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 SAMUEL SANCHEZ APARICIO

**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA (Las Vegas)**

* * *

SAMUEL SANCHEZ APARICIO

Petitioner,

vs.

KRISTI NOEM, Acting Secretary of the
 United States Department of Homeland
 Security;

PAM BONDI, Attorney General of the
 United States;


THOMAS E. FEELEY, Salt Lake City
 Field Office Director, Enforcement and
 Removal Operations, U.S. Immigration and
 Customs Enforcement;

REGGIE RADER, Henderson Police
 Chief; and

MARIA BELLOW, Corrections Captain.

Respondents.

CASE NO.

Agency No. 

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

Petitioner, Samuel Sanchez Aparicio, petitions this Court for a writ of habeas corpus to
 remedy his unlawful detention by Respondents, as follows:

Introduction

1. This is a Petition for Writ of Habeas Corpus filed on behalf of Samuel Sanchez Aparicio (“Petitioner”) seeking relief to remedy his prolonged unlawful detention. Respondents are detaining Mr. Sanchez Aparicio pending his removal proceedings despite an Immigration Judge’s lawful custody redetermination decision granting him bond in the amount of \$3,500.00. Furthermore, the U.S. Department of Homeland Security (“DHS or “Department”) has invoked the automatic stay under 8 C.F.R. §1003.19(i)(2). Mr. Sanchez Aparicio has been detained for approximately 62 days since August 7, 2025. Mr. Sanchez Aparicio is not a flight risk or a danger to the community. His unlawful detention is not justified under the Constitution nor the Immigration and Nationality Act (“INA”). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 858-59 (2018) (leaving the door open for Constitutional claims challenging the prolonged detention of immigrant detainees pre-final order of removal); *see also Vazquez v. Feeley*, 2025 U.S. Dist. LEXIS 182412, 2025 LX 460110, 2025 WL 2676082 (D. Nev. Sep. 17, 2025); *see also Roman v. Noem*, No. 25-CV-01684-RFB-EJY, 2025 WL 2710211 (D. Nev. Sep. 23, 2025); *see also Zavala v. Ridge*, 310 F. Supp. 2d 1071 (N.D. Cal. 2004)(finding that continued detention pursuant to the automatic stay despite IJ’s decision to grant bond violated procedural and substantive due process rights).
2. In the twenty-seven years that Mr. Sanchez Aparicio has resided in the United States, he has lived an honest and productive life with only one arrest for driving under the influence of alcohol in violation of N.R.S. § 484C.110, a misdemeanor; and a traffic violation of failure to yield right of way in violation of N.R.S. 484B.263. A status check is scheduled for December 11, 2025, to see if a complaint will be filed in this case. This incident occurred on August 6, 2025. Mr. Sanchez Aparicio’s arrest led to his detention by Immigration and Customs Enforcement (ICE). Mr. Sanchez Aparicio has not been convicted of any criminal offense in his time residing in the United States.

3. On September 4, 2025, an Immigration Judge in Las Vegas held a custody redetermination hearing finding he was not a danger to the community or a risk of flight and granted Petitioner bond in the amount of \$3,500.
4. On September 5, 2025, DHS filed EOIR-43, which stayed his ability to post bond and be released. On September 17, DHS perfected its appeal by filing a Notice of Appeal (EOIR-26) to the Board of Immigration Appeals (BIA).
5. In its appeal, the DHS sole argument was that he was an “applicant for admission” and subject to mandatory detention under section 1225(b)(2)(A) of the Immigration and Nationality Act (“INA” or “Act”)
6. On September 9, 2025, the BIA issued a precedential decision—*Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), affirming the new position of the Department that individuals like the Petitioner who entered without inspection many years ago, are considered applicants for admission and subject to mandatory detention.
7. Because all immigration judges are bound by the BIA’s precedential decision, the outcome of the pending bond appeal is virtually predetermined. The Court will almost certainly classify him as an applicant for admission, thereby forcing him to be mandatorily detained—a result that is both unconstitutional and contrary to the INA.

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8. While no circuit court has yet ruled directly on this precise issue, at least two dozen federal district courts¹—including this one²—have rejected the government’s position. These courts have recognized that DHS’s new policy and the BIA’s reasoning in *Matter of Yajure Hurtado* misapply 8 U.S.C. § 1225(b)(2) to cases like Petitioner’s, when the proper

¹ See, e.g., *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Rosado v. Figueroa*, No. 25-CV-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Zaragoza Mosqueda et al. v. Noem*, No. 25-CV-02304, 2025 WL 2591530 (C.D. Cal. Sep. 8, 2025); *Guerrero Lepe v. Andrews*, No. 25-CV-01163, 2025 WL 2716910 (E.D. Cal. Sep. 23, 2025); *Salcedo Aceros v. Kaiser*, No. 25-CV-06924, 2025 WL 2637503 (N.D. Cal. Sep. 12, 2025); *Vasquez Garcia v. Noem*, No. 25-CV-02180, 2025 WL 2549431 (S.D. Cal. Sep. 3, 2025); *Sampiao v. Hyde*, No. 25-25-CV-11981, 2025 WL 2607924 (D. Mass. Sep. 9, 2025); *Chogillo Chafra v. Scott*, No. 25-CV-00437-SDN, 2025 WL 2688541 (D. Me. Sep. 22, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-CV-00326, 2025 WL 2639390 (D.N.H. Sep. 8, 2025); *Samb v. Joyce*, No. 25-CV-06373, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Luna Quispe v. Crawford*, No. 25-CV-1471, 2025 WL 2783799 (E.D. Va. Sep. 29, 2025); *Rivera Zumba v. Bondi*, No. 25-CV-14626, 2025 WL 2753469 (D.N.J. Sep. 26, 2025); *Leal-Hernandez v. Noem*, No. 25-CV-02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez Santos v. Noem*, No. 25-CV-01193, 2025 WL 2642278 (W.D. La. Sep. 11, 2025); *Singh v. Lewis*, No. 25-CV-00096, 2025 WL 2699219 (W.D. Ky. Sep. 22, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sep. 9, 2025); *Campos Leon v. Forestal*, No. 25-CV-01174, 2025 WL 2694763 (S.D. Ind. Sep. 22, 2025); *Barrajas v. Noem*, No. 25-CV-000322, 2025 WL 2717650 (S.D. Iowa Sep. 23, 2025); *Belsai D.S. v. Bondi*, No. 25-CV-3682, 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Garcia Cortes v. Noem*, No. 25-CV-02677, 2025 WL 2652880 (D. Colo. Sep. 16, 2025); *Salazar v. Dedos*, No. 25-CV-00835, 2025 WL 2676729 (D.N.M. Sep. 17, 2025); *Lopez v. Hardin*, No. 25-CV-830, 2025 WL 2732717 (M.D. Fla. Sep. 25, 2025); *Lopez-Arevelo v. Ripa*, No. 25-CV-337, 2025 WL 2691828 (W.D. Tex. Sep. 22, 2025).

² See, e.g., *Vazquez v. Feeley*, No. 25-CV-01542, 2025 WL 2676082 (D. Nev. Sep. 17, 2025); see also *Roman v. Noem*, No. 25-CV-01684, 2025 WL 2710211 (D. Nev. Sep. 23, 2025).

1 authority lies under 8 U.S.C. § 1226(a). This growing body of authority underscores the
2 fundamental error in treating Petitioner as subject to mandatory detention.

3 9. On The federal regulations require arguing that Petitioner is an “applicant for admission”
4 subject to mandatory detention under INA § 235(b)(2)(A) and ineligible for bond. As a
5 result, Petitioner remains detained at the Henderson Detention Center.

6 10. Mr. Sanchez Aparicio’s prolonged detention is in violation of the Due Process Clause of
7 the Fifth Amendment. His prolonged detention is no longer justified under the Constitution
8 or the INA. Mr. Sanchez Aparicio seeks an order from this Court finding that his continued
9 and prolonged detention unlawful and ordering Respondents to release Mr. Sanchez
10 Aparicio from their custody upon posting \$3,500 immediately.

11 Custody

12 11. Petitioner is in the physical custody of Respondents and the United States Immigration and
13 Customs Enforcement (“ICE”). At the time of the filing of this petition, Mr. Sanchez
14 Aparicio is detained at the Henderson Detention Center in Henderson, Nevada. The
15 Henderson Detention Center contracts with DHS to detain aliens such as Mr. Sanchez
16 Aparicio. Mr. Sanchez Aparicio is under the direct control of Respondents and their agents.

17 Jurisdiction

18 12. This action arises under the Constitution of the United States and the Immigration and
19 Nationality Act, 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (“APA”),
20 5 U.S.C. § 701, et seq.

21 13. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United States
22 Constitution (Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in
23 custody under color of authority of the United States, and such custody is in violation of
24 the Constitution, laws, or treaties of the United States.

25 14. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All-
26 Writs Act, 28 U.S.C. § 1651. While Section 1226(e) of the INA precludes an alien from
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1 challenging a discretionary judgment by the Attorney General or a decision that the
2 Attorney General has made regarding their detention or release, *see Jennings v. Rodriguez*,
3 138 S. Ct. 830, 841 (2018), Section 1226(e) “does not preclude challenges to the statutory
4 framework that permits the alien’s detention without bail.” *Jennings*, 138 S. Ct. at 841.
5 Moreover, this court has already determined in *Vazquez v. Feeley*, that none of the
6 jurisdiction stripping provisions of the INA such as 8 U.S.C. §§1252 (b)(9), 1252(g),
7 1252(a) and 1226(e) are applicable here.

8 Venue

9 15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 500, 93 S.
10 Ct. 1123, 1132, 35 L. Ed. 2d 443 (1973), venue lies in the United States District Court for
11 Nevada, the judicial district where Petitioner currently is detained, pursuant to 28 U.S.C.
12 §1391(e).

13 Parties

14 16. Petitioner, Samuel Sanchez Aparicio, is a native and citizen of Mexico, who has lived
15 continuously in the U.S. since on or about 1997. Mr. Sanchez Aparicio has been in the
16 custody of Respondents since August 7, 2025 for 62 days.

17 17. Respondent Kristi Noem is the Acting Secretary of the Department of Homeland Security.
18 She is responsible for the implementation and enforcement of the Immigration and
19 Nationality Act (INA) and oversees ICE. Mrs. Kristi Noem has ultimate custodial authority
20 over Petitioner.

21 18. Respondent Pam Bondi is the Attorney General of the United States. She is responsible for
22 the implementation and enforcement of the INA, and oversees the Executive Office for
23 Immigration Review (EOIR), which is comprised of the Office of the Immigration Judge
24 and the Board of Immigration Appeals (BIA or Board). She is being sued in her official
25 capacity.

- 1 19. Respondent Thomas E. Feeley is the Field Director / Acting Field Director for Salt Lake
2 City is the Director of the Salt Lake City Field Office of Detention and Removal
3 Operations, U.S. Immigration and Customs Enforcement, Department of Homeland
4 Security. As such, Respondent Thomas E. Feeley is Petitioner's legal custodian, charged
5 with the responsibility of determining whether Mr. Sanchez Aparicio will be detained in
6 ICE custody or released pending the conclusion of his Petitioner for Review and any
7 ensuing immigration removal proceedings. He is being sued in his official capacity.
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9 20. Respondent Reggie Rader, is the Henderson Police Chief whose jurisdiction includes the
10 Henderson Detention Center. He may be a custodian of Petitioner. He is being sued in his
11 official capacity.
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13 21. Respondent Maria Bellow is the corrections Captain and the highest-ranking employee at
14 the Henderson Detention Center and is, therefore, Petitioner's immediate custodian. She is
15 being sued in her official capacity.

Factual Allegations

- 16 22. Petitioner is a 57-year-old citizen and national of Mexico. Petitioner is the father to a 28-
17 year-old Lawful Permanent Resident and 21-year-old U.S. citizen. Petitioner is also a
18 loving grandfather to three U.S. citizen children. Petitioner's sibling is a Lawful Permanent
19 Resident who is on dialysis and relied on Petitioner's emotional and financial support.
20 Petitioner's wife and mother of his children has been left to the carry the burden of their
21 financial responsibilities and is struggling.
22 23. Prior to his detention, Petitioner was employed doing concrete work and paying taxes.
23 24. Petitioner last entered the United States on or about 1997, and has remained in the U.S.
24 continuously for the past 27 years and has deep community ties.
25 25. On August 6, 2025, Petitioner was arrested in Clark County, Nevada for a DUI
26 misdemeanor offense and traffic violation Petitioner was then transferred to ICE custody.
27 Petitioner was then served by DHS with a Notice to Appear initiating removal proceedings.
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Petitioner was charged with violating INA § 212(a)(6)(A)(i) (as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General) and & INA § 212(a)(7)(A)(i)(I) (as aliens who at the time of their application for admission into the U.S. were not in possession of the proper travel documents as required in the INA).

26. On September 4, 2025, an Immigration Judge in Las Vegas held a custody redetermination hearing and granted Petitioner bond in the amount of \$3,500.

27. On September 17, 2025, DHS filed a Notice of Appeal (EOIR-26) to the BIA, arguing that Petitioner is an “applicant for admission” subject to mandatory detention under INA § 235(b)(2)(A) and ineligible for bond.

28. Mr. Sanchez Aparicio does not pose any danger to the community. In the twenty-seven years that he has resided in the United States, he has one blemish on his record—a pending case resulting from an arrest for driving under the influence and a traffic violation which occurred on or about August 6, 2025.

29. Mr. Sanchez Aparicio has maintained overall good moral character, has longstanding residence in the United States, and has strong equities in the form of family and community ties, employment history, and absence of disqualifying criminal history for a bond.

30. Further, Mr. Sanchez Aparicio’s prior employer may have filed a labor certification on or before April 30, 2001. If Mr. Sanchez Aparicio obtains this evidence, he will be eligible to file for adjustment of status based on an I-130, Petition for Alien Relative which may be filed by his U.S. citizen son. In the alternative, Mr. Sanchez Aparicio has a fear of persecution if he returns to Mexico and may seek asylum related relief.

31. In light of Mr. Sanchez Aparicio’s prolonged and unlawful detention, potential relief for Adjustment of Status under 245(i) and/or asylum related relief, and minimal criminal history, it is therefore appropriate for the Court to consider the merits of Mr. Sanchez Aparicio’ request for release under the instant Petition.

Claims For Relief

**I. PROCEDURAL DUE PROCESS VIOLATION—APPLICATION OF
8 C.F.R. § 1003.19(i)(2)**

32. Petitioner re-alleges and incorporates by reference paragraphs 1 through 31, above.
33. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained or removed. *See, e.g., Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)).
34. Respondents have deprived Mr. Sanchez Aparicio of his right to procedural due process by detaining him since August 6, 2025 prohibiting him from posting bond pursuant to the IJ's lawful bond redetermination order by filing an automatic stay of the decision pursuant to 8 C.F.R. § 1003.19(i)(2).
35. This is impermissible for multiple reasons. First, this Court has held that DHS invoking an automatic stay under 8 C.F.R. § 1003.19(i)(2) violates procedural due process. *Vazquez v. Feeley*, 2025 WL 2676082, at *21 ("Detention pursuant to the automatic stay after the government already failed to establish a justification for it, with no process afforded to challenge the detention as arbitrary, is facially violative of procedural due process.")
36. Second, Petitioner has a fundamental interest in liberty and being free from restraint.
37. Third, the government continues to detain Petitioner, and the BIA's recent decision in *Matter of Yajure-Hurtado* bars IJs from granting bond hearings to all individuals who entered the U.S. without inspection. 29 I&N Dec. 216 (BIA 2025). That decision rests on a flawed reading of the INA and violates Petitioner's due process rights.

II. STATUTORY VIOLATION

38. Petitioner re-alleges and incorporates by reference paragraphs 1 through 37, above.

- 1 39. The Department's new position, reaffirmed by the BIA's precedential decision in *Matter*
2 *of Yajure Hurtado* contravenes the plain text of the statute. Section § 1226(a), not § 1225(b),
3 applies to individuals like the Petitioner.
- 4 40. Section 1226(a) governs by default all individuals in removal proceedings under § 1229a,
5 which determine inadmissibility or deportability. The statute explicitly covers those
6 charged as inadmissible, including entrants without inspection, and ensures they are
7 entitled to bond hearings under subsection (a). On the other hand, § 1225(b) applies only
8 to individuals arriving at ports of entry or immediately after entry, as it is built around
9 inspection of applicants for admission. Thus, the mandatory detention provision of §
10 1225(b)(2) does not extend to the Petitioner.
- 11 41. Therefore, Respondents' continued detention of Petitioner is therefore unlawful and
12 contravenes 8 U.S.C. § 1226(a), and the U.S. Constitution. Accordingly, Respondents'
13 continued detention of Petitioner is contrary to statute.

14 **III. SUBSTANTIVE DUE PROCESS VIOLATION**

- 15 42. Petitioner re-alleges and incorporates by reference paragraphs 1 through 41, above.
- 16 43. Petitioner's continued detention violates Petitioner's right to substantive due process
17 through a deprivation of the core liberty interest in freedom from bodily restraint.
- 18 44. The Due Process Clause of the Fifth Amendment requires that the deprivation of
19 Petitioner's liberty interest be narrowly tailored to serve a compelling government interest.
20 Any interest Respondents have in detaining Petitioner in order to effectuate removal does
21 not justify the unlawful and prolonged detention of Petitioner, who is not significantly
22 likely to be removed in the reasonably foreseeable future given that he is seeking various
23 applications for relief and has the right to appeal his case to the BIA and seek further review
24 before the Ninth Circuit Court of Appeals.
- 25 45. Petitioner's continued detention separates him from his children, grandchildren, sibling,
26 and wife—most of whom possess lawful status. His family suffers in his absence, deprived
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1 of the love, guidance, and support they have long depended upon. The conditions of
2 confinement impose further harms, including incarceration in jail-like facilities, inadequate
3 medical care, and other substandard living conditions.

4 46. Therefore, his mandatory detention infringes upon the fundamental liberty interest in
5 freedom from physical restraint. Accordingly, Respondents cannot show a “sufficiently
6 strong special justification” for continuing to deprive Mr. Sanchez Aparicio of his
7 fundamental human rights.

8 **Prayer For Relief**

9 WHEREFORE, Petitioner prays that the Court grant the following relief:

- 10 1) Assume jurisdiction over this matter;
- 11 2) Enjoin Respondents from transferring Petitioner outside of this judicial district
12 pending litigation of this matter or his removal proceedings;
- 13 3) Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an
14 action brought under chapter 153 (habeas corpus) of Title 28;
- 15 4) Pursuant to 28 U.S.C. § 2243 issue an order directing Respondents to show cause why
16 the writ of habeas corpus should not be granted;
- 17 5) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately
18 release Petitioner upon payment of the bond in the amount of \$3,500.00.
- 19 6) Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
20 (EAJA), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis
21 justified under law; and
- 22 7) Grant any other and further relief as the Court deems just and proper.

23
24 Dated: October 8, 2025

25
26 /S/ Sylvia L. Esparza
27 Sylvia L. Esparza, Esq.
28 Attorney for Petitioner

Verification by someone acting on Petitioner's behalf
pursuant to 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am the
Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition.
On the basis of those discussions, I hereby verify that the statements made in the attached
Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: October 8, 2025

/S/ Sylvia L. Esparza
Sylvia L. Esparza, Esq.
Attorney for Petitioner

Certificate of Service

I hereby certify that a copy of the foregoing pleading/document was mailed certified mail, return receipt requested, to the following, above mentioned Respondents on October 7, 2025 at the following addresses:

KRISTI NOEM, Acting Secretary
United States Department of Homeland Security
Washington, D.C. 20528

PAMELA BONDI, Attorney General
950 Pennsylvania Avenue, NW
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THOMAS E. FEELEY, Field Office Director
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Henderson Police Department
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MARIA BELLOW, Corrections Captain
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Henderson, NV 89015

Dated: October 8, 2025

/S/ Sylvia L. Esparza
Sylvia L. Esparza, Esq.
Attorney for Petitioner