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9 **UNITED STATES DISTRICT COURT**
10 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

11
12 Jose Guadalupe SIXTOS CHAVEZ; Juan
13 Manuel HERNANDEZ DIAZ; and Jesus
14 HERRERA TORRES;

15 Petitioners,

16 v.

17
18 Kristi NOEM, Secretary, Department of
19 Homeland Security; Pam BONDI, Attorney
20 General; EXECUTIVE OFFICE FOR
21 IMMIGRATION REVIEW; Todd LYONS,
22 Executive Associate Director of ICE
23 Enforcement and Removal
24 Operations (ERO); Gregory J.
25 ARCHAMBEAULT, Director, San Diego
26 Filed Office, Immigration and Customs
27 Enforcement; Christopher J. LAROSE,
28 Warden, Otay Mesa Detention Center.

Respondents.

Civil Case No.: '25CV2325 CAB SBC

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

INTRODUCTION

1. Petitioners are three individuals in pending removal proceedings who are detained at the Immigration and Customs Enforcement (ICE) detention center at Otay Mesa, San Diego, California.

2. All three Petitioners are charged with having entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

3. On September 5, 2025, during Petitioners' bond hearings, the Board of Immigration Appeals (BIA) issued its precedent decision in *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025), holding that individuals charged with having entered the United States without inspection are ineligible for bond redetermination hearings before an immigration judge, relying on the statute at 8 U.S.C. § 1225(b)(2)(A).

4. Section 1225(b)(2)(A) states that an applicant for admission seeking admission shall be detained for a removal proceeding. However, 8 U.S.C. § 1225(b)(2)(A) does not apply to individuals, like Petitioners, who are charged with having entered in the United States without inspection. Instead, such individuals are subject to detention under a different statute, 8 U.S.C. § 1226(a), and eligible for release on bond.

5. Every court to address this issue, even prior to the Board's September 5, 2025 decision in *Matter of YAJURE HURTADO*, has found that those charged with having entered the United States without inspection are eligible for bond hearings before immigration judges under § 1226(a).

6. The Board's decision in *Matter of YAJURE HURTADO* is a violation of the statute and due process.

7. As such, Petitioners seek an order of declaratory and injunctive relief that they be provided a bond redetermination hearing before the immigration judge.

JURISDICTION AND VENUE

8. This Court has jurisdiction under 28 U.S.C. § 2241 (federal habeas statute); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2201-2 (declaratory judgment); United States Constitution Article I, Section 9 (Suspension Clause).

9. Venue properly lies within the Southern District of California under 28 U.S.C. § 1391, because this is a civil action in which Respondents are agencies of the United States, Petitioners are detained in this District, and a substantial part of the events or omissions giving rise to this action occurred in the District.

PARTIES

10. Petitioner Guadalupe Sixto resides in Pasadena California and is currently detained at the Otay Mesa immigration detention center in San Diego.

11. Petitioner Juan Manuel Hernandez Diaz resides in Pasadena, California and is currently detained at the Otay Mesa immigration detention center in San Diego.

12. Petitioner Jesus Herrera Torres resides in Pasadena, California and is currently detained at the Otay Mesa immigration detention center in San Diego.

13. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”), and is sued in her official capacity. The Secretary of Homeland Security is charged with the administration and enforcement of immigration laws. 8 U.S.C. § 1103(a).

14. Respondent Pam Bondi is the Attorney General of the United States and is sued in her official capacity as the head of the Department of Justice. The Attorney General is responsible for the fair administration of the laws of the United States.

15. Respondent Executive Office for Immigration Review is a component agency of the Department of Justice responsible for conducting removal and bond hearings of noncitizens. EOIR is comprised of a lower adjudicatory body administered by immigration judges and an appellate body known as the Board of Immigration Appeal (BIA). Immigration judges issue bond redetermination hearing decisions, which are then subject

1 to appeal to the BIA. The BIA issued the precedent decision in Matter of YAJURE
2 HURTADO, 29 I&N Dec. 216 (BIA 2025).

3 16. Respondent Todd Lyons is the Acting Director of U.S. Immigration and
4 Customs Enforcement (ICE) and is sued in his official capacity. ICE is responsible for the
5 detention of Petitioner.

6 17. Respondent Gregory J. Archambeault is the Immigration and Customs
7 Enforcement Field Office Director at the ICE Otay Mesa immigration detention facility
8 and is sued in his official capacity. Respondent Archambeault is responsible for the
9 detention of Petitioners.

10 18. Respondent Christopher J. Larose is the Warden of the ICE Otay Mesa
11 Detention Center and is sued in his official capacity. Respondent Larose is responsible for
12 the detention of Petitioners.

13
14 **LEGAL BACKGROUND**

15 19. The Immigration and Nationality Act (INA) prescribes three basic forms of
16 detention for noncitizens in removal proceedings.

17 20. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-
18 expedited removal proceedings before an immigration judge (IJ). See 8 U.S.C. § 1229a.
19 Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their
20 detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been
21 arrested, charged with, or convicted of certain crimes are subject to mandatory detention,
22 see 8 U.S.C. § 1226(c).

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

26 22. Last, the Act also provides for detention of noncitizens who have been
27 previously ordered removed, including individuals in withholding-only proceedings, see 8
28 U.S.C. § 1231(a)–(b).

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

2 24. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part
3 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996,
4 Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583,
5 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley
6 Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

7 25. Following enactment of the IIRIRA, EOIR drafted new regulations explaining
8 that, in general, people who entered the country without inspection were not considered
9 detained under § 1225 and that they were instead detained under § 1226(a). See Inspection
10 and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
11 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

12 26. Thus, in the decades that followed, most people who entered without
13 inspection—unless they were subject to some other detention authority—received bond
14 hearings. That practice was consistent with many more decades of prior practice, in which
15 noncitizens who were not deemed “arriving” were entitled to a custody hearing before an
16 IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469,
17 pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority
18 previously found at § 1252(a)).

19 27. On September 5, 2025, the Board of Immigration Appeals issued a precedent
20 decision in *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025), finding that
21 noncitizens who entered the United States without inspection were ineligible for bond
22 redetermination hearings because they were seeking admission, and fell within 8 U.S.C. §
23 1225(b)(2)(A).

24 28. This legal theory that noncitizens who entered the United States without
25 admission or parole are ineligible for bond hearings has been universally rejected by the
26 district courts. *Vasquez Garcia v. Noem*, 3:25-cv-02180-DMS-MMP (SD. Cal. Sept. 3,
27 2025); *Benitez v. Noem*, No. 5:25-cv-02190-RGK-AS) C.D. Cal. Aug. 26, 2025); *Arrazola*
28 *Gonzalez v. Noem*, 5:25-cv-01789-ODW-DFM (C.D. Cal. Aug. 15, 2025); *Maldonado*

1 *Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Carmona-*
2 *Lorenzo v. Trump*, No. 4:25CV3172, 2025 WL 2531521, at *2 (D. Neb. Sept. 3, 2025);
3 *Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025); *Lopez-*
4 *Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *8 (E.D. Mich. Aug. 29,
5 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), 2025 WL 2466670, at *6 (D.
6 Minn. Aug. 27, 2025); *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136, at *3
7 (W.D. La. Aug. 27, 2025) *Rodriguez v. Bostock*, 2025 WL 1193850 (W.D. Wa. Apr. 24,
8 2025).

9 29. The Board’s interpretation defies the INA. The plain text of the statutory
10 provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioners.

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

15 31. The text of § 1226 also explicitly applies to people charged as being
16 inadmissible, including those who entered without inspection. See 8 U.S.C. §
17 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by default,
18 such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves
19 no doubt that it applies to people who face charges of being inadmissible to the United
20 States, including those who are present without admission or parole.

21 32. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
22 recently entered the United States. The statute’s entire framework is premised on
23 inspections at the border of people who are “seeking admission” to the United States. 8
24 U.S.C. § 1225(b)(2)(A).

25 33. Accordingly, the mandatory detention provision of § 1225(b)(2) does not
26 apply to people like Petitioners who are alleged to have entered the United States without
27 admission or parole.
28

FACTS

34. Petitioners are residents of Pasadena, California who were arrested on August 22, 2025 in an immigration raid at the Pasadena Car Wash where they were employed.

35. Petitioners were placed into removal proceedings and charged with having entered the United States without inspection or admission. 8 U.S.C. § 1182(a)(6)(A)(i).

36. Petitioners were detained at the Otay Mesa immigration detention center and were scheduled for bond hearings on September 5, 2025.

37. On September 5, 2025, Petitioner Jose Guadalupe Sixtos Chavez was initially granted a bond of \$7500 by the immigration judge. However, during the court proceeding, the Board issued *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025). The immigration judge amended the order and denied bond for lack of jurisdiction.

38. Petitioner Juan Manuel Hernandez Diaz's bond hearing was ongoing when the Board of Immigration Appeals announced *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025). As a result, the immigration judge stopped the proceeding and determined that he lacked jurisdiction to hold a bond hearing.

39. Petitioner Jesus Herrera Torres' case was reset for a bond hearing on September 17, 2025 because he was in medical quarantine. He faces a denial of bond due to lack of jurisdiction as well.

40. Any appeal to the Board of Immigration Appeals is futile in light of *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025).

CAUSES OF ACTION

COUNT I

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Bond Hearing

41. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

42. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted or paroled. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

43. The application of § 1225(b)(2) to bar Petitioners from receiving a bond redetermination hearing before an immigration judge violates the Immigration and Nationality Act.

COUNT II

Violation of the Administrative Procedure Act

Unlawful Denial of Bond

44. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

45. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

46. The application of § 1225(b)(2) to bar Petitioners from receiving a bond redetermination hearing before an immigration judge is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

COUNT III

Violation of Procedural Due Process

47. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

48. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from

1 government custody, detention, or other forms of physical restraint—lies at the heart of the
2 liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491,
3 150 L.Ed.2d 653 (2001).

4 49. Petitioners have a fundamental interest in liberty and being free from official
5 restraint.

6 50. The government’s detention of Petitioners without a bond redetermination
7 hearing to determine whether they are a flight risk or danger to others violates their right
8 to due process.

9
10 **PRAYER FOR RELIEF**

11 WHEREFORE, Petitioners respectfully request that this Court:

- 12
13 a. Assume jurisdiction over this matter;
14 b. Declare that the refusal to allow Petitioners a bond redetermination hearing before
15 an immigration judge violates the INA, APA, and Due Process;
16 c. Issue a writ of habeas corpus requiring that Defendants release him or provide the
17 bond hearing to which he is entitled within 14 days;
18 d. Award reasonable attorneys’ fees and costs pursuant to the Equal Access to Justice
19 Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law; and
20 e. Order further relief as this Court deems just and appropriate.
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1 Dated: September 5, 2025

Respectfully Submitted,

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