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9
10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 Carmelo BELTRAN;
13 Victorino CARREÑO RAMIREZ;
14 Diego Edmilson MEJIA
15 CHIVALAN; and
16 Marino FLORES PEREZ,

17 Petitioners,

18 v.

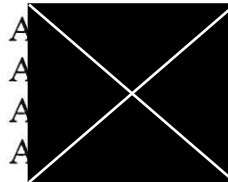
19 Kristi NOEM, Secretary, U.S.
20 Department of Homeland Security;
21 Pamela BONDI, U.S. Attorney General;
22 Todd LYONS, Acting Director,
23 Immigration and Customs Enforcement;
24 Gregory J. ARCHAMBEAULT,
25 Director, San Diego Field Office,
26 Immigration and Customs Enforcement,
27 Enforcement and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

Respondents.

Case No. '25CV2650 LL DEB

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

PETITIONERS' DHS NOS:



INTRODUCTION

1. Petitioners Carmelo BELTRAN (DHS No. [REDACTED]); Victorino CARRENO RAMIREZ (DHS No. [REDACTED]); Diego Edmilson MEJIA CHIVALAN (DHS No. [REDACTED]); and Marino FLORES PEREZ (DHS No. [REDACTED]) are in the physical custody of Respondents at the Imperial Regional Detention Facility in Calexico, California and the Otay Mesa Detention Center in San Diego, California.

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

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

4. Based on this allegation in Petitioners' removal proceedings, DHS has denied each Petitioner release from immigration custody, consistent with a new

1 DHS policy¹ issued on July 8, 2025, instructing all Immigration and Customs
2 Enforcement (ICE) employees to consider anyone inadmissible under §
3 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or
4 inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore
5 ineligible to be released on bond during the removal hearing process.
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7
8 5. Similarly, on September 5, 2025, the Board of Immigration Appeals
9 (BIA or Board), a component of EOIR, issued a precedent decision, binding on all
10 immigration judges, holding that an immigration judge has no authority to consider
11 bond requests for any person who entered the United States without admission. *See*
12 *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined
13 that such individuals are subject to mandatory detention under 8 U.S.C. §
14 1225(b)(2)(A) and therefore ineligible to be released on bond.
15

16
17 6. Petitioners' detention on this basis violates the plain language of the
18 Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* Section
19 1225(b)(2)(A) does not apply to individuals like Petitioners who previously entered
20 and are now present and residing in the United States. Instead, such individuals are
21 subject to a different statute, § 1226(a), that allows for release on conditional parole
22 or bond. That statute expressly applies to people who, like Petitioners, are charged
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26 ¹ "Interim Guidance Regarding Detention Authority for Applicants for Admission",
27 ICE, July 8, 2025. Available at: [https://immpolicytracking.org/policies/ice-issues-](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents)
28 [memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents)
[documents](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents).

1 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. Respondents' new legal interpretation of the INA also violates
9 Petitioners' right to due process. All individuals within the United States have
10 constitutional rights. "[T]he Due Process Clause applies to all 'persons' within the
11 United States, including aliens, whether their presence here is lawful, unlawful,
12 temporary, or permanent." *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) within
16 seven days.
17

18 JURISDICTION

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

26 11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
27
28

1 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28
2 U.S.C. § 1651.

3 4 VENUE

5 12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
6 484, 493- 500 (1973), venue lies in the United States District Court for the
7 Southern District of California, the judicial district in which Petitioners are
8 currently detained.
9

10 13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
11 because Respondents are employees, officers, and agencies of the United States,
12 and because a substantial part of the events or omissions giving rise to the claims
13 occurred in the Southern District of California.
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16 REQUIREMENTS OF 28 U.S.C. § 2243

17 14. The Court must grant a petition for writ of habeas corpus or order
18 Respondents to show cause “forthwith,” unless a petitioner is not entitled to relief.
19 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a
20 return “within three days unless for good cause additional time, not exceeding
21 twenty days, is allowed.” *Id.*
22
23

24 15. Habeas corpus is “perhaps the most important writ known to the
25 constitutional law . . . affording as it does a swift and imperative remedy in all cases
26 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). “The
27 application for the writ usurps the attention and displaces the calendar of the judge
28

1 or justice who entertains it and receives prompt action from him within the four
2 corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000)
3 (citation omitted).
4

5 PARTIES

6 *Petitioners*

7
8 16. Petitioner Carmelo BELTRAN (DHS No. A ) was arrested by
9 Border Patrol agents on July 8, 2025 in Los Angeles, California. He has been in
10 immigration detention since that date. After arresting Petitioner, ICE did not set
11 bond. Petitioner requested review of his custody by an IJ. On August 29, 2025,
12 Petitioner was denied bond by an IJ at the Imperial Immigration Court because the
13 IJ concluded there was “no jurisdiction” because Petitioner was detained under 8
14 U.S.C. § 1225(b)(2)(A).
15

16
17 17. Petitioner Victorino CARRENO RAMIREZ (DHS No. ) was
18 arrested by HSI agents on August 1, 2025 in Dallas, Texas. He has been in
19 immigration detention since that date. After arresting Petitioner, ICE did not set
20 bond. Petitioner requested review of his custody by an IJ. On September 5, 2025,
21 Petitioner was denied bond by an IJ at the Imperial Immigration Court because the
22 IJ concluded there was “no jurisdiction” because Petitioner was detained under 8
23 U.S.C. § 1225(b)(2)(A).
24

25
26 18. Petitioner Diego Edmilson MEJIA CHIVALAN (DHS No. )
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1 was arrested by Border Patrol agents on July 31, 2025 in Murrieta, California. He
2 has been in immigration detention since that date. After arresting Petitioner, ICE
3 did not set bond. Petitioner requested review of his custody by an IJ. On September
4 12, 2025, Petitioner was denied bond by an IJ at the Otay Mesa Immigration Court
5 because the IJ concluded, “The court lacks authority to redetermine the bond
6 pursuant to *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).”
7

9 19. Petitioner Marino FLORES PEREZ (DHS No. [REDACTED]) was
10 arrested by Border Patrol agents on August 21, 2025 in Santa Ana, California. He
11 has been in immigration detention since that date. After arresting Petitioner, ICE
12 did not set bond. Petitioner requested review of his custody by an IJ. On
13 September 8, 2025, Petitioner was denied bond by an IJ at the Otay Mesa
14 Immigration Court because the IJ found that *Matter of Yajure Hurtado*, 29 I&N
15 Dec. 216 (BIA 2025) “controls in this matter.”
16
17

18 ***Respondents***
19

20 20. Respondent Kristi Noem is the Secretary of the Department of
21 Homeland Security. She is responsible for the implementation and enforcement of
22 the Immigration and Nationality Act and oversees ICE, which is responsible for
23 Petitioners’ detention. Ms. Noem has ultimate custodial authority over Petitioners.
24 She is sued in her official capacity.
25

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

5 22. Todd Lyons is the Acting Director of Immigration and Customs
6 Enforcement, a federal law enforcement agency within the Department of
7 Homeland Security. ICE's responsibilities include operating the immigration
8 detention system. In his capacity as ICE Acting Director, Respondent Lyons
9 exercises control over and is a custodian of persons held at ICE facilities nationally.
10 He is Petitioners' immediate custodian and is responsible for Petitioners' detention.
11 He is sued in his official capacity.
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13

14 23. Respondent Gregory J. Archambeault is the Director of the San Diego
15 Field Office of ICE's Enforcement and Removal Operations division. As such, he is
16 the custodian of all persons held at the ICE facilities in the San Diego Field Office.
17 He is Petitioners' immediate custodian and is responsible for Petitioners' detention.
18 He is sued in his official capacity.
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20

21 24. Respondent Jeremy Casey is the Warden of the Imperial Regional
22 Detention Facility, Calexico, California, where certain Petitioners are detained. He
23 has immediate physical custody of Petitioners. He is sued in his official capacity.
24

25 25. Respondent Christopher J. LaRose is the Warden of the Otay
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27
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1 Mesa Detention Center in San Diego, California, where certain Petitioners are
2 detained. He has immediate physical custody of Petitioners. He is sued in his
3 official capacity.
4

5 26. Respondent Executive Office for Immigration Review (EOIR) is the
6 federal agency within the Department of Justice responsible for implementing the
7 INA in removal proceedings, including for custody redeterminations or bond
8 hearings.
9

10 27. Respondent Department of Homeland Security (DHS) is the federal
11 agency responsible for implementing and enforcing the INA, including the
12 detention and removal of noncitizens.
13

14 28. Respondent Immigration and Customs Enforcement (ICE) is the agency
15 within DHS responsible for implementing and enforcing the INA, including the
16 detention and removal of noncitizens.
17

18 **LEGAL FRAMEWORK**

19

20 29. The INA prescribes three basic forms of detention for the vast majority
21 of noncitizens in removal proceedings conducted pursuant to 8 U.S.C. § 1229a.
22

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

3
4 31. Second, the INA provides for mandatory detention of noncitizens
5 subjected to an Expedited Removal order imposed pursuant to 8 U.S.C. §
6 1225(b)(1) and for certain other noncitizen applicants for admission to the U.S. who
7 are deemed not clearly entitled to be admitted. *See* 8 U.S.C. § 1225(b)(2).

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

12
13 33. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and
14 1225(b)(2).

15
16 34. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as
17 part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)
18 of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582
19 to 3009–583, 3009–585. Section 1226 was most recently amended in early 2025 by
20 the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

21
22 35. Following the enactment of the IIRIRA in 1996, EOIR drafted new
23 Regulations applicable to proceedings before immigration judges explaining that, in
24 general, people who entered the country without inspection – also referred to as
25 being “present without admission” - were not considered detained under § 1225 and
26 that they were instead detained under § 1226(a). *See* Inspection and Expedited
27
28

1 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
2 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

3
4 36. Thus, in the decades that followed, most noncitizens who entered without
5 inspection and were placed in standard § 1229a removal proceedings received bond
6 hearings before IJs, unless their criminal history rendered them ineligible pursuant
7 to § 1226(c). That practice was consistent with many more decades of practice prior
8 to IIRIRA, in which noncitizens who were not deemed “arriving” were entitled to a
9 custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
10 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a)
11 simply “restates” the detention authority previously found at § 1252(a)).

12
13
14 37. This practice both pre- and post-enactment of IIRIRA in 1996 is
15 consistent with the fact that noncitizens present within the United States – as
16 opposed to noncitizens present at the border and seeking admission - have
17 constitutional rights. “[T]he Due Process Clause applies to all ‘persons’ within the
18 United States, including aliens, whether their presence here is lawful, unlawful,
19 temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

20
21
22 38. On July 8, 2025, ICE, “in coordination with” the Department of Justice,
23 announced a new policy that rejected the well-established understanding of the
24 statutory framework and reversed decades of practice.

25
26 39. The new policy, entitled “Interim Guidance Regarding Detention
27
28

1 Authority for Applicants for Admission,”² asserts that all noncitizens who entered
2 the United States without inspection shall now be deemed “applicants for
3 admission” and subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
4 The policy applies regardless of when a person is apprehended, and affects those
5 who have resided in the United States for months, years, and even decades.
6
7

8 40. On September 5, 2025, the BIA endorsed and adopted this same position
9 in a published decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
10 The Board held that all noncitizens who entered the United States without
11 admission or parole are subject to mandatory detention under § 1225(b)(2)(A) and
12 are ineligible for IJ bond hearings.
13

14 41. Since Respondents adopted their new policies, dozens of federal courts
15 have rejected their new interpretation of the INA’s detention authorities. Courts
16 have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of
17 the statute as ICE.
18
19

20 42. Even before ICE or the BIA introduced these nationwide policies, IJs in
21 the Tacoma, Washington immigration court stopped providing bond hearings for
22 persons who entered the United States without inspection and who have since
23 resided here. On September 30, 2025, the U.S. District Court for the Western
24 District of Washington issued a partial summary judgment order concluding that
25
26

27 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)
28 [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).

1 such persons are subject to detention under 8 U.S.C. § 1226(a) and are not subject
2 to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *Rodriguez Vazquez v.*
3 *Bostock*, No. 3:25-cv-0524-TMC (W.D. Wash. Sept. 30, 2025), Order Granting
4 Plaintiffs’ Partial Motion for Summary Judgment and Denying Defendants’
5 Motion to Dismiss, Dkt. 65.
6
7

8 43. Court after court has adopted the same reading of the INA’s detention
9 authorities and rejected ICE and EOIR’s new interpretation, including many in the
10 Central and Southern Districts of California. *See Lopez Pop v. Noem*, Case No.
11 5:25-cv-2589-SSS-SSC (C.D. Cal, Oct. 3, 2025); *Santiago Flores v. Noem*, Case
12 No. 5:25-cv-2490-AB-AJR (C.D. Cal. Sept. 29, 2025); *Arreola Armenta v. Noem*,
13 5:25-cv-2416-JFW-SP (C.D. Cal. Sept. 16, 2025); *Zaragoza Mosqueda v. Noem*,
14 No. 5:25-CV-02304-CAS-BFM, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025);
15 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D.
16 Cal. Sept. 3, 2025); *Benitez v. Noem*, 5:25-cv-2190-RGK-AS (C.D. Cal. Aug. 26,
17 2025); *Ceja Gonzalez v. Noem*, 5:25-cv-2054-ODW-BFM (C.D. Cal. Aug. 13,
18 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW-DFM, 2025 WL
19 2379285 (C.D. Cal. Aug. 15, 2025); and *Maldonado Bautista v. Santacruz*, No.
20 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025). *But see, Sixtos Chavez v.*
21 *Noem*, No. 3:25-cv-2325-CAB-SBC (S.D. Cal. Sept. 24, 2025) (denying TRO and
22 accepting government’s interpretation of § 1225(b)(2)). And outside of the Central
23 and Southern Districts, *see also, Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025
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1 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-
2 BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v.*
3 *Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug.
4 11, 2025), report and recommendation adopted, No. CV-25-02157-PHX-DLR
5 (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No.
6 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v.*
7 *Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15,
8 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug.
9 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y.
10 Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL
11 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-
12 JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-
13 01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v.*
14 *Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D.
15 Minn. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS,
16 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Pizarro Reyes v. Raycraft*, No. 25-
17 CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No.
18 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g.,*
19 *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3,
20 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2)
21 authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL

1 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-
2 03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

3
4 These courts have rejected DHS's and EOIR's new interpretation because it defies
5 the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text
6 of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to
7 people like Petitioners.
8

9 44. Section 1226(a) applies by default to all persons "pending a decision on
10 whether the [noncitizen] is to be removed from the United States." Removal
11 hearings are held pursuant to § 1229a, to "decid[e] the inadmissibility or
12 deportability of a[] [noncitizen]."
13

14 45. The text of § 1226(a) also explicitly applies to individuals charged as
15 being inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
16 1226(c)(1)(E). Subparagraph (E)'s reference to inadmissible individuals makes
17 clear that, by default, such individuals are afforded a bond hearing under subsection
18 (a). As the *Rodriguez Vazquez* court explained in its preliminary injunction order,
19 "[w]hen Congress creates "specific exceptions" to a statute's applicability, it
20 "proves" that absent those exceptions, the statute generally applies. *Rodriguez*
21 *Vazquez*, 779 F.Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v.*
22 *Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also* *Gomes*, 2025 WL 1869299, at
23 *7.
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28 46. Section 1226 therefore leaves no doubt that it applies to noncitizens

1 present in the United States who face charges of being inadmissible to the United
2 States, including those who are present without admission or parole.

3
4 47. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or
5 who recently entered the United States and are encountered at or near the border.
6 The statute's entire framework is premised on inspections at the border of people
7 who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A).
8 Indeed, the Supreme Court has explained that this mandatory detention scheme
9 applies "at the Nation's borders and ports of entry, where the Government must
10 determine whether a[] [noncitizen] seeking to enter the country is admissible."
11
12 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).
13

14 48. Accordingly, the mandatory detention provision of § 1225(b)(2) does not
15 apply to people like Petitioners, who have already entered and were residing in the
16 United States at the time they were apprehended.
17

18 **FACTS**

19 **Petitioner Carmelo BELTRAN**

20
21 49. Petitioner Carmelo BELTRAN resides in Santa Ana, California. Neither
22 his previous contact with immigration authorities nor his criminal history involving
23 an arrest and no conviction for disorderly conduct triggers mandatory detention
24 pursuant to 8 U.S.C. § 1226(c) or on any other basis.
25

26 50. On July 8, 2025, Petitioner was arrested in Los Angeles, California.
27
28

1 Petitioner is now detained at the ICE Imperial Regional Detention Facility in
2 Calexico, California.

3
4 51. ICE placed Petitioner in removal proceedings before the Imperial
5 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
6 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
7 without admission in the United States.
8

9 52. Upon information and belief, following Petitioner's arrest and transfer to
10 the ICE Imperial Regional Detention Facility, ICE issued a custody determination
11 to continue Petitioner's detention without an opportunity to post bond or be
12 released on other conditions.
13

14 53. Petitioner subsequently requested a bond redetermination hearing before
15 an IJ. On August 29, 2025, an IJ denied the request and issued a decision that the
16 court lacked jurisdiction to conduct a bond redetermination because Petitioner is
17 detained under § 1225(b)(2)(A).
18
19

20 **Petitioner Victorino CARRENO RAMIREZ**

21 54. Petitioner Victorino CARRENO RAMIREZ resides in Texas. He
22 has no previous contact with immigration authorities. His criminal history does not
23 trigger mandatory detention pursuant to 8 U.S.C. § 1226(c) or on any other basis.
24

25 55. On August 1, 2025, Petitioner was arrested in Dallas, Texas.
26
27 Petitioner is now detained at the ICE Imperial Regional Detention Facility in
28 Calexico, California.

1 56. ICE placed Petitioner in removal proceedings before the Imperial
2 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
3 being inadmissible under, inter alia, 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is
4 present without admission in the United States.
5

6 57. Upon information and belief, following Petitioner's arrest and transfer to
7 the ICE Imperial Regional Detention Facility, ICE issued a custody determination
8 to continue Petitioner's detention without an opportunity to post bond or be
9 released on other conditions.
10

11 58. Petitioner subsequently requested a bond redetermination hearing before
12 an IJ. On September 5, 2025, an IJ denied the request and issued a decision that the
13 court lacked jurisdiction to conduct a bond redetermination because Petitioner is
14 detained under § 1225(b)(2)(A).
15

16 **Petitioner Diego Edmilson MEJIA CHIVALAN**
17

18 59. Petitioner Diego Edmilson MEJIA CHIVALAN resides in California. He
19 has no criminal record and no previous contact with immigration authorities.
20

21 60. On July 31, 2025, Petitioner was arrested in Murrieta, California.
22 Petitioner is now detained at the ICE Otay Mesa Detention Center in San Diego,
23 California.
24

25 61. ICE placed Petitioner in removal proceedings before the Otay Mesa
26
27
28

1 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
2 being inadmissible under, inter alia, 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is
3 present without admission in the United States.
4

5 62. Upon information and belief, following Petitioner's arrest and transfer to
6 the ICE Otay Mesa Detention Center, ICE issued a custody determination to
7 continue Petitioner's detention without an opportunity to post bond or be released
8 on other conditions.
9

10 63. Petitioner subsequently requested a bond redetermination hearing before
11 an IJ. On September 12, 2025, an IJ denied the request and issued a decision that
12 the court lacked authority to conduct a bond redetermination pursuant to *Matter of*
13 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
14
15

16 **Petitioner Marino FLORES PEREZ**

17 64. Petitioner Marino FLORES PEREZ resides in Santa Ana, California.
18 He has no criminal record and no previous contact with immigration authorities.
19

20 65. On August 21, 2025, Petitioner was arrested in Santa Ana, California.
21 Petitioner is now detained at the ICE Otay Mesa Detention Center in San Diego,
22 California.
23

24 66. ICE placed Petitioner in removal proceedings before the Otay Mesa
25 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
26 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
27 without admission in the United States.
28

SECOND CLAIM FOR RELIEF

Petitioners' Detention is in Violation of DHS and EOIR Bond Regulations

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

73. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323. The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

74. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individuals like Petitioners and, pursuant to the July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission," DHS has a policy and practice of applying § 1225(b)(2) to individuals like Petitioners.

75. The application of § 1225(b)(2) to Petitioners unlawfully mandates their continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

THIRD CLAIM FOR RELIEF

Petitioners' Detention Violates the Administrative Procedure Act,

5 U.S.C. § 706(2)

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

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

78. Respondents' detention of Petitioners pursuant to § 1225(b)(2) is arbitrary and capricious, violates the INA and the Fifth Amendment, is not authorized under § 1225(b)(2), and therefore is in violation of 5 U.S.C. § 706(2).

FOURTH CLAIM FOR RELIEF

Petitioners' Detention Violates Their Fifth Amendment Right to Due Process

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

80. 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 government custody, detention, or other forms of physical restraint—lies at

1 the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678,
2 690 (2001).

3
4 81. Petitioners have a fundamental interest in liberty and being free from
5 official restraint.

6
7 82. The Respondents’ detention of Petitioners without providing
8 Petitioners a bond redetermination hearing to determine whether they are a flight
9 risk or a danger to others violates their right to Due Process.

10
11 **PRAYER FOR RELIEF**

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

- 14
15 a. Order that Petitioners shall not be transferred outside of the Southern
16 District of California while this petition is pending;
- 17
18 b. Issue an Order to Show Cause ordering Respondents to show cause
19 within three days why this Petition should not be granted;
- 20
21 c. Issue a Writ of Habeas Corpus requiring Respondents to release
22 Petitioners or provide Petitioners with a bond hearing pursuant to 8
23 U.S.C. § 1226(a) within seven days;
- 24
25 d. Declare that Petitioners’ detention is unlawful;
- 26
27 e. Award Petitioners attorney’s fees and costs under the Equal Access to
28 Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other
basis justified under law; and

1 f. Grant any other and further relief that this Court deems just and
2 proper.
3

4 DATED: October 6, 2025.

s/ Niels W. Frenzen
NIELS W. FRENZEN
JEAN REISZ
USC GOULD SCHOOL OF LAW
IMMIGRATION CLINIC

Attorneys for Petitioners

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 October 6, 2025.

s/ Niels W. Frenzen
NIELS W. FRENZEN
USC GOULD SCHOOL OF LAW
IMMIGRATION CLINIC

Attorney for Petitioners