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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
CENTRAL DIVISION**

Norma Lucina SALDANA GUZMAN,

Petitioner,

v.

Kristi NOEM, Secretary, Department of
Homeland Security; Pam BONDI, Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Todd LYONS,
Executive Associate Director of ICE
Enforcement and Removal
Operations (ERO); and David A. MARIN,
Adelanto Immigration and Customs
Field Office Director,

Respondents.

Civil Case No. _____

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

INTRODUCTION

1. Norma Luciana SALDANA GUZMAN (hereinafter, “Petitioner”) has been residing in the United States since in or about the year 2006. She was apprehended by Immigration and Customs Enforcement (hereinafter, “ICE”) on or about September 25th of this year.
2. Petitioner is currently detained at the ICE Adelanto Detention Center, has been placed in removal proceedings, and is not scheduled for another hearing until November of this year.
3. She is only charged with having entered the United States without inspection (hereinafter, “EWI”). 8 U.S.C. § 1182(a)(6)(A)(i).
4. Petitioner was denied release by the Department of Homeland Security (DHS) and has sought a bond redetermination hearing before an Immigration Judge (hereinafter, “IJ”).
5. Petitioner will soon be scheduled for a bond redetermination hearing before an IJ. Based on new agency policy that all persons who entered the United States EWI are deemed applicants for admission to the U.S. and are ineligible for release in bond redetermination hearings based on the immigration statute, 8 U.S.C. § 1225(b)(2)(A), it is virtually certain that she will be denied release on bond.

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2 6. Section 1225(b)(2)(A) states that an applicant for admission seeking
3 admission shall be detained for a removal proceeding. It is the position of
4 the Executive Office for Immigration Review (hereinafter, “EOIR”), which
5 includes both the Board of Immigration Appeals (hereinafter, “Board” or
6 “BIA”) and Immigration Judges, that 8 U.S.C. § 1225(b)(2)(A) applies to all
7 individuals who arrived in the United States without inspection, regardless
8 of how long they have lived in the United States and regardless of how far
9 they were apprehended from the border.

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13 7. Section 1225(b)(2)(A), however, does not apply to individuals, like
14 Petitioner, who are present in the United States. Instead, such individuals are
15 subject to detention under a different statute, § 1226(a), and are eligible for
16 release on bond.

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18 8. Nevertheless, in July of 2025, ICE released a memorandum instructing its
19 attorneys to coordinate with the U.S. Department of Justice (hereinafter,
20 “DOJ”), the agency housing EOIR, to reject bond redetermination hearings
21 for applicants who arrived in the United States without documents.¹
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24 ¹ “ICE Says Many In Immigration Detention No Longer Qualify For Bond
25 Hearings,” CBS News (Jul. 15, 2025),
26 <https://www.cbsnews.com/news/ice-immigration-detention-bond-hearings/>;
27 “ICE declares millions of undocumented immigrants ineligible for bond hearings,”
28 The Washington Post (Jul. 15, 2025)
<https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/>

1
2 9. EOIR has already applied this reasoning in a May 22, 2025 BIA decision,
3 finding that a noncitizen who had been residing in the United States for
4 almost ten (10) years and had entered into the United States without
5 inspection was ineligible for bond.
6

7 10. Further, despite a legal ruling in *Rodriguez v. Bostock*, 2025 WL 1193850
8 (W.D. Wa. Apr. 24, 2025), rejecting this position, Respondents continue to
9 maintain that noncitizens who entered the United States without documents
10 are not eligible for bond redetermination hearings because they are
11 applicants for admission within the meaning of 8 U.S.C. § 1225(b)(2)(A).
12
13

14 11. This reading is a violation of the statute and due process.
15

16 12. As such, Petitioner seeks an order of declaratory and injunctive relief and set
17 aside relief under the Administrative Procedure Act (hereinafter, “APA”)
18 requiring that she be provided an IJ bond redetermination hearing and that
19 she not be denied such hearing due to an alleged lack of jurisdiction.
20

21 **JURISDICTION AND VENUE**

22 13. This Court has jurisdiction under 28 U.S.C. § 2241 (federal habeas statute);
23 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2201-2 (declaratory
24 judgment); United States Constitution Article I, Section 9 (Suspension
25 Clause).
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2 14. Venue properly lies within the Central District of California under 28 U.S.C.
3 § 1391, because this is a civil action in which Respondents are agencies of
4 the United States, Petitioner is detained in this District, and a substantial part
5 of the events or omissions giving rise to this action occurred in the District.
6

7 **PARTIES**

8
9 15. Petitioner resides in Compton, California and is currently detained at the
10 Adelanto Detention Center.

11 16. Respondent Kristi Noem is the Secretary of the Department of Homeland
12 Security (“DHS”), and is sued in her official capacity. The Secretary of
13 Homeland Security is charged with the administration and enforcement of
14 immigration laws. 8 U.S.C. § 1103(a).
15
16

17 17. Respondent Pam Bondi is the Attorney General (hereinafter, “AG”) of the
18 United States and is sued in her official capacity as the head of the
19 Department of Justice (hereinafter, “DOJ”). The AG is responsible for the
20 fair administration of the laws of the United States.
21

22 18. Respondent EOIR is a component agency of the DOJ responsible for
23 conducting removal and bond hearings of noncitizens. EOIR is comprised of
24 a lower adjudicatory body administered by Immigration Judges and an
25 appellate body known as the BIA.
26
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2 19.IJs issue bond redetermination hearing decisions, which are then subject to
3 appeal to the Board.

4 20.Respondent Todd Lyons is the Acting Director of ICE and is sued in his
5 official capacity. ICE is responsible for the Petitioner's detention.
6

7 21.David A. Marin is the ICE Field Office Director at the Adelanto Detention
8 Center and is sued in his official capacity. Respondent Marin is also
9 responsible for the detention of Petitioner.
10

11 **LEGAL BACKGROUND**
12

13 22.The Immigration and Nationality Act (hereinafter, "INA" or "the Act")
14 prescribes three (3) basic forms of detention for noncitizens in removal
15 proceedings.
16

17 23.First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard
18 non-expedited removal proceedings before an Immigration Judge. *See* 8
19 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond
20 hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a).
21 1236.1(d), while noncitizens who have been arrested, charged with, or
22 convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C.
23 § 1226(c).
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2 24.Second, the INA provides for mandatory detention of noncitizens subject to
3 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals
4 seeking admission referred to under § 1225(b)(2).
5

6 25.Last, the Act also provides for detention of noncitizens who have been
7 previously ordered removed, including individuals in withholding-only
8 proceedings, *see* 8 U.S.C. § 1231(a)–(b).
9

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

11 27.The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part
12 of the Illegal Immigration Reform and Immigrant Responsibility Act
13 (hereinafter, “IIRIRA”) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03.
14 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was
15 most recently amended earlier this year by the Laken Riley Act, Pub. L.
16 No.119-1, 139 Stat. 3 (2025).
17
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20 28.Following the enactment of IIRIRA, EOIR drafted new regulations
21 explaining that, in general, people who entered the country without
22 inspection were not considered detained under § 1225 and that they were
23 instead detained under § 1226(a). *See* Inspection and Expedited Removal of
24 Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
25 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).
26
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1
2 29. Thus, in the decades that followed, most people who entered without
3 inspection—unless they were subject to some other detention
4 authority—received bond hearings. That practice was consistent with many
5 more decades of prior practice, in which noncitizens who were not deemed
6 “arriving” were entitled to a custody hearing before an IJ or other hearing
7 officer. See 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt.
8 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention
9 authority previously found at § 1252(a)).
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13 30. Respondents’ new policy turns this well-established understanding on its
14 heads and violates the statutory scheme.
15

16 31. Indeed, this legal theory that noncitizens who entered the United States
17 without admission or parole are ineligible for bond hearings was already
18 rejected by a District Court in the Western District of Washington, finding
19 that such individuals are entitled to bond redetermination hearings before
20 IJs, and rejecting the application of § 1225(b)(2) to such cases. *Rodriguez v.*
21 *Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *12 (W.D. Wash.
22 Apr. 24, 2025).
23
24

25 32. Despite this finding from a federal court, in July 2025, ICE released a
26 memorandum instructing its attorneys to coordinate with the Department of
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28

1 Justice, the agency housing EOIR, to reject bond redetermination hearings
2 for applicants who arrived in the United States without documents.
3

4 33.A May 22, 2025 unpublished BIA decision confirms that EOIR is taking this
5 same position that noncitizens who entered the United States without
6 admission or parole are ineligible for immigration judge bond hearings.
7

8 34.This is now a widespread position applying across the United States.
9

10 35.This interpretation defies the INA. The plain text of the statutory provisions
11 demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.
12

13 36.Section 1226(a) applies by default to all persons “pending a decision on
14 whether the [noncitizen] is to be removed from the United States.” These
15 removal hearings are held under § 1229a, which “decid[e] the
16 inadmissibility or deportability of a[] [noncitizen].”
17

18 37.The text of § 1226 also explicitly applies to people charged as being
19 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
20 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that,
21 by default, such people are afforded a bond hearing under subsection (a).
22 Section 1226 therefore leaves no doubt that it applies to people who face
23 charges of being inadmissible to the United States, including those who are
24 present without admission or parole.
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2 38. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or
3 who recently entered the United States. The statute's entire framework is
4 premised on inspections at the border of people who are "seeking
5 admission" to the United States. 8 U.S.C. § 1225(b)(2)(A).
6

7 39. Accordingly, the mandatory detention provision of § 1225(b)(2) does not
8 apply to people like Petitioner who are alleged to have entered the United
9 States without admission or parole.
10

11 **FACTS**
12

13 40. Petitioner has resided in the United States since in or about the year 2006
14 and lives in Compton, California.
15

16 41. On or about September 25, 2025, she was arrested by immigration
17 authorities as part of a widescale immigration enforcement action in Los
18 Angeles.
19

20 42. She was placed into removal proceedings to appear before an IJ, and she was
21 charged with having entered the United States without inspection and being
22 present without valid immigration documents. 8 U.S.C. § 1182(a)(6)(A)(i), §
23 1182(a)(7)(A)(i).
24

25 43. ICE denied Petitioner's request for release, and she requested a bond
26 redetermination hearing before an immigration judge.
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2 44. Petitioner is a longtime beneficiary of Deferred Action for Childhood
3 Arrivals (hereinafter, "DACA"), and she has a renewal application therefor
4 pending with Citizenship and Immigration Services (hereinafter, "CIS" or
5 "the Service").
6

7 45. Petitioner has a United States citizen (hereinafter, "USC") husband and USC
8 baby. She has not been convicted of any crime whatsoever. She has been
9 steadily employed throughout her tenure in this country and is a member of
10 her local church. Accordingly, Petitioner is clearly neither a danger to others
11 nor a flight risk.
12
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14 46. It is anticipated that the Immigration Judge will deny Petitioner release on
15 bond because she is considered an "applicant for admission."
16

17 47. Any appeal to the BIA would be futile.
18

19 **CAUSES OF ACTION**

20 **COUNT I**

21 **Violation of 8 U.S.C. § 1226(a)**

22 **Unlawful Denial of Bond Hearing**

23
24 48. Petitioner repeats, re-alleges, and incorporates by reference each and every
25 allegation in the preceding paragraphs as if fully set forth herein.
26

27 49. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply
28 to noncitizens residing in the United States who are subject to the grounds of

1 inadmissibility because they previously entered the country without being
2 admitted or paroled. Such noncitizens are detained under § 1226(a), unless
3 they are subject to another detention provision, such as § 1225(b)(1), §
4 1226(c), or § 1231.
5

6
7 50. The application of § 1225(b)(2) to bar Petitioner from receiving a bond
8 redetermination hearing before an immigration judge violates the
9 Immigration and Nationality Act.
10

11 **COUNT II**

12 **Violation of the Administrative Procedure Act**

13 **Unlawful Denial of Bond**

14
15 51. Petitioner repeats, re-alleges, and incorporates by reference each and every
16 allegation in the preceding paragraphs as if fully set forth herein.
17

18 52. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply
19 to noncitizens residing in the United States who are subject to the grounds of
20 inadmissibility because they originally entered the United States without
21 inspection or parole. Such noncitizens are detained under § 1226(a), unless
22 they are subject to another detention provision, such as § 1225(b)(1), §
23 1226(c) or § 1231.
24

25
26 53. The application of § 1225(b)(2) to bar Petitioner from receiving a bond
27 redetermination hearing before an immigration judge is arbitrary, capricious,
28

1 and not in accordance with law, and as such, it violates the APA. *See* 5
2 U.S.C. § 706(2).
3

4 **COUNT III**
5

6 **Violation of Procedural Due Process**

7 54. Petitioner repeats, re-alleges, and incorporates by reference each and every
8 allegation in the preceding paragraphs as if fully set forth herein.
9

10 55. The government may not deprive a person of life, liberty, or property
11 without due process of law. U.S. Const. amend. V, “Freedom from
12 imprisonment—from government custody, detention, or other forms of
13 physical restraint—lies at the heart of the liberty that the Clause protects.”
14 *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653
15 (2001).
16
17

18 56. Petitioner has a fundamental interest in liberty and being free from official
19 restraint.
20

21 57. The government’s detention of Petitioner without a *bona fide* bond
22 redetermination hearing to determine whether he is a flight risk or danger to
23 others violates his right to due process.
24

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PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Assume jurisdiction over this matter;
- b. Declare that the refusal to allow Petitioner a bond redetermination hearing before an Immigration Judge violates the INA, APA, and Due Process;
- c. Issue a writ of *habeas corpus* requiring that Defendants release her or provide the bond hearing to which he is entitled within fourteen (14) days;
- d. Set aside Respondents' unlawful detention policy under the APA, 5 U.S.C. § 706(2);
- e. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law; and
- f. Order further relief as this Court deems just and appropriate.

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2 Dated: October 9, 2025

3 Respectfully Submitted,

4 /s/Jose R. Jordan, Esq.
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