immediate and irreparable injury, as this violates statutory
2 rights afforded under § 1226(a).”)

3
4 39. Other portions of the text of § 1226 also explicitly apply to people
5 charged as being inadmissible, including those who entered without inspection. *See*
6 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to inadmissible individuals
7 makes clear that, by default, inadmissible individuals not subject to subparagraph
8 (E)(ii) are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez*
9 court explained, “[w]hen Congress creates “specific exceptions” to a statute’s
10 applicability, it “proves” that absent those exceptions, the statute generally applies.
11 *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic*
12 *Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

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16 40. Section 1226 therefore leaves no doubt that it applies to noncitizens who
17 are present without admission and who face charges in removal proceedings of
18 being inadmissible to the United States.

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20 41. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or
21 who recently entered the United States and are encountered at or near the border.
22 The statute’s entire framework is premised on inspections at the border of people
23 who are “seeking admission” to the United States. 8 U.S.C.
24 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory
25 detention scheme applies “at the Nation’s borders and ports of entry, where the
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1 Government must determine whether a[] [noncitizen] seeking to enter the country is
2 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

7 8 **FACTS**

9 **Petitioner Javier CEJA GONZALEZ**

10 43. Petitioner Javier CEJA GONZALEZ has resided in the United States for
11 approximately twenty years. He has no criminal record and no previous contact
12 with immigration authorities.

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14 44. On June 28, 2025, Petitioner was arrested in San Dimas, California.
15
16 Petitioner is now detained at the Adelanto ICE Processing Center in Adelanto,
17 California.

18 45. ICE placed Petitioner in removal proceedings before the Adelanto
19 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
20 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
21 without admission in the United States.
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23
24 46. Upon information and belief, following Petitioner’s arrest and transfer to
25 the Adelanto ICE Processing Center, ICE issued a custody determination to
26 continue Petitioner’s detention without an opportunity to post bond or be released
27 on other conditions.
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1 47. Petitioner subsequently requested a bond redetermination hearing before
2
3 an IJ. On July 24, 2025, an IJ denied the request and issued a decision that the court
4 lacked jurisdiction to conduct a bond redetermination hearing because Petitioner
5 was an applicant for admission.

6 **Petitioner Reynaldo CUERVO-SILVERIO**

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8 48. Petitioner Reynaldo CUERVO-SILVERIO resides in California. He has
9 no criminal record and no previous contact with immigration authorities.

10 49. On June 6, 2025, Petitioner was arrested at the Ambiance Apparel
11 clothing manufacturer in the Fashion District of Downtown Los Angeles.

12 Petitioner is now detained at the Adelanto ICE Processing Center in Adelanto,
13 California.

14
15 50. ICE placed Petitioner in removal proceedings before the Adelanto
16 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
17 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
18 without admission in the United States.

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20 51. Upon information and belief, following Petitioner's arrest and transfer to
21 the Adelanto ICE Processing Center, ICE issued a custody determination to
22 continue Petitioner's detention without an opportunity to post bond or be released
23 on other conditions.

24 52. Petitioner subsequently requested a bond redetermination hearing before
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1 an IJ. On August 4, 2025, an IJ denied the request and issued a decision that the
2 court lacked jurisdiction to conduct a bond redetermination hearing because
3
4 Petitioner was an applicant for admission.

5 **Petitioner Juan Francisco DONIS-MANCILLA**

6 53. Petitioner Juan Francisco DONIS-MANCILLA resides in San
7
8 Bernardino County. He has resided in the United States for over fifteen years. He
9 was convicted for driving without a license (CA VC 12500A) in June 2007 and
10 placed on one-year probation. He has no previous contact with immigration
11
12 authorities.

13 54. On July 8, 2025, Petitioner was arrested in Los Angeles. Petitioner is
14
15 now detained at the Adelanto ICE Processing Center in Adelanto, California.

16 55. ICE placed Petitioner in removal proceedings before the Adelanto
17 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
18 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
19
20 without admission in the United States.

21 56. Upon information and belief, following Petitioner's arrest and transfer to
22
23 the Adelanto ICE Processing Center, ICE issued a custody determination to
24 continue Petitioner's detention without an opportunity to post bond or be released
25
26 on other conditions.

27 57. Petitioner subsequently requested a bond redetermination hearing before
28

1 an IJ. On July 29, 2025, an IJ denied bond because Petitioner was an applicant for
2 admission.

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4 **Petitioner Mario Francisco GARCIA AGUILAR**

5 58. Petitioner Mario Francisco GARCIA AGUILAR resides in Los
6 Angeles. He has no criminal record and no previous contact with immigration
7 authorities.

9 59. On June 6, 2025, Petitioner was arrested at the Ambiance Apparel
10 clothing manufacturer in the Fashion District of Downtown Los Angeles.
11 Petitioner is now detained at the Adelanto ICE Processing Center in Adelanto,
12 California.

14 60. ICE placed Petitioner in removal proceedings before the Adelanto
15 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
16 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
17 without admission in the United States.

19 61. Upon information and belief, following Petitioner's arrest and transfer to
20 the Adelanto ICE Processing Center, ICE issued a custody determination to
21 continue Petitioner's detention without an opportunity to post bond or be released
22 on other conditions.

23 62. Petitioner subsequently requested a bond redetermination hearing before
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1 an IJ. On July 25, 2025, an IJ denied the request and issued a decision that the court
2 lacked jurisdiction to conduct a bond redetermination hearing because Petitioner
3 was an applicant for admission.
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5 **Petitioner Gregorio MARTINEZ ZAMORA**

6 63. Petitioner Gregorio MARTINEZ ZAMORA resides in Los Angeles and
7 has resided in the United States for over fifteen years. He was convicted for
8 reckless driving (CA VC 23103) in December 2008 and placed on probation. He
9 has no previous contact with immigration authorities.
10

11 64. On June 6, 2025, Petitioner was arrested at the Ambiance Apparel
12 clothing manufacturer in the Fashion District of Downtown Los Angeles.
13 Petitioner is now detained at the Adelanto ICE Processing Center in Adelanto,
14 California.
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16 65. ICE placed Petitioner in removal proceedings before the Adelanto
17 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
18 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
19 without admission in the United States.
20

21 66. Upon information and belief, following Petitioner's arrest and transfer to
22 the Adelanto ICE Processing Center, ICE issued a custody determination to
23 continue Petitioner's detention without an opportunity to post bond or be released
24 on other conditions.
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26 67. Petitioner subsequently requested a bond redetermination hearing before
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1 an IJ. On July 22, 2025, an IJ denied the request and issued a decision that the court
2 lacked jurisdiction to conduct a bond redetermination hearing because Petitioner
3 was an applicant for admission.
4

5 **Petitioner Marlon Adilson VELASQUEZ CINTO**

6 68. Petitioner Marlon Adilson VELASQUEZ CINTO resides in Lake Forest,
7 California. He has no criminal record and no previous contact with immigration
8 authorities.
9

10 69. On May 10, 2025, Petitioner was arrested in Orange County. Petitioner
11 is now detained at the Adelanto ICE Processing Center in Adelanto, California.
12

13 70. ICE placed Petitioner in removal proceedings before the Adelanto
14 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
15 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
16 without admission in the United States.
17

18 71. Upon information and belief, following Petitioner's arrest and transfer to
19 the Adelanto ICE Processing Center, ICE issued a custody determination to
20 continue Petitioner's detention without an opportunity to post bond or be released
21 on other conditions.
22

23 72. Petitioner subsequently requested a bond redetermination hearing before
24 an IJ. On August 1, 2025, an IJ denied the request and issued a decision that the
25 court lacked jurisdiction to conduct a bond redetermination hearing because
26 Petitioner was an applicant for admission.
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73. Any appeal to the BIA by the Petitioners is futile. ICE's new policy was issued "in coordination with DOJ," which oversees the immigration courts. Further, as noted, the most recent unpublished BIA decision on this issue held that persons like Petitioners are subject to mandatory detention as applicants for admission. In the *Rodriguez Vazquez* litigation, where EOIR and the Attorney General are defendants, DOJ has affirmed its position that individuals like Petitioners are applicants for admission and subject to detention under § 1225(b)(2)(A). *See* Mot. to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31. DOJ has taken the same position in the *Maldonado Bautista* litigation. *See* Opp. to Ex Parte TRO Application, *Maldonado Bautista et al. v. Santacruz, et al.*, No. 5:25-cv-01873-SSS-BFM, (C.D. Calif. July 24, 2025), Dkt. 8.

FIRST CLAIM FOR RELIEF

Petitioners' Detention is in Violation of 8 U.S.C. § 1226(a)

74. Petitioners incorporate by reference the allegations of fact set forth in the preceding paragraphs.

75. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Petitioners who are present and residing in the United States and have been placed under § 1229a removal proceedings and charged with inadmissibility pursuant 8 U.S.C. § 1182(a)(6)(A)(i). As relevant here, § 1225(b)(2) does not apply to those who previously entered the country and have been present and residing in

1 the United States prior to being apprehended and placed in removal proceedings by
2 Respondents. Such noncitizens may only be detained pursuant to § 1226(a), unless
3 subject to § 1226(c), or § 1231.
4

5 76. The application of § 1225(b)(2) to Petitioners unlawfully mandates their
6 continued detention without a bond hearing and violates 8 U.S.C. § 1226(a).
7

8 **SECOND CLAIM FOR RELIEF**

9 **Petitioners' Detention Violates the Administrative Procedure Act,**

10 **5 U.S.C. § 706(2)**

11
12 77. Petitioners incorporate by reference the allegations of fact set forth in the
13 preceding paragraphs.

14 78. Under the Administrative Procedure Act, a court must “hold unlawful
15 and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or
16 otherwise not in accordance with the law,” that is “contrary to constitutional right
17 [or] power,” or that is “in excess of statutory jurisdiction, authority, or limitations,
18 or short of statutory right.” 5 U.S.C. § 706(2)(A)-(C).
19

20 79. Respondents' detention of Petitioners pursuant to § 1225(b)(2) is
21 arbitrary and capricious. Respondents' detention of Petitioners violates the INA
22 and the Fifth Amendments. Respondents do not have statutory authority under §
23 1225(b)(2) to detain Petitioners.
24

25 80. Petitioners' detention is arbitrary, capricious, an abuse of discretion,
26
27
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1 violative of the Constitution, and without statutory authority in violation of 5
2 U.S.C. § 706(2).
3

4 **THIRD CLAIM FOR RELIEF**

5 **Petitioners' Detentions Violates Their Fifth Amendment Right to Due Process**

6 81. Petitioners incorporate by reference the allegations of fact set forth in the
7 preceding paragraphs.
8

9 82. The Government may not deprive a person of life, liberty, or property
10 without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—
11 from government custody, detention, or other forms of physical restraint—lies at
12 the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678,
13 690 (2001).
14

15 83. Petitioners have a fundamental interest in liberty and being free from
16 official restraint.
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18 84. The Government's detention of Petitioners without providing Petitioners
19 a bond redetermination hearing to determine whether they are a flight risk or
20 danger to others violates their right to Due Process.
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PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully ask that this Court take jurisdiction over this matter and grant the following relief:

- a. Issue a Writ of Habeas Corpus requiring Respondents to release Petitioners or provide Petitioners with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
- b. Award Petitioners' attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- c. Grant any other and further relief that this Court deems just and proper.

DATED: August 7, 2025.

s/ Niels W. Frenzen
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