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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

Santiago ORTIZ MARTINEZ, Josefina  
ROJAS, Horacio ROMERO LEAL, Adolfo  
BARAJAS CANO, Pepe LOPEZ LOPEZ,

Petitioners,

v.

Cammilla WAMSLEY, Field Office Director of  
Enforcement and Removal Operations, Seattle  
Field Office, Immigration and Customs  
Enforcement (ICE); Bruce SCOTT, Warden,  
Northwest ICE Processing Center; Kristi  
NOEM, Secretary, U.S. Department of  
Homeland Security; Pamela BONDI, U.S.  
Attorney General; U.S. DEPARTMENT OF  
HOMELAND SECURITY; EXECUTIVE  
OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. 2:25-cv-1822

**PETITION FOR WRIT OF  
HABEAS CORPUS**

1 **INTRODUCTION**

2 1. Petitioners Sergio Ortiz Martinez, Josefina Rojas, Horacio Romero Leal, Adolfo  
3 Barajas Cano, and Pepe Lopez Lopez are in the physical custody of Respondents at the  
4 Northwest Immigration and Customs Enforcement (ICE) Processing Center (NWIPC). They are  
5 unlawfully detained pursuant mandatory detention policies recently adopted by the Department  
6 of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR).

7 2. Petitioners are charged with having entered the United States without admission  
8 or parole at an unknown time and unknown place years ago. *See* 8 U.S.C. § 1182(a)(6)(A)(i).  
9 Based on this allegation, DHS and EOIR deem Petitioners subject to mandatory detention as  
10 “applicants for admission” who are “seeking admission” under 8 U.S.C. § 1225(b)(2)(A) and  
11 therefore subject to mandatory detention.

12 3. DHS and EOIR each have nationwide policies mandating the detention of all  
13 persons who entered without admission or parole, regardless of whether that person was  
14 apprehended upon arrival. Most recently, on September 5, 2025, in *Matter of Yajure Hurtado*, 29  
15 I. & N. Dec. 216 (BIA 2025), the Board of Immigration Appeals (BIA) held that all persons who  
16 have entered the United States without admission or parole are now subject to mandatory  
17 detention under § 1225(b)(2)(A).

18 4. Petitioners have each sought, or will categorically denied, bond under DHS’s and  
19 EOIR’s nationwide policy of denying bond to persons like Petitioners.

20 5. In a certified class action pending before this Court, this Court has already  
21 declared Respondents’ bond denial policy likely unlawful. *Rodriguez Vazquez v. Bostock*, 779 F.  
22 Supp. 3d 1239 (W.D. Wash. 2025). A motion for summary judgment is pending in that case.  
23 However, because of the limitations on injunctive relief at 8 U.S.C. § 1252(f)(1), Petitioners—



1 10. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C.  
2 § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the  
3 Suspension Clause).

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

6 **VENUE**

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

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

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

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

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

3 **PARTIES**

4 16. Petitioner Sergio Ortiz Martinez was arrested by ICE on August 11, 2025, and  
5 has been detained at NWIPC since that date. He has resided in the United States since at least  
6 2015.

7 17. Petitioner Josefina Rojas was arrested by ICE on August 13, 2025, and has been  
8 detained at NWIPC since that date. She has resided in the United States since at least 1986.

9 18. Petitioner Horacio Romero Leal was arrested by ICE on April 28, 2025, and has  
10 been detained at NWIPC since that date. He has resided in the United States since at least 1998.

11 19. Adolfo Barajas Cano was arrested by ICE on June 9, 2025, and has been detained  
12 at NWIPC since that date. He has resided in the United State since at least 2007.

13 20. Petitioner Pepe Lopez Lopez was arrested by ICE on September 11, 2025, and has  
14 been detained at NWIPC since that date. He has resided in the United State since at least 1989.

15 21. Respondent Cammilla Wamsley is the Director of the Seattle Field Office of  
16 ICE’s Enforcement and Removal Operations division. As such, Ms. Wamsley is Petitioners’  
17 immediate custodian and is responsible for their detention and removal. She is named in her  
18 official capacity.

19 22. Respondent Bruce Scott is employed by The GEO Group, Inc., as Warden of the  
20 NWIPC, where Petitioners are detained. He has immediate physical custody of Petitioners. He is  
21 sued in his official capacity.

22 23. Respondent Kristi Noem is the Secretary of the Department of Homeland  
23 Security. She is responsible for the implementation and enforcement of the Immigration and  
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1 Nationality Act (INA), and oversees ICE, which is responsible for Petitioners' detention. Ms.  
2 Noem has ultimate custodial authority over Petitioners and is sued in her official capacity.

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

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

10 26. Respondent Executive Office for Immigration Review (EOIR) is the federal  
11 agency responsible for implementing and enforcing the INA in removal proceedings, including  
12 for custody redeterminations in bond hearings.

### 13 LEGAL FRAMEWORK

14 27. The INA prescribes three basic forms of detention for the vast majority of  
15 noncitizens in removal proceedings.

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

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

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

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

4 32. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the  
5 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.  
6 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section  
7 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139  
8 Stat. 3 (2025).

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

14 34. Thus, in the decades that followed, most people who entered without admission or  
15 parole and were placed in standard removal proceedings received bond hearings, unless their  
16 criminal history rendered them ineligible. That practice was consistent with many more decades  
17 of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a  
18 custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also*  
19 H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the  
20 detention authority previously found at § 1252(a)).

21 35. On July 8, 2025, ICE, “in coordination with” the Department of Justice,  
22 announced a new policy that rejected this well-established understanding of the statutory  
23 framework and reversed decades of practice.

1 36. The new policy, entitled “Interim Guidance Regarding Detention Authority for  
2 Applicants for Admission,” claims that all persons who entered the United States without  
3 admission or parole shall now be deemed “applicants for admission” under 8 U.S.C. § 1225, and  
4 therefore are subject to mandatory detention under § 1225(b)(2)(A). The policy applies  
5 regardless of when a person is apprehended, and affects those who have resided in the United  
6 States for months, years, and even decades.

7 37. On September 5, 2025, the BIA adopted this same position in *Matter of Yajure*  
8 *Hurtado*. There, the Board held that all noncitizens who entered the United States without  
9 admission or parole are considered applicants for admission who are seeking admission and are  
10 ineligible for IJ bond hearings.

11 38. Dozens of federal courts have rejected Respondents’ new interpretation of the  
12 INA’s detention authorities.

13 39. Notably, long before ICE or the BIA changed its position nationwide, IJs in the  
14 Tacoma, Washington, immigration court stopped providing bond hearings for persons who  
15 entered the United States without admission or parole and who have since resided here. This  
16 Court held that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b),  
17 applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez*  
18 *Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

19 40. Since the *Rodriguez Vazquez* preliminary injunction decision, court after court has  
20 adopted the same reading of the INA’s detention authorities and rejected ICE’s new policy and  
21 EOIR’s new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL  
22 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp.  
23 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157

1 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation*  
2 *adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025);  
3 *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13,  
4 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug.  
5 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285  
6 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass.  
7 Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug.  
8 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal.  
9 Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md.  
10 Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La.  
11 Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL  
12 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS,  
13 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-  
14 DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No.  
15 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v.*  
16 *Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*,  
17 No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g., Palma*  
18 *Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at \*2 (D. Neb. Sept. 3, 2025) (noting that  
19 “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v.*  
20 *Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at \*3 (D. Neb. Aug. 19, 2025) (same);  
21 *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at \*2 (D. Neb. Aug. 14,  
22 2025) (same).

1 41. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it  
2 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the  
3 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like  
4 Petitioners.

5 42. Subsection 1226(a) applies by default to all persons “pending a decision on  
6 whether the [noncitizen] is to be removed from the United States.” These removal hearings are  
7 held under § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

8 43. The text of § 1226 also explicitly applies to people charged as being inadmissible,  
9 including those who entered without admission or parole. *See* 8 U.S.C. § 1226(c)(1)(E).  
10 Subparagraph (E)’s reference to such people makes clear that, by default, such people are  
11 afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained,  
12 “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent  
13 those exceptions, the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257  
14 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

15 44. Section 1226 therefore leaves no doubt that it applies to people who face charges  
16 of being inadmissible to the United States, including those who are present without admission or  
17 parole.

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

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

6 47. Petitioners are class members of the certified Bond Denial Class in *Rodriguez*  
7 *Vazquez v. Bostock*, No. 3:25-cv-05240-TMC (W.D. Wash.). That class is defined as comprising:  
8 “All noncitizens without lawful status detained at the Northwest ICE Processing Center who (1)  
9 have entered or will enter the United States without inspection, (2) are not apprehended upon  
10 arrival, (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or §  
11 1231 at the time the noncitizen is scheduled for or requests a bond hearing.” *Rodriguez Vazquez*  
12 *v. Bostock*, 349 F.R.D. 333, 365 (W.D. Wash. 2025).

13 48. However, 8 U.S.C. § 1252(f)(1) precludes the class from obtaining classwide  
14 preliminary or final injunctive relief in *Rodriguez Vazquez*. The parties in that case are awaiting  
15 the Court’s decision on the Bond Denial Class’s motion for summary judgment and request for  
16 classwide declaratory relief.

17 49. Petitioners therefore seek individual habeas relief while that decision on final  
18 declaratory relief on a classwide basis remains pending. In the alternative, should final  
19 declaratory relief issue in *Rodriguez Vazquez*, and should Defendants fail to apply that ruling to  
20 Petitioners, Petitioners seek enforcement of that ruling through the instant petition.

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23 **FACTS**

1 **Santiago Ortiz Martinez**

2 50. Petitioner Santiago Ortiz Martinez is a long-time resident of the United States  
3 who has resided here since at least 2015.

4 51. On August 11, 2025, ICE arrested Mr. Ortiz Martinez. He is now detained at the  
5 NWIPC. Mr. Ortiz Martinez was previously arrested by ICE in 2019 and was ordered release on  
6 bond.

7 52. ICE placed Mr. Ortiz in removal proceedings before the Tacoma Immigration  
8 Court pursuant to 8 U.S.C. § 1229a. ICE has charged him with being inadmissible under 8  
9 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without admission or parole  
10 at an unknown place and an unknown time.

11 53. Following Mr. Ortiz's arrest and transfer to NWIPC, ICE issued a custody  
12 determination to continue Petitioner's detention without an opportunity to post bond or be  
13 released on other conditions.

14 54. Mr. Ortiz subsequently requested a bond redetermination hearing before an IJ.

15 55. On September 2, 2025, a Tacoma IJ issued a decision holding that the court  
16 lacked jurisdiction to conduct a bond redetermination hearing because Mr. Ortiz was an applicant  
17 for admission seeking admission under § 1225(b)(2)(A). The IJ ruled that, in the alternative, if  
18 mandatory detention did not apply, the IJ would have set bond at \$10,000.

19 56. As a result, Mr. Ortiz remains in detention. Without relief from this court, he  
20 faces the prospect of months, or even years, in immigration custody.

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23 **Josefina Rojas**

1 57. Petitioner Josefina Rojas is a long-time resident of the United States who has  
2 resided here since at least 1986.

3 58. On August 13, 2025, ICE arrested Ms. Rojas. She is now detained at NWIPC.

4 59. ICE placed Ms. Rojas in removal proceedings before the Tacoma Immigration  
5 Court pursuant to 8 U.S.C. § 1229a. ICE has charged her with being inadmissible under 8 U.S.C.  
6 § 1182(a)(6)(A)(i) as someone who entered the United States without admission or parole at an  
7 unknown place and an unknown time.

8 60. Ms. Rojas has not had a bond hearing. Pursuant to DHS policy and *Matter of*  
9 *Yajure Hurtado*, Respondents consider her subject to mandatory detention.

10 61. As a result, Ms. Rojas remains in detention. Without relief from this court, she  
11 faces the prospect of months, or even years, in immigration custody.

12 **Horacio Romero Leal**

13 62. Petitioner Horacio Romero Leal is a long-time resident of the United States who  
14 has resided here since at least 1998.

15 63. In 2018, ICE arrested Mr. Romero and placed him in removal proceedings under  
16 8 U.S.C. § 1229a. At that time, ICE charged him with being inadmissible under 8 U.S.C.  
17 § 1182(a)(6)(A)(i) as someone who entered the United States without admission or parole at an  
18 unknown place and an unknown time. He was subsequently released on bond.

19 64. On April 28, 2025, ICE re-arrested Mr. Romero. He is now detained at NWIPC.

20 65. After arresting Mr. Romero, ICE continued his removal proceedings pursuant to  
21 § 1229a.

1 66. Following Mr. Romero's arrest and transfer to NWIPC, ICE issued a custody  
2 determination to continue his detention without an opportunity to post bond or be released on  
3 other conditions.

4 67. Mr. Romero subsequently requested a bond redetermination hearing before an IJ.

5 68. On June 26, 2025, a Tacoma IJ issued a decision holding that the court lacked  
6 jurisdiction to conduct a bond redetermination hearing because Mr. Romero was an applicant for  
7 admission seeking admission under § 1225(b)(2)(A). The IJ ruled that, in the alternative, if  
8 mandatory detention did not apply, the IJ would have set bond at \$7,500.

9 69. Since being detained in April 2025, Mr. Romero's case has proceeded to an  
10 individual calendar hearing (ICH), or merits hearing. The IJ denied relief from removal. Mr.  
11 Romero has since appealed. While his administrative appeal to the BIA remains pending, the  
12 basis for his detention remains 8 U.S.C. § 1226(a).

13 70. As a result, Mr. Romero remains in detention. Without relief from this court, he  
14 faces the prospect of months, or even years, in immigration custody.

15 **Adolfo Barajas Cano**

16 71. Adolfo Barajas Cano is a long-time resident of the United States who has resided  
17 here since at least 2007.

18 72. On June 9, 2025, ICE arrested Mr. Barajas. He is now detained at NWIPC.

19 73. ICE placed Mr. Barajas in removal proceedings before the Tacoma Immigration  
20 Court pursuant to 8 U.S.C. § 1229a. ICE has charged him with being inadmissible under 8  
21 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without admission or parole  
22 at an unknown place and an unknown time.

1 74. Following Mr. Barajas' arrest and transfer to NWIPC, ICE issued a custody  
2 determination to continue his detention without an opportunity to post bond or be released on  
3 other conditions.

4 75. Mr. Barajas subsequently requested a bond redetermination hearing before an IJ.

5 76. On June 23, 2025, a Tacoma IJ issued a decision holding that the court lacked  
6 jurisdiction to conduct a bond redetermination hearing because Mr. Barajas was an applicant for  
7 admission seeking admission under § 1225(b)(2)(A). The IJ ruled that, in the alternative, if  
8 mandatory detention did not apply, the IJ would have set bond at \$10,000.

9 77. Since being detained, Mr. Barajas' case has proceeded to an ICH. At the hearing,  
10 the IJ denied relief from removal. Mr. Barajas has since appealed. While his administrative  
11 appeal to the BIA remains pending, the basis for his detention remains 8 U.S.C. § 1226(a).

12 78. As a result, Mr. Barajas remains in detention. Without relief from this court, he  
13 faces the prospect of months, or even years, in immigration custody.

14 **Pepe Lopez**

15 79. Pepe Lopez is a long-time resident of the United States who has resided here since  
16 at least 1989.

17 80. On September 11, 2025, ICE arrested Mr. Lopez. He is now detained at NWIPC.

18 81. ICE placed Ms. Lopez in removal proceedings before the Tacoma Immigration  
19 Court pursuant to 8 U.S.C. § 1229a. ICE has charged him with being inadmissible under 8  
20 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without admission or parole  
21 at an unknown place and an unknown time.

22 82. Mr. Lopez has not had a bond hearing. Pursuant to DHS policy and *Matter of*  
23 *Yajure Hurtado*, Respondents consider him subject to mandatory detention.

1 83. As a result, Mr. Lopez remains in detention. Without relief from this court, he  
2 faces the prospect of months, or even years, in immigration custody.

3 **CLAIMS FOR RELIEF**

4 **COUNT I**  
5 **Violation of the INA**

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

8 85. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all  
9 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As  
10 relevant here, it does not apply to those who previously entered the country and have been  
11 residing in the United States prior to being apprehended and placed in removal proceedings by  
12 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to  
13 § 1225(b)(1), § 1226(c), or § 1231.

14 86. The application of § 1225(b)(2) to Petitioners unlawfully mandates their  
15 continued detention and violates the INA.

16 **COUNT II**  
17 **Request for Relief Pursuant to Declaratory Relief in *Rodriguez Vazquez***

18 87. Petitioners incorporate by reference the allegations of fact set forth in paragraphs  
19 1–83.

20 88. In the alternative, should the Court in *Rodriguez Vazquez* issue final declaratory  
21 relief on behalf of the Bond Denial Class prior to a decision in this case, that ruling applies to  
22 Petitioners.

23 89. Accordingly, consistent with any *Rodriguez Vazquez* declaratory relief on behalf  
24 of the Bond Denial Class, the application of § 1225(b)(2) to Petitioners unlawfully mandates  
their continued detention and violates the INA. Defendants are accordingly prohibited from

1 considering Petitioners detained under that section and must consider Petitioners subject to  
2 detention under § 1226(a).

3 **COUNT III**  
4 **Violation of Due Process**

5 90. Petitioners repeat, re-allege, and incorporate by reference each and every  
6 allegation in paragraphs 1–83 as if fully set forth herein.

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

11 92. Petitioners have a fundamental interest in liberty and being free from official  
12 restraint.

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

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Petitioners prays that this Court grant the following relief:

- 17 a. Assume jurisdiction over this matter;
- 18 b. Issue a writ of habeas corpus clarifying that the statutory basis for all Petitioners’  
19 detention is 8 U.S.C. § 1226(a) and that 8 U.S.C. § 1225(b)(2)(A) does not apply  
20 to Petitioners;
- 21 c. For the Petitioners who received a hearing where the IJ set an alternative bond  
22 amount, issue a writ of habeas corpus requiring Respondents to release those  
23 individuals immediately upon posting of that bond amount;

- 1 d. For the Petitioners who have not yet received a hearing, issue a writ of habeas  
2 corpus requiring that Respondents release those Petitioners unless Respondents  
3 provide those Petitioners with a bond hearing pursuant to 8 U.S.C. § 1226(a)  
4 within 14 days;
- 5 e. Declare ICE's July 8 policy and the BIA's *Matter of Yajure Hurtado* decisions  
6 unlawful;
- 7 f. Award Petitioners attorney's fees and costs under the Equal Access to Justice Act  
8 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under  
9 law; and
- 10 g. Grant any other and further relief that this Court deems just and proper.

11 DATED this 19th of September, 2025.

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