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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 Julian VASQUEZ GARCIA;
13 Nicolas JIATAZ PATZAN;
14 Alfredo VASQUEZ,

15 Petitioners,

16 v.

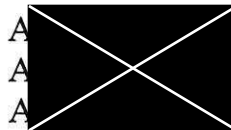
17 Kristi NOEM, Secretary, U.S.
18 Department of Homeland Security;
19 Pamela BONDI, U.S. Attorney General;
20 Todd LYONS, Acting Director,
21 Immigration and Customs Enforcement;
22 Gregory J. ARCHAMBEAULT,
23 Director, San Diego Field Office,
24 Immigration and Customs Enforcement,
25 Enforcement and Removal Operations;
26 Jeremy CASEY, Warden, Imperial
27 Regional Detention Facility;
28 IMMIGRATION AND CUSTOMS
ENFORCEMENT; DEPARTMENT OF
HOMELAND SECURITY,

Respondents.

Case No. '25CV2180 DMS MMP

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

PETITIONERS' DHS NOS:



INTRODUCTION

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2
3 1. Petitioners Julian Vasquez Garcia (A [REDACTED]); Nicolas Jiataz
4 Patzan (A [REDACTED]); and Alfredo Vasquez (A [REDACTED]) are in the physical
5 custody of Respondents at the Imperial Regional Detention Facility in Calexico,
6 California.

7
8 2. Petitioners are unlawfully detained. The Department of Homeland
9 Security (DHS) and the Executive Office for Immigration Review (EOIR) have
10 improperly concluded that Petitioners, despite being physically present within the
11 interior of and residing in the United States and being arrested in San Bernardino
12 County and Los Angeles County, California, should be deemed to be seeking
13 admission to the United States and therefore subject to mandatory detention
14 pursuant to 8 U.S.C. § 1225(b)(2)(A).
15
16

17 3. DHS has placed Petitioners in removal proceedings pursuant to 8
18 U.S.C. § 1229a and has charged each Petitioner with being present in the United
19 States without admission and therefore removable pursuant to *inter alia* 8 U.S.C. §
20 1182(a)(6)(A)(i).
21

22 4. Based on the charge of removability, DHS has denied Petitioners
23 release from immigration custody, pursuant to a new DHS policy issued on July 8,
24 2025,¹ instructing all Immigration and Customs Enforcement (ICE) employees to
25
26

27
28 ¹ “Interim Guidance Regarding Detention Authority for Applicants for Admission”,
ICE, July 8, 2025. Available at: <https://immpolicytracking.org/policies/ice-issues->

1 consider anyone inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) - i.e., present
2 without admission - to be an “applicant for admission” under 8 U.S.C. §
3 1225(b)(2)(A) and therefore subject to mandatory detention during the removal
4 hearing process.
5

6 5. Petitioners each sought bond hearings before an immigration judge
7 (IJ), and the IJ denied bond. The IJ based their decisions on the same legal analysis
8 as set forth in the new DHS policy. Indeed, the DHS policy states it was issued “in
9 coordination with the Department of Justice (DOJ).” IJs function within EOIR
10 which is a component of the Department of Justice. The IJs concluded that
11 notwithstanding Petitioners’ presence and residence within the United States,
12 Petitioners should be deemed “applicants for admission” who are “seeking
13 admission” and subject to mandatory detention under § 1225(b)(2)(A).
14
15

16 6. Petitioners’ detention on this basis violates the plain language of the
17 Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* Section
18 1225(b)(2)(A) does not apply to individuals like Petitioners who previously entered
19 and are now present and residing in the United States. Instead, such individuals are
20 subject to a different statute, § 1226(a), that allows for release on conditional parole
21 or bond. That statute expressly applies to people who, like Petitioners, are charged
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23
24
25

26
27 [memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-](#)
28 [documents.](#)

1 as removable for having entered the United States without inspection and being
2 present without admission.

3
4 7. Respondents' new legal interpretation of the INA is plainly contrary to
5 the statutory framework and contrary to decades of agency practice applying §
6 1226(a) to people like Petitioners who are present within the United States.
7

8 8. In addition to Petitioners' statutory rights to a bond hearing under §
9 1226(a), individuals within the United States have constitutional rights. "[T]he Due
10 Process Clause applies to all 'persons' within the United States, including aliens,
11 whether their presence here is lawful, unlawful, temporary, or permanent."
12 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
13

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

17 JURISDICTION

18 10. Jurisdiction is proper and relief is available pursuant to 28 U.S.C. §
19 1331 (federal question), 28 U.S.C. § 1346 (original jurisdiction), 5 U.S.C. § 702
20 (waiver of sovereign immunity), 28 U.S.C. § 2241 (habeas corpus jurisdiction), and
21 Article I, Section 9, clause 2 of the United States Constitution (the Suspension
22 Clause).
23

24 11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
25 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28
26 U.S.C. § 1651.
27
28

VENUE

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

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

PARTIES

Petitioners

14. Petitioner Julian Vasquez Garcia (DHS No. A [REDACTED]) was arrested By ICE agents on July 9, 2025 in San Bernardino, California. He has been in immigration detention since that date. After arresting Petitioner, ICE did not set bond and Petitioner requested review of his custody by an IJ. On August 21, 2025, Petitioner was denied bond by an IJ at the Imperial Immigration Court because he was deemed an “applicant for admission.”

15. Petitioner Nicolas Jiatz Patzan (DHS No. A [REDACTED]) was arrested by immigration officials on June 12, 2025 in Rosemead, California. He has been in immigration detention since that date. After arresting Petitioner, ICE did not set bond and Petitioner requested review of his custody by an IJ. On August

1 7, 2025, Petitioner was denied bond by an IJ at the Imperial Immigration Court
2 because he was deemed an “applicant for admission.”

3
4 16. Petitioner Alfredo Vasquez (DHS No. A [REDACTED]) was arrested by
5 on June 22, 2025 in Torrance, California. He has been in immigration detention
6 since that date. After arresting Petitioner, ICE did not set bond and Petitioner
7 requested review of his custody by an IJ. On July 23, 2025, Petitioner was denied
8 bond by an IJ at the Imperial Immigration Court because the IJ concluded there was
9 “no jurisdiction under INA section 235(b)(2)(A).”
10

11
12 17. ***Respondents***

13 18. Respondent Kristi Noem is the Secretary of the Department of
14 Homeland Security. She is responsible for the implementation and enforcement of
15 the Immigration and Nationality Act and oversees ICE, which is responsible for
16 Petitioners’ detention. Secretary Noem has ultimate custodial authority over
17 Petitioners. She is sued in her official capacity.
18

19
20 19. Respondent Pamela Bondi is the Attorney General of the United
21 States. She is responsible for the Department of Justice, of which the Executive
22 Office for Immigration Review and the immigration court system it operates is a
23 component agency. She is sued in her official capacity.
24

25 20. Todd Lyons is the Acting Director of Immigration and Customs
26 Enforcement, a federal law enforcement agency within the Department of
27 Homeland Security. ICE’s responsibilities include operating the immigration
28

1 detention system. In his capacity as ICE Acting Director, Respondent Lyons
2 exercises control over and is a custodian of persons held at ICE facilities nationally.
3 He is Petitioners' immediate custodian and is responsible for Petitioners' detention.
4 At all times relevant to this Complaint, Respondent Lyons was acting within the
5 scope and course of his employment with ICE. He is sued in his official capacity.
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8 21. Respondent Gregory J. Archambeault is the Director of the San Diego
9 Field Office of ICE's Enforcement and Removal Operations division. As such, he is
10 the custodian of all persons held at the ICE facilities in the San Diego Field Office.
11 He is Petitioners' immediate custodian and is responsible for Petitioners' detention.
12 He is sued in his official capacity.
13

14 22. Respondent Jeremy Casey is the Warden of the Imperial Regional
15 Detention Facility, Calexico, California, where Petitioners are detained. He has
16 immediate physical custody of Petitioners. He is sued in his official capacity.
17
18

19 23. Respondent Department of Homeland Security (DHS) is
20 the federal agency responsible for implementing and enforcing the INA, including
21 the detention and removal of noncitizens.
22

23 24. Respondent Immigration and Customs Enforcement (ICE) is the agency
24 within DHS responsible for implementing and enforcing the INA, including the
25 detention and removal of noncitizens.
26

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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 in 1996, EOIR drafted new
5 Regulations applicable to proceedings before immigration judges explaining that, in
6 general, people who entered the country without inspection – also referred to as
7 being “present without admission” - were not considered detained under § 1225 and
8 that they were instead detained under § 1226(a). *See* Inspection and Expedited
9 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
10 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

11
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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22

23
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 a border and seeking admission - have constitutional rights.
27
28 “[T]he Due Process Clause applies to all ‘persons’ within the United States,

1 including aliens, whether their presence here is lawful, unlawful, temporary, or
2 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.
7

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.
15
16

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.
22
23

24 37. ICE and EOIR have adopted this position even though federal courts
25

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). The
10 U.S. District Court for the Central District of California has reached the same
11 conclusion. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM
12 (C.D. Cal. July 28, 2025), Order Granting Temporary Restraining Order, Dkt. 14 at
13 9 (TRO issued after DHS adopted the July 8, 2025 “Interim Guidance Regarding
14 Detention Authority for Applicants for Admission.”); *Ceja Gonzalez v. Noem*, No.
15 5:25-cv-02054-ODW-BFM (C.D. Cal. August 13, 2025), Order Granting Ex Parte
16 Application for TRO and OSC, Dkt. 12 (same).

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22 38. DHS’s and EOIR’s interpretation defy the INA. As the *Rodriguez*
23 *Vazquez* court explained, the plain text of the statutory provisions demonstrates that
24 § 1226(a), not § 1225(b), applies to people like Petitioners. Section 1226(a) applies
25 by default to all persons “pending a decision on whether the [noncitizen] is to be
26 removed from the United States.” *Rodriguez Vazquez*, 2025 WL 1193850 at *12.
27
28

1 *See also Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28,
2 2025) Order Granting Temporary Restraining Order, Dkt. 14 at 9 (“[T]he Court
3 finds that the potential for Petitioners’ continued detention without an initial bond
4 hearing would cause immediate and irreparable injury, as this violates statutory
5 rights afforded under § 1226(a).”); *Ceja Gonzalez*, No. 5:25-cv-02054-ODW-BFM
6 (C.D. Cal. August 13, 2025), Order Granting Ex Parte Application for TRO and
7 OSC, Dkt. 12 at 7 (§ 1226 applies to aliens present in the United States.)

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

19
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21
22 40. Section 1226 therefore leaves no doubt that it applies to noncitizens who
23 are present without admission and who face charges in removal proceedings of
24 being inadmissible to the United States.

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26
27 41. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or
28

1 who recently entered the United States and are encountered at or near the border.

2 This statute's entire framework is premised on inspection at the border of people
3 who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A).
4

5 Indeed, the Supreme Court has explained that this mandatory detention scheme
6 applies "at the Nation's borders and ports of entry, where the Government must
7 determine whether a[] [noncitizen] seeking to enter the country is admissible."
8

9 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

10 42. Accordingly, the mandatory detention provision of § 1225(b)(2) does not
11 apply to people like Petitioners who have already entered and were residing in the
12 United States at the time they were apprehended.
13

14 **FACTS**

15 **Petitioner Julian Vasquez Garcia**

16 43. Petitioner Julian Vasquez Garcia resides in Colton, California. He has no
17 criminal record and no previous contact with immigration authorities.
18

19 44. On July 9, 2025, Petitioner was arrested in San Bernardino, California.
20 Petitioner is now detained at the Imperial Regional Detention Facility in Calexico,
21 California.
22

23 45. ICE placed Petitioner in removal proceedings before the Imperial
24 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
25 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
26 without admission in the United States.
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1 46. Upon information and belief, following Petitioner's arrest and transfer to
2 the Imperial Regional Detention Facility, ICE issued a custody determination to
3 continue Petitioner's detention without an opportunity to post bond or be released
4 on other conditions.
5

6 47. Petitioner subsequently requested a bond redetermination hearing before
7 an IJ. On August 21, 2025, an IJ denied the request and issued a decision that the
8 court lacked jurisdiction to conduct a bond redetermination hearing because
9 Petitioner was an applicant for admission.
10

11
12 **Petitioner Nicolas Jiatz Patzan**

13 48. Petitioner Nicolas Jiatz Patzan has resided in California for over twenty
14 years. He has no previous contact with immigration authorities. He was convicted
15 fifteen years ago for a misdemeanor DUI conviction. The conviction does not
16 trigger mandatory detention pursuant to 8 U.S.C. § 1226(c).
17

18 49. On June 12, 2025, Petitioner was arrested in Rosemead, California.
19 Petitioner is now detained at the Imperial Regional Detention Facility in Calexico,
20 California.
21

22 50. ICE placed Petitioner in removal proceedings before the Imperial
23 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
24 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
25 without admission in the United States.
26

27
28 51. Upon information and belief, following Petitioner's arrest and transfer to

1 the Imperial Regional Detention Facility, ICE issued a custody determination to
2 continue Petitioner's detention without an opportunity to post bond or be released
3 on other conditions.
4

5 52. Petitioner subsequently requested a bond redetermination hearing before
6 an IJ. On August 7, 2025, an IJ denied the request and issued a decision that the
7 court lacked jurisdiction to conduct a bond redetermination hearing because
8 Petitioner was an applicant for admission.
9

10 **Petitioner Alfredo Vasquez**
11

12 53. Petitioner Alfredo Vasquez resides in California. Upon information and
13 belief, he has no criminal record and no previous contact with immigration
14 authorities.
15

16 54. On June 22, 2025, Petitioner was arrested in Torrance, California.
17 Petitioner is now detained at the Imperial Regional Detention Facility in Calexico,
18 California.
19

20 55. ICE placed Petitioner in removal proceedings before the Imperial
21 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
22 being inadmissible under *inter alia* 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is
23 present without admission in the United States.
24

25 56. Upon information and belief, following Petitioner's arrest and transfer
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1 to the Imperial Regional Detention Facility, ICE issued a custody determination to
2 continue Petitioner's detention without an opportunity to post bond or be released
3 on other conditions.
4

5 57. Petitioner subsequently requested a bond redetermination hearing before
6 an IJ. On July 23, 2025, an IJ denied the request and issued a decision that the court
7 lacked jurisdiction to conduct a bond redetermination hearing.
8

9 58. Any appeal to the BIA by the Petitioners is futile. ICE's new policy was
10 issued "in coordination with DOJ," which oversees the immigration courts. Further,
11 as noted, the most recent unpublished BIA decision on this issue held that persons
12 like Petitioners are subject to mandatory detention as applicants for admission. In
13 the *Rodriguez Vazquez* litigation, where EOIR and the Attorney General are
14 defendants, DOJ has affirmed its position that individuals like Petitioners are
15 applicants for admission and subject to detention under § 1225(b)(2)(A). *See* Mot.
16 to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash.
17 June 6, 2025), Dkt. 49 at 27–31. DOJ has taken the same position in the
18 *Maldonado Bautista* litigation, *see* Opp. to Ex Parte TRO Application, *Maldonado*
19 *Bautista*, No. 5:25-cv-01873-SSS-BFM, (C.D. Cal. July 24, 2025), Dkt. 8, and in
20 the *Ceja Gonzalez* litigation. *See* Opp. to Ex Parte TRO Application and OSC,
21 *Ceja Gonzalez*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. August 8, 2025), Dkt. 7
22 at 17-21.
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FIRST CLAIM FOR RELIEF

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

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

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

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

SECOND CLAIM FOR RELIEF

**Petitioners' Detention Violates the Administrative Procedure Act,
5 U.S.C. § 706(2)**

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

63. Under the Administrative Procedure Act, a court must "hold unlawful

1 and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or
2 otherwise not in accordance with the law,” that is “contrary to constitutional right
3 [or] power,” or that is “in excess of statutory jurisdiction, authority, or limitations,
4 or short of statutory right.” 5 U.S.C. § 706(2)(A)-(C).

6 64. Respondents’ detention of Petitioners pursuant to § 1225(b)(2) is
7 arbitrary and capricious. Respondents’ detention of Petitioners violates the INA
8 and the Fifth Amendments. Respondents do not have statutory authority under §
9 1225(b)(2) to detain Petitioners.

11 65. Petitioners’ detention is arbitrary, capricious, an abuse of discretion,
12 violative of the Constitution, and without statutory authority in violation of 5
13 U.S.C. § 706(2).

14 **THIRD CLAIM FOR RELIEF**

15 **Petitioners’ Detention Violates Their Fifth Amendment Right to Due Process**

16 66. Petitioners incorporate by reference the allegations of fact set forth in
17 the preceding paragraphs.

18 67. The Government may not deprive a person of life, liberty, or property
19 without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—
20 from government custody, detention, or other forms of physical restraint—lies at
21 the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678,
22 690 (2001).

23 68. Petitioners have a fundamental interest in liberty and being free from
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1 official restraint.

2 69. The Respondents' detention of Petitioners without providing
3
4 Petitioners a bond redetermination hearing to determine whether they are a flight
5 risk or a danger to others violates their right to Due Process.

6 **PRAYER FOR RELIEF**

7
8 WHEREFORE, Petitioners respectfully ask that this Court take jurisdiction over
9 this matter and grant the following relief:

- 10 a. Issue a Writ of Habeas Corpus requiring Respondents to release
11 Petitioners or provide Petitioners with a bond hearing pursuant to 8
12 U.S.C. § 1226(a) within seven days;
13
14 b. Award Petitioners' attorney's fees and costs under the Equal Access to
15 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other
16 basis justified under law; and
17
18 c. Grant any other and further relief that this Court deems just and
19 proper.
20

21 DATED: August 25, 2025.

22 s/ Niels W. Frenzen
23 NIELS W. FRENZEN
24 JEAN REISZ
25 USC GOULD SCHOOL OF LAW
26 IMMIGRATION CLINIC

27 *Attorneys for Petitioners*
28

VERIFICATION

I, Niels W. Frenzen, declare as follows:

I am an attorney admitted to practice law in the State of California.

Because many of the allegations of this Petition require a legal knowledge not possessed by Petitioners, I am making this verification on their behalf.

I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof to be true to my knowledge, information, or belief.

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on August 25, 2025.

s/ Niels W. Frenzen

NIELS W. FRENZEN

USC GOULD SCHOOL OF LAW, IMMIGRATION CLINIC

Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 25, 2025, I served a copy of this Petition for Writ of Habeas Corpus by email to the following individuals:

Janet Cabral, AUSA
Chief, Civil Division
U.S. Attorney's Office
Southern District of California
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