

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

Miguel Angel MALDONADO VAZQUEZ, on
behalf of himself as an individual and on behalf
of others similarly situated,

Plaintiff,

v.

Thomas E. FEELEY, Field Office Director, Salt
Lake City Field Office, John MATTOS,
Warden of Nevada Southern Detention Center;
Enforcement and Removal Operations, U.S.
Immigration and Customs Enforcement; Kristi
NOEM, Secretary, U.S. Department of
Homeland Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela BONDI,
U.S. Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW (EOIR); Sirce
OWEN, Acting Director, EOIR; LAS VEGAS
IMMIGRATION COURT,

Defendants.

Case No. 25-1542

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

INTRODUCTION

1. Plaintiff Miguel Angel Maldonado Vazquez is a noncitizen detained at the Nevada Southern Detention Center (NSDC) who faces prolonged, mandatory detention under a sweeping and unlawful policy adopted by the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) — and applied by immigration judges (IJs) of the Las Vegas Immigration Court — that prevents him and others from being released on bond while in civil immigration proceedings.

2. On July 8, 2025, DHS, “in coordination with” DOJ/EOIR, issued *Interim Guidance Regarding Detention Authority for Applicants for Admission*, declaring that all persons who entered the United States without inspection are to be deemed “applicants for admission” under 8 U.S.C. § 1225(b)(2)(A), and thus subject to mandatory detention, regardless of how long they have lived here or where they were apprehended.

3. Prior to July 8, 2025, the Las Vegas Immigration Court regularly exercised jurisdiction under § 1226(a) over similarly-situated noncitizens apprehended and processed in the District of Nevada, granting bond in appropriate cases. In matters where the respondent was not admitted and DHS’s Office of the Principal Legal Advisor (OPLA) did not file a Form EOIR-43, there was no opposition to the court’s jurisdiction, and bond hearings went forward in the normal course.

4. Since issuance of the July 8, 2025 Interim Guidance, most Las Vegas IJs have continued to find that they have jurisdiction under § 1226(a) and, after individualized hearings, have granted bond in meritorious cases. However, OPLA has systematically filed Form EOIR-43 notices of appeal in such cases — even where there was no prior opposition — triggering automatic stays under 8 C.F.R. § 1003.19(i)(2) and superseding the release orders. This practice ensures

1 continued detention despite the IJ's findings on danger and flight risk, prolonging custody for
2 months while the BIA appeal remains unresolved.

3 5. Through the Las Vegas Immigration Court, and specifically via the Office of the
4 Principal Legal Advisor (OPLA), Defendants have applied this policy, and have systematically
5 used automatic-stay appeals to nullify favorable bond orders, in a manner that defies the text and
6 structure of the Immigration and Nationality Act (INA). Detention under § 1225(b)(2) is limited
7 to recent arrivals and does not apply to those who, like Mr. Maldonado Vazquez, have lived in this
8 country for decades. In fact, DHS's own arrest and custody paperwork (Form I-286) has
9 historically cited § 1226(a) as the detention authority for such individuals, a provision that affords
10 the possibility of release on bond after an individualized hearing.

11 6. The only avenue for relief from OPLA's automatic-stay tactic comes in the form of
12 an appeal to the Board of Immigration Appeals (BIA). In case after case, OPLA has filed
13 Form EOIR-43 to challenge an IJ's finding of § 1226(a) jurisdiction and favorable bond
14 determination, triggering an automatic stay under 8 C.F.R. § 1003.19(i)(2). Yet this "right" to
15 appeal is virtually meaningless: the BIA takes months to resolve such custody appeals, during
16 which class members remain detained — and, in many instances, the individual is removed from
17 the United States before the appeal is ever completed, mooted the bond issue entirely.

18 7. According to the BIA's own data, on average, the agency takes well over six
19 months to render a decision on a bond appeal. By this time, the damage is done: most appeals
20 become moot because a final decision has been entered, and the noncitizens have either been
21 released or deported. Indeed, many noncitizens simply give up on their cases after spending
22 months locked up in detention, as detention makes it much harder for them to secure legal
23 representation and successfully defend themselves in the underlying removal proceedings.

1 8. Rather than treat the custody appeals as cases involving a person's core right to
2 liberty under the Due Process Clause, the BIA lets them languish for months, and in some cases,
3 years. This practice stands in stark contrast to federal courts facing the similar context of pretrial
4 detention. Both district judges and courts of appeals act within days, weeks, or at most a couple of
5 months, of appeals from magistrate judge detention decisions. By systematically delaying bond
6 appeal determinations, the BIA fails to similarly acknowledge the serious liberty issues at stake in
7 these civil detention cases.

8 9. Delays in deciding bond appeals compound the severe harms resulting from
9 OPLA's automatic-stay tactic: prolonged detention even after an IJ's favorable bond order,
10 diminished ability to defend against removal while confined, and continued exposure to the
11 punitive, jail-like conditions of ICE's contracted detention facilities. For many, these harms are
12 magnified by the reality that they may be removed from the United States before the BIA ever
13 rules, rendering the appeal, and the underlying bond grant — meaningless.

14 10. Plaintiff Miguel Angel Maldonado Vazquez accordingly seeks to represent two
15 classes of noncitizens apprehended and processed within the District of Nevada to challenge
16 Defendants' policies and practices that (a) deny noncitizens the opportunity for an individualized
17 bond hearing under 8 U.S.C. § 1226(a), and (b) nullify favorable bond determinations through
18 OPLA's routine filing of Form EOIR-43, triggering automatic stays and preventing any
19 meaningful bond appeal.

20 11. First, Mr. Maldonado Vazquez seeks to represent a class of noncitizens who (1)
21 were or will be apprehended and processed within the District of Nevada, (2) have entered or will
22 enter the United States without inspection, (3) are not apprehended upon arrival into the United
23 States, and (4) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1),
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1 or § 1231 at the time they are scheduled for or request a bond hearing (“Bond Denial Class”). This
2 class includes individuals detained at Nevada Southern Detention Center in Pahrump, Henderson
3 Detention Center, or any other contracted or local facility, and seeks declaratory relief that
4 establishes class members are detained under § 1226(a) and therefore entitled to a full and fair
5 individualized bond hearing.

6 12. Second, all detained noncitizens who have a pending appeal, or will file an appeal,
7 of an Immigration Judge’s bond hearing ruling to the Board of Immigration Appeals, where the
8 initial apprehension and processing occurred within the District of Nevada, regardless of the
9 facility in which they are detained at the time of the appeal. This class includes individuals whose
10 favorable bond orders under 8 U.S.C. § 1226(a) have been nullified by the Office of the Principal
11 Legal Advisor’s filing of Form EOIR-43, triggering an automatic stay under
12 8 C.F.R. § 1003.19(i)(2), despite the individual not being subject to mandatory detention under
13 8 U.S.C. §§ 1225(b)(1), 1226(c), or 1231.

14 JURISDICTION AND VENUE

15 13. This case arises under the Immigration and Nationality Act (INA), 8 U.S.C. §§
16 1101–1538, and its implementing regulations; the Administrative Procedure Act (APA), 5 U.S.C.
17 §§ 500–596, 701–706; and the U.S. Constitution.

18 14. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, as this is a civil action
19 arising under the laws of the United States, and under 28 U.S.C. § 2241, as the case challenges
20 Plaintiff’s and class members’ unlawful detention.

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

1 16. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(e) because
2 Defendants are United States agencies and officers sued in their official capacities and/or reside in
3 this District. In addition, a substantial part of the events or omissions giving rise to the claims
4 occurred in the District of Nevada, including the apprehension and processing of Petitioner and
5 proposed class members; Petitioner is detained in this District; and no real property is involved in
6 this action.

7 **REQUIREMENTS OF 28 U.S.C. § 2243**

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

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

18 **PARTIES**

19 19. Petitioner Miguel Angel Maldonado Vazquez is a citizen and national of
20 Guatemala who has been in immigration detention since July 7, 2025. After arresting Petitioner in
21 Las Vegas, Nevada, ICE did not set bond, and Petitioner requested review of his custody by an
22 Immigration Judge. On July 31, 2025, the Immigration Judge at the Las Vegas Immigration Court
23 granted Petitioner’s release on a \$1,500 bond with ATD at DHS discretion, finding jurisdiction
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1 and exercising discretion in his favor. Petitioner has resided continuously in the United States for
2 more than twenty years.

3 20. Respondent Thomas E. Feeley is the Field Office Director of the Salt Lake City
4 Field Office of U.S. Immigration and Customs Enforcement's Enforcement and Removal
5 Operations division. As such, Director Feeley is Petitioner's immediate custodian and is
6 responsible for Petitioner's detention and removal, including class members apprehended and
7 processed in the District of Nevada who are detained at facilities under his authority. He is named
8 in his official capacity.

9 21. Respondent John Mattos is employed by CoreCivic as Warden of the Nevada
10 Southern Detention Center in Pahrump, Nevada, where Petitioner is detained. Warden Mattos has
11 immediate physical custody of Petitioner and other members of the proposed classes currently or
12 previously detained at NSDC and is sued in his official capacity.

13 22. Respondent and Defendant Kristi Noem is the Secretary of the United States
14 Department of Homeland Security. She is responsible for the implementation and enforcement of
15 the Immigration and Nationality Act (INA), and oversees U.S. Immigration and Customs
16 Enforcement, which is responsible for Petitioner's detention and the detention of class members.
17 Secretary Noem has ultimate custodial authority over Petitioner and the classes and is sued in her
18 official capacity.

19 23. Defendant United States Department of Homeland Security (DHS) is the federal
20 agency responsible for implementing and enforcing the INA, including the detention and removal
21 of noncitizens, such as members of the proposed classes apprehended and processed in the District
22 of Nevada.

1 24. Respondent and Defendant Pamela Bondi is the Attorney General of the United
2 States. She is responsible for the Department of Justice, of which the Executive Office for
3 Immigration Review and the immigration court system it operates is a component agency. She is
4 sued in her official capacity.

5 25. Defendant Executive Office for Immigration Review (EOIR) is a component
6 agency of the United States Department of Justice responsible for conducting removal and bond
7 hearings of noncitizens, including those of members of the proposed classes. EOIR is comprised
8 of a trial-level adjudicatory body administered by Immigration Judges (IJs) and an appellate body
9 known as the Board of Immigration Appeals (BIA). IJs issue initial decisions in bond hearings,
10 which are then subject to appeal to the BIA. This includes bond appeals from members of the Bond
11 Appeal Class whose favorable bond orders under 8 U.S.C. § 1226(a) have been automatically
12 stayed through the filing of Form EOIR-43 by DHS's Office of the Principal Legal Advisor.

13 26. Defendant Sirce Owen is the Director of EOIR and has ultimate responsibility for
14 overseeing the operation of the immigration courts and the Board of Immigration Appeals,
15 including the timely adjudication of bond appeals for members of the Bond Appeal Class and the
16 administration of policies and practices challenged in this action. This includes the BIA's handling
17 of EOIR-43 appeals that have the effect of nullifying Immigration Judges' favorable bond
18 determinations. She is sued in her official capacity.

19 27. The Las Vegas Immigration Court is the adjudicatory body within EOIR with
20 jurisdiction over the removal and bond cases of Petitioner and other individuals apprehended and
21 processed in the District of Nevada, including those detained at the Nevada Southern Detention
22 Center in Pahrump, Henderson Detention Center, or any other ICE-contracted or local facility. Its
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1 Immigration Judges preside over bond hearings under 8 U.S.C. § 1226(a), and its decisions in such
2 hearings are subject to appeal to the BIA.

3 **LEGAL BACKGROUND**

4 **Detention under 8 U.S.C. §§ 1226(a) and 1225(b)(2)**

5 28. The Immigration and Nationality Act (INA) prescribes three basic forms of
6 detention for non-citizens in removal proceedings.

7 29. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard,
8 non-expedited removal proceedings before an Immigration Judge. See 8 U.S.C. § 1229a.
9 Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, see
10 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or
11 convicted of certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).

12 30. Second, the INA provides for mandatory detention of noncitizens subject to
13 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
14 referred to under § 1225(b)(2).

15 31. Third, the Act provides for detention of noncitizens who have been previously
16 ordered removed, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–
17 (b).

18 32. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

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

1 34. Following IIRIRA's enactment, EOIR regulations explained that, in general, people
2 who entered the country without inspection were not considered detained under § 1225, but rather
3 under § 1226(a). See Inspection and Expedited Removal of Aliens; Detention and Removal of
4 Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed.
5 Reg. 10312, 10323 (Mar. 6, 1997).

6 35. Thus, in the decades that followed, most people who entered without inspection
7 and were placed in standard removal proceedings received bond hearings under § 1226(a), unless
8 their criminal history rendered them ineligible. That practice was consistent with decades of prior
9 practice, in which noncitizens not deemed "arriving" were entitled to a custody hearing before an
10 IJ or other neutral officer. See 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229
11 (1996) (noting that § 1226(a) "restates" prior detention authority previously found at § 1252(a)).

12 36. Class members, including Petitioner, were apprehended during interior
13 enforcement actions far from any port of entry. In Petitioner's case, ICE officers effected an
14 unwarranted and racially-charged vehicle stop in Las Vegas, Nevada, well inside the United States,
15 while he was en route to work and engaged in no criminal conduct. He was not seeking admission,
16 had resided in the United States for nearly two decades, and maintained deep family and
17 community ties. Such an interior seizure bears no nexus to the "applicant for admission"
18 framework of 8 U.S.C. § 1225(b)(2), falls within § 1226(a)'s bond-eligible civil detention regime,
19 and raises serious constitutional concerns under the Fourth Amendment's protection against
20 unreasonable seizures and the Fifth Amendment's Due Process Clause.

21 37. Prior to July 8, 2025, the Las Vegas Immigration Court regularly exercised §
22 1226(a) jurisdiction for similarly situated respondents apprehended and processed in the District
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1 of Nevada, granting bond in appropriate cases. Where OPLA did not file Form EOIR-43, there
2 was no DHS opposition to jurisdiction, and bond hearings proceeded in the normal course.

3 38. On July 8, 2025, DHS, “in coordination with” DOJ, issued Interim Guidance
4 Regarding Detention Authority for Applicants for Admission, declaring that all persons who
5 entered without inspection shall now be deemed “applicants for admission” under 8 U.S.C. § 1225
6 and therefore subject to mandatory detention under § 1225(b)(2)(A), regardless of when or where
7 they were apprehended.

8 39. In a May 22, 2025 unpublished decision, the BIA adopted this same position,
9 holding that all noncitizens who entered without admission or parole are ineligible for IJ bond
10 hearings.

11 40. Federal courts have rejected this reading. See *Rodriguez Vazquez v. Bostock*, --- F.
12 Supp. 3d ---, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *Gomes v. Hyde*, No.
13 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025).

14 41. As Rodriguez Vazquez explained, the statutory text demonstrates that § 1226(a),
15 not § 1225(b), governs detention for individuals like Petitioner.

16 42. Section 1226(a) applies by default to all persons “pending a decision on whether
17 the [noncitizen] is to be removed from the United States,” including those charged as inadmissible
18 under § 1182(a)(6)(A)(i).

19 43. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
20 recently entered, its framework premised on inspections at the border. See *Jennings v. Rodriguez*,
21 583 U.S. 281, 287 (2018).

1 44. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to
2 people like Petitioner — and class members — who had already entered and were residing in the
3 United States when apprehended.

4 45. When DHS files a Form EOIR-43 to appeal an IJ's bond order, 8 C.F.R. §
5 1003.19(i)(2) automatically stays the IJ's release order pending the BIA's decision. Since July 8,
6 2025, OPLA has routinely invoked this automatic stay in the District of Nevada to nullify favorable
7 bond determinations under § 1226(a), resulting in prolonged detention while the BIA takes months
8 to resolve custody appeals. The APA requires agencies to conclude matters "within a reasonable
9 time," 5 U.S.C. § 555(b), and authorizes courts to "compel agency action unlawfully withheld or
10 unreasonably delayed," 5 U.S.C. § 706(1).

11 **Post-July 8, 2025 Practice in the District of Nevada**

12 46. Since issuance of the July 8, 2025 Interim Guidance, Immigration Judges in the Las
13 Vegas Immigration Court have, in most cases, continued to find jurisdiction under
14 8 U.S.C. § 1226(a) and to grant bond in meritorious cases for noncitizens apprehended and
15 processed in the District of Nevada who are not subject to mandatory detention under
16 §§ 1225(b)(1), 1226(c), or 1231.

17 47. Many of these individuals — like Petitioner — were first seized in constitutionally
18 suspect interior enforcement stops, including unwarranted, racially charged vehicle stops far from
19 any port of entry. These seizures bear no nexus to the border-inspection framework that animates
20 § 1225(b)(2), and instead fall within § 1226(a)'s bond-eligible civil detention regime, while also
21 raising serious concerns under the Fourth Amendment's protection against unreasonable seizures
22 and the Fifth Amendment's Due Process Clause.

1 48. In cases where Immigration Judges nonetheless exercised § 1226(a) jurisdiction
2 and granted bond, the Office of the Principal Legal Advisor (OPLA) has routinely filed
3 Form EOIR-43 to appeal the IJ's bond order, triggering an automatic stay of release under
4 8 C.F.R. § 1003.19(i)(2). This practice has been employed even where DHS did not previously
5 contest the court's jurisdiction at the bond hearing stage.

6 49. Upon information and belief, any Board of Immigration Appeals (BIA) decisions
7 addressing such automatic-stay bond appeals to date have been issued as unpublished,
8 non-precedential rulings, which do not bind other IJs or the BIA. See 8 C.F.R. § 1003.1(d)(1), (g).
9 No binding precedent has been issued clarifying that § 1226(a) governs in these circumstances.

10 50. OPLA's use of EOIR-43 to invoke the automatic stay nullifies favorable bond
11 determinations under § 1226(a) and results in prolonged detention while custody appeals pend for
12 months at the BIA. Individuals remain confined despite an IJ's findings on danger and flight risk,
13 and many are removed from the United States or complete their immigration proceedings before
14 the BIA resolves the appeal, rendering the "right" to appeal effectively meaningless.

15 51. This post-July 8 practice now affects all similarly situated noncitizens apprehended
16 and processed in the District of Nevada, including those subjected to unconstitutional interior
17 stops, regardless of the facility in which they are held, such as Nevada Southern Detention Center
18 in Pahrump, Henderson Detention Center, or other ICE-contracted or local facilities, or whether
19 they are subsequently transferred out of state.

20 52. The combination of unconstitutional seizures, automatic-stay appeals, prolonged
21 BIA adjudication times, and the absence of binding precedent has created a uniform pattern of
22 continued detention in violation of the INA, the APA's "reasonable time" requirement, and the
23 Due Process Clause. Class-wide declaratory and injunctive relief is necessary to prohibit the use
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1 of EOIR-43 in cases where § 1226(a) applies and no statutory mandatory-detention provision is
2 triggered, and to ensure timely resolution of bond appeals.

3 **The BIA's Practice of Delayed Decisions in Bond Proceedings**

4 53. The BIA's appellate process does not offer a meaningful avenue to vindicate an
5 Immigration Judge's favorable bond order when OPLA files a Form EOIR-43 and invokes the
6 automatic stay under 8 C.F.R. § 1003.19(i)(2). While the appeal is pending, the stay keeps class
7 members detained despite the IJ's findings on danger and flight risk.

8 54. In the District of Nevada since July 8, 2025, OPLA has routinely filed EOIR-43 to
9 challenge IJs' findings of § 1226(a) jurisdiction and favorable bond determinations, resulting in
10 months-long delays before the BIA issues a decision. During these delays, individuals remain
11 confined solely because of the automatic stay, not because an IJ found them ineligible for bond.

12 55. The harm is not limited to cases raising § 1225(b)(2). It extends to all detained
13 noncitizens who have a right to an individualized bond hearing under § 1226(a) and who either
14 received a favorable bond order that was stayed by EOIR-43 or were denied bond (or set a bond
15 they cannot afford) and sought BIA review.

16 56. As a practical matter, BIA custody appeals frequently take several months to
17 resolve and, in many instances, approach or exceed a year. These timelines are incompatible with
18 the nature of custody review, where the core question is whether continued detention is necessary
19 at all.

20 57. Prolonged BIA processing times render the "right" to appeal virtually meaningless
21 for detained individuals: some are removed from the United States or complete their immigration
22 proceedings before the BIA rules, mooted the appeal; others endure needless incarceration despite
23 an IJ's determination that release is appropriate.

1 58. These delays defy due process by denying a prompt and meaningful opportunity to
2 challenge continued civil detention, and they contravene the Administrative Procedure Act's
3 requirement to conclude matters "within a reasonable time," 5 U.S.C. § 555(b), warranting judicial
4 relief under 5 U.S.C. § 706(1).

5 59. Classwide declaratory and injunctive relief is necessary to ensure timely
6 adjudication of bond appeals, within sixty (60) days while the individual remains detained, and to
7 prevent OPLA from using EOIR-43 to nullify IJ bond grants where § 1226(a) governs and no
8 statutory mandatory-detention provision applies.

9 60. The Supreme Court and the Ninth Circuit have consistently recognized that
10 appellate review is a critical component of a constitutional civil detention scheme, including in the
11 immigration context. See, e.g., *Schall v. Martin*, 467 U.S. 253, 280 (1984); *Singh v. Holder*,
12 638 F.3d 1196, 1209 (9th Cir. 2011); *Prieto-Romero v. Clark*, 534 F.3d 1053, 1065–
13 66 (9th Cir. 2008).

14 61. The Supreme Court has also made clear that timely appellate review is essential:
15 "[r]elief [when seeking review of detention] must be speedy if it is to be effective." *Stack v. Boyle*,
16 342 U.S. 1, 4 (1951).

17 62. Most notably, the Court upheld federal pretrial detention under the Bail Reform Act
18 in part because the statute "provide[s] for immediate appellate review of the detention decision."
19 *United States v. Salerno*, 481 U.S. 739, 752 (1987). As the Ninth Circuit has emphasized,
20 "[e]ffective review of pretrial detention orders necessarily entails a speedy review in order to
21 prevent unnecessary and lengthy periods of incarceration on the basis of an incorrect magistrate's
22 decision." *United States v. Fernandez-Alfonso*, 813 F.2d 1571, 1572 (9th Cir. 1987).

1 63. These principles derive from the federal pretrial context, where individuals are
2 subject to criminal prosecution. Yet here — where only civil immigration proceedings are at issue
3 — the Board of Immigration Appeals provides nothing comparable to the prompt review federal
4 district and appellate courts afford pretrial detention orders.

5 64. For members of the Bond Appeal Class in the District of Nevada, the problem is
6 compounded: OPLA's filing of Form EOIR-43 automatically stays an IJ's favorable bond order,
7 and the BIA then takes months, often many months, to resolve the appeal. Without timely
8 adjudication, appellate review is meaningless. As the Supreme Court has explained, the
9 opportunity to obtain "freedom before conviction permits the unhampered preparation of a defense
10 and serves to prevent the infliction of punishment prior to conviction." *Stack*, 342 U.S. at 4.
11 Continued civil detention during prolonged appeal also "may imperil the [detained person's] job,
12 interrupt his source of income, and impair his family relationships." *Gerstein v. Pugh*,
13 420 U.S. 103, 114 (1975).

14 65. During the many months the BIA takes to review a bond appeal, a detained
15 noncitizen will be forced to litigate the merits of their removal case from within a detention facility,
16 often after having been seized in an unconstitutional interior enforcement stop far from any port
17 of entry. This compounds the due-process injury: individuals who should never have been taken
18 into mandatory detention under § 1225(b)(2) remain confined, deprived of a meaningful chance to
19 assemble evidence outside custody, coordinate with family, or communicate with potential
20 witnesses in other countries.

21 66. Continued detention under an EOIR-43 automatic stay significantly reduces the
22 likelihood of securing legal representation. In removal proceedings, noncitizens have the right to
23 be represented by legal counsel, but "at no expense to the government." 8 U.S.C. § 1362. Those
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1 held after unconstitutional seizures face substantial barriers to accessing and communicating with
2 counsel or other legal assistance. See, e.g., ACLU, *No Fighting Chance: ICE's Denial of Access*
3 *to Counsel in U.S. Immigration Detention Centers* 6 (June 9, 2022),
4 [https://www.aclu.org/publications/no-fighting-chance-ices-denial-access-counsel-us-](https://www.aclu.org/publications/no-fighting-chance-ices-denial-access-counsel-us-immigration-detention-centers)
5 [immigration-detention-centers](https://www.aclu.org/publications/no-fighting-chance-ices-denial-access-counsel-us-immigration-detention-centers).

6 67. The lack of legal representation in turn sharply reduces the likelihood of a
7 successful outcome in the underlying removal proceedings. *Id.* at 12. For class members,
8 prolonged detention under an automatic stay entrenches these access-to-counsel barriers across the
9 board.

10 68. The months a noncitizen waits for appellate review also mean months separated
11 from spouses, children, parents, and other family members. These family members, often U.S.
12 citizens or lawful permanent residents are likewise deprived of the love, care, and financial support
13 the detained person provides.

14 69. Conditions of confinement exacerbate the harm. Individuals subject to EOIR-43
15 stays are often incarcerated in jail-like environments, forced to sleep in communal spaces, receive
16 inadequate medical care, and endure other degrading or punitive treatment wholly inconsistent
17 with the civil nature of immigration detention.

18 70. While not all noncitizens ultimately succeed in their custody appeals, some do. For
19 those individuals, the BIA's months-long review process means they have spent months in
20 unnecessary confinement—despite an IJ's determination under § 1226(a) that they should be
21 released—suffering all of the harms outlined above and, in many cases, having been initially seized
22 in violation of the Fourth and Fifth Amendments.

1 71. These prolonged bond-appeal processing times violate the Due Process Clause by
2 depriving detained noncitizens of a prompt and meaningful opportunity to challenge their
3 continued confinement. They also fail to satisfy the Administrative Procedure Act's mandate that
4 agencies conclude matters "within a reasonable time," 5 U.S.C. § 555(b), and warrant relief
5 under 5 U.S.C. § 706(1). For members of the Bond Appeal Class in the District of Nevada, these
6 delays mean remaining incarcerated for months, sometimes more than a year, despite an IJ's
7 finding that release is warranted and where the very arrest that led to detention was constitutionally
8 suspect.

9 **NAMED PLAINTIFF'S ALLEGATIONS**

10 72. Plaintiff Miguel Angel Maldonado Vazquez is a 43-year-old citizen and national of
11 Guatemala who has resided continuously in Las Vegas, Nevada, since approximately 2005. He is
12 the husband of Alicia Gomez, a longtime Nevada resident and U.S. taxpayer, and the father of
13 three U.S.-citizen children: Miguel Jr. (18),  (13), and  (6).

14 73. Mr. Maldonado Vazquez has deep and enduring familial, economic, and civic ties
15 to this jurisdiction. He is self-employed as a landscaping contractor, with income documented
16 through consecutive federal tax filings, and he has served public and private clients throughout
17 Las Vegas. Letters from clergy, retirees, medical professionals, and other community members
18 uniformly describe him as peaceful, sober, respectful, and committed to his family.

19 74. He has no criminal history in the United States or anywhere else, no pending
20 charges, and no prior immigration violations. He has never been arrested for or convicted of any
21 offense, and there is no record of fraud, violence, reentry, or absconding.

22 75. On July 7, 2025, while en route to work, Mr. Maldonado Vazquez was subjected to
23 an unwarranted, racially charged vehicle stop by Immigration and Customs Enforcement officers
24

1 in Las Vegas, Nevada, a location far removed from any port of entry. He was engaged in no
2 criminal conduct, and the stop was effected without probable cause or a judicial warrant.

3 76. This seizure constituted an unreasonable search and seizure in violation of the
4 Fourth Amendment and infringed his liberty interest under the Fifth Amendment's Due Process
5 Clause. Following the stop, ICE officers took him into custody and transferred him to the Nevada
6 Southern Detention Center in Pahrump, Nevada. Many proposed class members have been
7 apprehended through similar constitutionally suspect interior enforcement stops, underscoring that
8 Mr. Maldonado Vazquez's experience is not an isolated incident but part of a broader pattern
9 subject to class-wide challenge.

10 77. ICE did not set bond. Mr. Maldonado Vazquez requested review of his custody by
11 an Immigration Judge at the Las Vegas Immigration Court, supporting his request with extensive
12 evidence of his U.S. ties, stable residence, lawful work history, and spotless record.

13 78. On July 31, 2025, the Immigration Judge found jurisdiction under
14 8 U.S.C. § 1226(a) and granted Mr. Maldonado Vazquez's release on a \$1,500 bond with
15 alternatives to detention at DHS's discretion.

16 79. Immediately thereafter, the Office of the Principal Legal Advisor (OPLA) filed a
17 Form EOIR-43 to appeal both the IJ's jurisdictional finding and his favorable bond determination
18 to the Board of Immigration Appeals. Under 8 C.F.R. § 1003.19(i)(2), that appeal automatically
19 stayed the IJ's release order. As of the filing of this action, Mr. Maldonado Vazquez remains
20 detained solely because of OPLA's appeal, even though the Immigration Judge found jurisdiction
21 under 8 U.S.C. § 1226(a) and determined he is neither a danger to the community nor a flight risk.

22 80. His continued detention under an automatic stay is harming him and his family in
23 multiple, compounding ways:

1 81. First, he has not received a meaningful opportunity to secure his release from
2 detention before a neutral decisionmaker, as guaranteed by statute, following an unconstitutional,
3 racially charged interior vehicle stop that precipitated his arrest. He has a fundamental interest in
4 his freedom and in receiving the process due under 8 U.S.C. § 1226(a) before being deprived of
5 that liberty.

6 82. Second, he is separated from his wife of many years and their three U.S.-citizen
7 children — Miguel Jr. (18), [REDACTED] (13), and [REDACTED] (6) — all of whom live with him in Las Vegas.
8 His absence has imposed acute emotional and mental trauma on his family, who depended on his
9 daily presence and support.

10 83. Third, detention has cut him off from his role as the household's primary earner.
11 As a self-employed landscaping contractor, his work not only provided for his own family but
12 supported ongoing obligations to clients throughout the Las Vegas community. His wife now bears
13 sole responsibility for the family's financial and caregiving needs.

14 84. Fourth, detention is impairing his ability to defend against removal. Being confined
15 in Pahrump makes it significantly harder to meet with counsel, communicate with witnesses,
16 gather documents, or coordinate with potential declarants, challenges magnified by the fact that he
17 was seized far from any port of entry and is not subject to mandatory detention. Loss of income
18 further constrains his ability to afford legal fees and necessary case expenses.

19 85. Finally, prolonged custody exacts a toll on his health and well-being. Confinement
20 in a jail-like facility subjects him to stress, degraded conditions, and limited autonomy,
21 compounding the constitutional injury from the manner of his arrest and the statutory violations
22 sustaining his detention.

23 / / /

CLASS ALLEGATIONS

86. Mr. Maldonado Vazquez brings this action on behalf of himself and all other persons who are similarly situated, pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2). A class action is proper because this case involves questions of law and fact common to the classes; the classes are so numerous that joinder of all members is impracticable; Mr. Maldonado Vazquez's claims are typical of the claims of the classes; he will fairly and adequately protect the interests of the classes; and Defendants have acted on grounds that apply generally to the classes, so that final declaratory and injunctive relief is appropriate respecting the classes as a whole.

Bond Denial Class

87. Petitioner seeks to represent a "*Bond Denial Class*" comprised of:

All noncitizens apprehended in the interior of the United States and detained at the Nevada Southern Detention Center, Henderson Detention Center, or any other ICE-contracted or local facility within the District of Nevada, who (1) have entered or will enter the United States without inspection; (2) are not apprehended upon arrival at a port of entry or its functional equivalent, including many apprehended in constitutionally suspect interior enforcement stops; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the noncitizen is scheduled for or requests a bond hearing in the Las Vegas Immigration Court.

88. The Bond Denial Class is so numerous that joinder of all members is impracticable. Plaintiff is not aware of the exact number of putative class members, as Defendants are uniquely positioned to identify such persons. Upon information and belief, there are hundreds of individuals detained each year in the District of Nevada to whom the Las Vegas Immigration Court's post-July 8, 2025 policy of deeming such respondents subject to § 1225(b)(2) mandatory detention without bond hearings applies. The class will also include many future members.

94. The proposed class meets the commonality requirement of Federal Rule of Civil Procedure 23(a)(2). All class members present the same question of whether the Due Process Clause entitles them to timely adjudication of their bond hearing appeals, particularly where OPLA's filing of a Form EOIR-43 has triggered an automatic stay that prolongs their detention without regard to the Immigration Judge's determination that they are neither a danger to the community nor a flight risk.

95. Plaintiff's claims are typical of the class, as he faces the same injury — continued detention during prolonged BIA appeal — and asserts the same claims and rights as the class.

96. The proposed class meets the adequacy requirement of Federal Rule of Civil Procedure 23(a)(4). The proposed class seeks a declaration of rights applicable to the whole class, is represented by competent immigration counsel experienced in complex detention and class litigation, and Mr. Maldonado Vazquez will fairly and adequately protect the class's interests.

CAUSES OF ACTION

COUNT I

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Bond Hearings

(On Behalf of Plaintiff and the Bond Denial Class)

97. Plaintiff incorporates by reference the allegations of fact set forth in paragraphs 1–96.

98. The mandatory-detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are charged as inadmissible because they previously entered the country without being admitted. Such noncitizens, including many seized in unconstitutional, racially charged interior enforcement stops far from any port of entry, are detained under § 1226(a), unless subject to another detention provision such as § 1225(b)(1), § 1226(c), or § 1231.

1 99. Nonetheless, the Las Vegas Immigration Court, in applying the July 8, 2025,
2 Interim Guidance, has adopted a policy and practice of deeming Bond Denial Class members
3 subject to § 1225(b)(2) mandatory detention and ineligible for bond hearings under § 1226(a).

4 100. The application of § 1225(b)(2) to Bond Denial Class members violates the
5 Immigration and Nationality Act.

6 **COUNT II**
7 **Violation of the Administrative Procedure Act**
8 **Unlawful Denial of Bond Hearings**
9 ***(On Behalf of Plaintiff and the Bond Denial Class)***

10 101. Plaintiff incorporates by reference the allegations of fact set forth in paragraphs
11 1–96.

12 102. The mandatory-detention provision at 8 U.S.C. § 1225(b)(2) does not apply to
13 noncitizens residing in the United States who are charged as inadmissible because they originally
14 entered without inspection, including those encountered in unconstitutional interior stops. Such
15 noncitizens are detained under § 1226(a) unless they are subject to another detention provision,
16 such as § 1225(b)(1), § 1226(c) or § 1231.

17 103. Nonetheless, the Las Vegas Immigration Court has a policy and practice of
18 applying § 1225(b)(2) to Bond Denial Class members and, even when bond is granted under
19 § 1226(a), OPLA routinely files a Form EOIR-43 to appeal and trigger the automatic stay under
20 8 C.F.R. § 1003.19(i)(2), nullifying the release order and perpetuating detention under the same
21 unlawful interpretation.

22 104. The application of § 1225(b)(2) to Bond Denial Class members is arbitrary,
23 capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

24 / / /

COUNT III

**Violation of the Due Process Clause of the Fifth Amendment
Delayed Adjudication of the Bond Appeals
(On Behalf of Plaintiff and the Bond Denial Class)**

105. Plaintiff incorporates by reference the allegations of fact set forth in paragraphs 1–96.

106. The Due Process Clause guarantees persons in civil detention timely appellate review of the decision to detain — particularly where an automatic stay under 8 C.F.R. § 1003.19(i)(2), triggered by OPLA’s filing of a Form EOIR-43, nullifies an IJ’s release order notwithstanding explicit findings of no danger and no flight risk.

107. By failing to adjudicate custody appeals within a reasonable period, here proposed as sixty (60) days from the filing of a notice of appeal while the noncitizen remains detained, the Board of Immigration Appeals does not provide timely appellate review of detention decisions.

108. This failure to provide timely appellate review, in cases where liberty has already been curtailed through an EOIR-43 automatic stay, violates the Due Process Clause of the Fifth Amendment.

COUNT IV

**Violation of the Administrative Procedure Act
Delayed Adjudication of the Bond Appeals
(On Behalf of Plaintiff and the Bond Denial Class)**

109. Plaintiff incorporates by reference the allegations of fact set forth in paragraphs 1–96.

110. The APA requires that agencies act on matters presented to them within a “reasonable time.” 5 U.S.C. § 555(b). It also empowers courts to “compel agency action unlawfully withheld or unreasonably delayed.” Id. § 706(1).

111. In the context of physical liberty, a reasonable time for appellate review of a civil-detention decision is no more than sixty (60) days from the filing of the notice of appeal, while the individual remains detained.

112. For proposed Bond Appeal Class members in the District of Nevada, the BIA's appellate review of custody determinations, often stayed automatically by OPLA's EOIR-43 filings, regularly extends well beyond sixty days.

113. This failure to provide timely appellate review of bond appeals violates the APA.

PRAYER FOR RELIEF

WHEREFORE,

A. Plaintiff respectfully requests that this Court:

1. **Jurisdiction:** Assume jurisdiction over this matter.
2. **Class certification:** Certify this case as a class action under Rule 23(a) and 23(b)(2), and certify the Bond Denial Class and the Bond Appeal Class as defined herein.
3. **Class representatives:** Appoint Named Plaintiff Miguel Angel Maldonado Vazquez as representative of the Bond Denial Class and the Bond Appeal Class.
4. **Class counsel:** Appoint undersigned counsel as class counsel pursuant to Federal Rule of Civil Procedure 23(g).

B. As remedies for each of the causes of action asserted above, Plaintiff and proposed class members request:

5. **Declaratory relief — bond denial class:** Declare that 8 U.S.C. § 1225(b)(2) does not apply to Bond Denial Class members apprehended in the interior (including those seized in unconstitutional, racially charged stops), and that they are detained under § 1226(a) and entitled to individualized bond hearings.

- 1 6. **Injunctive relief — bond denial class:** Enjoin Defendants from applying § 1225(b)(2)
2 mandatory detention to Bond Denial Class members and require that such individuals
3 receive prompt, individualized bond hearings under § 1226(a) before an Immigration
4 Judge.
- 5 7. **Declaratory relief — bond appeal class:** Declare that the Due Process Clause and/or
6 the Administrative Procedure Act entitle Bond Appeal Class members to timely
7 adjudication of their bond appeals while detained, and that an automatic stay imposed
8 by 8 C.F.R. § 1003.19(i)(2) following OPLA's filing of Form EOIR-43 cannot prolong
9 detention beyond a reasonable period in the absence of a BIA decision.
- 10 8. **Injunctive/APA relief — bond appeal class:** Order Defendants to adjudicate detained
11 bond appeals within sixty (60) days of the notice of appeal; enjoin Defendants from
12 continuing to detain Bond Appeal Class members pursuant to an automatic stay under
13 8 C.F.R. § 1003.19(i)(2) more than sixty (60) days after the appeal is filed absent a BIA
14 decision; and require prompt vacatur of the stay or release if the deadline is not met.
- 15 9. **Individual habeas — bond enforcement/alternative hearing:** Grant a writ of habeas
16 corpus as to Plaintiff Miguel Angel Maldonado Vazquez, ordering his immediate
17 release pursuant to the \$1,500 bond and conditions previously set by the Immigration
18 Judge on July 31, 2025, notwithstanding any automatic stay triggered by OPLA's
19 Form EOIR-43 appeal; or, in the alternative, order a new individualized bond hearing
20 under 8 U.S.C. § 1226(a) before an Immigration Judge and no application of
21 § 1225(b)(2).
- 22 10. **Individual habeas — appeal timeline:** Alternatively or additionally, order that if
23 OPLA's EOIR-43 appeal remains pending, the BIA must issue a decision within sixty
24

(60) days of the notice of appeal while Mr. Maldonado Vazquez remains detained, or, failing that, that ICE lift the stay and release him forthwith.

11. No-transfer/no-removal stay: Enjoin Defendants, their agents, and anyone acting in concert with them from transferring Mr. Maldonado Vazquez out of the District of Nevada or removing him from the United States during the pendency of this action.

C. Fees and costs: Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, and any other applicable law.

D. Further relief: Grant such other and further relief as the Court deems just and proper.

DATED this 19th day of August, 2025.

/s/Daniel F. Lippmann
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