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

Jesus NUNEZ ZAMUDIO,

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. Jesus NUNEZ ZAMUDIO (hereinafter, "Petitioner") has been residing in the United States since on or about the year 2005. He 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 a master hearing until December 2, 2025.
3. He 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 (hereinafter, "DHS") and sought a bond redetermination hearing before an Immigration Judge (hereinafter, "IJ").
5. More specifically, Petitioner has been scheduled for a bond redetermination hearing before an IJ on October 23, 2025. 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), he will almost certainly be denied release on bond for lack of jurisdiction as a "mandatory detainee."

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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.

17
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/>

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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 he be provided an IJ bond redetermination hearing and that he
19 not be denied such hearing due to an alleged lack of jurisdiction.
20

21 **JURISDICTION AND VENUE**
22

23 13. This Court has jurisdiction under 28 U.S.C. § 2241 (federal *habeas* statute);
24 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2201-2 (declaratory
25 judgment); United States Constitution Article I, Section 9 (Suspension
26 Clause).
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28

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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**

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

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

15
16 17. Respondent Pam Bondi is the Attorney General (hereinafter, "AG") of the
17 United States and is sued in her official capacity as the head of the DOJ. The
18 AG is responsible for the fair administration of the laws of the United States.
19

20 18. Respondent EOIR is a component agency of the DOJ responsible for
21 conducting removal and bond hearings of noncitizens. EOIR is comprised of
22 a lower adjudicatory body administered by Immigration Judges and an
23 appellate body known as the BIA.
24

25 19. IJs issue bond redetermination hearing decisions, which are then subject to
26 appeal to the Board.
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2 20. Respondent Todd Lyons is the Acting Director of ICE and is sued in his
3 official capacity. ICE is responsible for the Petitioner's detention.

4
5 21. David A. Marin is the ICE Field Office Director at the Adelanto Detention
6 Center and is sued in his official capacity. Respondent Marin is also
7 responsible for the detention of Petitioner.

8
9 **LEGAL BACKGROUND**

10 22. The Immigration and Nationality Act (INA) prescribes three (3) basic forms
11 of detention for noncitizens in removal proceedings.

12
13 23. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard
14 non-expedited removal proceedings before an Immigration Judge. *See* 8
15 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond
16 hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a),
17 1236.1(d), while noncitizens who have been arrested, charged with, or
18 convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C.
19 § 1226(c).

20
21
22 24. Second, the INA provides for mandatory detention of noncitizens subject to
23 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals
24 seeking admission referred to under § 1225(b)(2).
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2 25.Last, the Act also provides for detention of noncitizens who have been
3 previously ordered removed, including individuals in withholding-only
4 proceedings, *see* 8 U.S.C. § 1231(a)–(b).

5
6 26.This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

7
8 27.The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part
9 of the Illegal Immigration Reform and Immigrant Responsibility Act
10 (hereinafter, “IIRIRA”) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03,
11 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was
12 most recently amended earlier this year by the Laken Riley Act, Pub. L.
13 No.119-1, 139 Stat. 3 (2025).

14
15 28.Following the enactment of IIRIRA, EOIR drafted new regulations
16 explaining that, in general, people who entered the country without
17 inspection were not considered detained under § 1225 and that they were
18 instead detained under § 1226(a). *See* Inspection and Expedited Removal of
19 Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
20 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

21
22 29.Thus, in the decades that followed, most people who entered without
23 inspection—unless they were subject to some other detention
24 authority—received bond hearings. That practice was consistent with many
25 more decades of prior practice, in which noncitizens who were not deemed
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2 “arriving” were entitled to a custody hearing before an IJ or other hearing
3 officer. See 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt.
4 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention
5 authority previously found at § 1252(a)).
6

7 30.Respondents’ new policy turns this well-established understanding on its
8 heads and violates the statutory scheme.
9

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

20 32.Despite this finding from a federal court, in July 2025, ICE released a
21 memorandum instructing its attorneys to coordinate with the Department of
22 Justice, the agency housing EOIR, to reject bond redetermination hearings
23 for applicants who arrived in the United States without documents.
24

25 33.A May 22, 2025 unpublished BIA decision confirms that EOIR is taking this
26 same position that noncitizens who entered the United States without
27 admission or parole are ineligible for immigration judge bond hearings.
28

1
2 34. This is now a widespread position applying across the United States.

3 35. This interpretation defies the INA. The plain text of the statutory provisions
4 demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.
5

6 36. Section 1226(a) applies by default to all persons “pending a decision on
7 whether the [noncitizen] is to be removed from the United States.” These
8 removal hearings are held under § 1229a, which “decid[e] the
9 inadmissibility or deportability of a[] [noncitizen].”
10

11 37. The text of § 1226 also explicitly applies to people charged as being
12 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
13 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that,
14 by default, such people are afforded a bond hearing under subsection (a).
15 Section 1226 therefore leaves no doubt that it applies to people who face
16 charges of being inadmissible to the United States, including those who are
17 present without admission or parole.
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21 38. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or
22 who recently entered the United States. The statute’s entire framework is
23 premised on inspections at the border of people who are “seeking
24 admission” to the United States. 8 U.S.C. § 1225(b)(2)(A).
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2 39. Accordingly, the mandatory detention provision of § 1225(b)(2) does not
3 apply to people like Petitioner who are alleged to have entered the United
4 States without admission or parole.
5

6 **FACTS**

7 40. Petitioner has resided in the United States since 2005 and lives in Fontana,
8 California.
9

10 41. In September 2025, he was arrested by immigration authorities as part of a
11 widescale immigration enforcement action in Los Angeles.
12

13 42. He was placed into removal proceedings to appear before an IJ, and was
14 charged with having entered the United States without inspection and being
15 present without valid immigration documents. 8 U.S.C. § 1182(a)(6)(A)(i), §
16 1182(a)(7)(A)(i).
17

18 43. ICE denied Petitioner's request for release, and he requested a bond
19 redetermination hearing before an immigration judge.
20

21 44. Petitioner has no criminal history whatsoever. He has been steadily
22 employed throughout his tenure in this country and is a member of his local
23 church. Petitioner is neither a danger to others nor a flight risk.
24

25 45. It is virtually certain that the Immigration Judge will deny Petitioner release
26 on bond on October 23, 2005 because he is considered an "applicant for
27 admission."
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2 46. Any appeal to the BIA would be futile.

3 **CAUSES OF ACTION**

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5 **COUNT I**

6 **Violation of 8 U.S.C. § 1226(a)**

7 **Unlawful Denial of Bond Hearing**

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

11
12 48. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply
13 to noncitizens residing in the United States who are subject to the grounds of
14 inadmissibility because they previously entered the country without being
15 admitted or paroled. Such noncitizens are detained under § 1226(a), unless
16 they are subject to another detention provision, such as § 1225(b)(1), §
17 1226(c), or § 1231.
18

19
20 49. The application of § 1225(b)(2) to bar Petitioner from receiving a bond
21 redetermination hearing before an immigration judge violates the
22 Immigration and Nationality Act.
23

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25 //

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28 //

COUNT II

Violation of the Administrative Procedure Act

Unlawful Denial of Bond

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

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

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

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COUNT III

Violation of Procedural Due Process

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

54. 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 the heart of the liberty that the Clause protects.” Zadvydas v. Davis, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

55. Petitioner has a fundamental interest in liberty and being free from official restraint.

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

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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 Respondents release him 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 15, 2025

3 Respectfully Submitted,

4 /s/Jose R. Jordan, Esq.

5
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