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6 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

7 **Hector Adan LOPEZ ROJOP**  
8 *Petitioner,*

Case No. 25-CV-2058

9 v.

**PETITION FOR WRIT OF  
HABEAS CORPUS**

10 **Cammilla WAMSLEY**, Seattle Field Office  
Director, Enforcement and Removal  
11 Operations, United States Immigration and  
Customs Enforcement (ICE); **Bruce SCOTT**,  
12 Warden, Northwest ICE Processing Center;  
**Kristi NOEM**, Secretary, United States  
13 Department of Homeland Security; **UNITED  
STATES DEPARTMENT OF HOMELAND  
SECURITY (DHS); Pamela BONDI**,  
14 Attorney General of the United States;  
**EXECUTIVE OFFICE FOR  
IMMIGRATION REVIEW (EOIR); Daren  
15 K. MARGOLIN**, Director, EOIR,  
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17 Respondents.

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1 INTRODUCTION

2 1. Petitioner Hector Adan Lopez Rojop (“Petitioner”) is a citizen of Guatemala who  
3 is unlawfully detained by Respondents at the Northwest ICE Processing Center (NWIPC) in  
4 Tacoma, Washington. He is a member of the certified Bond Denial Class in *Rodriguez Vazquez*  
5 *v. Bostock*, where District Judge Tiffany Cartwright’s final judgment in favor of this class  
6 entitles him to immediate release due to the Immigration Judge’s alternative bond order issued  
7 on October 21, 2025. *See Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL  
8 2782499 (W.D. Wash. Sept. 30, 2025). Despite Judge Cartwright’s ruling, Petitioner remains  
9 detained because of Respondents’ outright refusal to comply with the judgment, and their  
10 continuation of a policy the Court decidedly found unlawful. Petitioner is accordingly filing this  
11 Petition for Habeas Corpus in conjunction with an Ex Parte Motion to grant the petition  
12 “forthwith”, seeking the Court’s enforcement of the declaratory relief ordered in *Rodriguez*  
13 *Vazquez* in the form of an order requiring his prompt release from unlawful detention.

14 2. Petitioner is a 21-year-old man with no criminal history and who, up until his  
15 arrest by ICE, lived in Oakland, California. He suffers from a developmental disability that  
16 makes his continued detention particularly harmful: he has severe hearing loss or possibly  
17 deafness; he has chronic eye infections that likely have resulted in permanent damage to his  
18 vision; he did not learn to speak until several years after most children and is not fluent in the  
19 dominant language spoken in any country; and—likely due to his disability and consequent  
20 mistreatment throughout his life—he suffers from extreme anxiety in crowded places.

21 3. Petitioner has an application for asylum pending before the Tacoma Immigration  
22 Court. He has numerous factors tying him to his community in Oakland, including a full-time job  
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1 in a restaurant until the day of his arrest, and two first cousins and several close friends with  
2 whom he has near-daily contact.

3 4. Prior to his arrest, Petitioner lived in a home with several roommates, three of  
4 whom he has close friendships with, one serving a mother-like role in his life. Petitioner  
5 depended heavily on this support network to navigate day-to-day life.

6 5. In addition to never having been arrested, Petitioner's friends, family members,  
7 and coworkers describe him as exceptionally kind, honest, and gentle. No one, including  
8 Respondents, has alleged that Petitioner is in any way dangerous.

9 6. The sole reason for Petitioner's detention is Respondents' unlawful interpretation  
10 of the relevant bond statutes—an interpretation that has been condemned by district courts  
11 around the country and is subject to a classwide declaratory relief order in this District finding  
12 the interpretation unlawful. Specifically, Petitioner is being subjected to mandatory detention by  
13 the Department of Homeland Security (DHS) and the Executive Office for Immigration Review  
14 (EOIR)—policies that unlawfully continue despite declaratory relief granted by District Judge  
15 Tiffany Cartwright of the Western District of Washington.

16 7. Petitioner is charged with having entered the United States without inspection and  
17 admission or parole. *See* 8 U.S.C. § 1182(a)(6)(A)(i). Based on this allegation, DHS and EOIR  
18 deem Petitioner subject to mandatory detention as an “applicant for admission” who is “seeking  
19 admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention.

20 8. DHS and EOIR each have nationwide policies mandating the detention of all  
21 persons who are alleged to have entered without admission or parole, regardless of whether that  
22 person was apprehended upon arrival. Most recently, on September 5, 2025, in *Matter of Yajure*  
23 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), the Board of Immigration Appeals (BIA) held that all

1 persons who have entered the United States without admission or parole are now subject to  
2 mandatory detention under § 1225(b)(2)(A).

3 9. Petitioner has sought and been denied bond under DHS’s and EOIR’s nationwide  
4 policy of denying bond to persons like Petitioner. Petitioner is, thus, a member of the “Bond  
5 Denial Class” of a certified class action pending before this Court in *Rodriguez Vazquez v.*  
6 *Bostock*, Case No. 2:25-cv-01822-TMC (“*Rodriguez Vazquez*”).<sup>1</sup> This Court has already entered  
7 final judgement in favor of the Bond Denial Class, declaring Respondents’ bond denial policy  
8 unlawful. *Rodriguez Vazquez v. Bostock*, Case No. 2:25-cv-01822-TMC, 2025 WL 2782499, at  
9 \*27 (W.D. Wash. Sep. 30 2025).

10 10. Despite the Court’s order in *Rodriguez Vazquez*, as of the filing of this Petition,  
11 Defendants continued to flagrantly violate the Court’s Summary Judgement Order, holding class  
12 members in their custody despite repeated efforts by class counsel to secure their release. *See,*  
13 *e.g., Ortiz Martinez v. Wamsley*, Case No. 2:25-cv-1822-TMC, Doc. 18 (observing that  
14 “Petitioners have shown that the only basis for their ongoing detention without bond is  
15 Respondents’ decision not to follow the declaratory judgment order in *Rodriguez Vazquez*. . . .  
16 They remain in custody due only to a detention policy this Court has already held is unlawful.”).

17 11. Indeed, at a bond hearing on October 21, 2025—three weeks *after* the *Rodriguez*  
18 *Vazquez* Summary Judgement Order—Tacoma Immigration Judge John Odell concluded he  
19 lacked jurisdiction to order bond. This order followed the BIA’s decision in *Yajure Hurtado*,  
20 *supra*. The immigration judge noted, however, that if he were permitted to set bond, he would set  
21 it in the amount of \$7,500.

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24 <sup>1</sup> A Notice of Related Cases will be filed shortly after the filing of this Petition.

1 12. Through this petition for writ of habeas corpus, Petitioner seeks to enforce the  
2 declaratory relief ordered in *Rodriguez Vazquez* and asks this Court to order his immediate  
3 release based on the immigration judge's alternative order of bond in the amount of \$7,500.

4 **JURISDICTION**

5 13. Petitioner is in the physical custody of Respondents. Petitioner is detained at the  
6 Northwest Immigrant Processing Center (NWIPC) in Tacoma, Washington.

7 14. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28  
8 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States  
9 Constitution (the Suspension Clause).

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

12 **VENUE**

13 16. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-  
14 500 (1973), venue lies in the United States District Court for the Western District of Washington,  
15 the judicial district in which Petitioner is currently detained.

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

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

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

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

9 **PARTIES**

10 20. Petitioner Hector Adan Lopez Rojop was arrested by ICE in his home in  
11 Oakland, California on or around August 12, 2025. He is a citizen of Guatemala whose native  
12 language is K’iche’. He is severely intellectually and developmentally disabled, hard of hearing  
13 or possibly deaf, not fluent in Spanish, and speaks minimal English. On information and belief,  
14 he has been detained at NWIPC since August 13, 2025.

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

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

21 23. Respondent Kristi Noem is the Secretary of the Department of Homeland  
22 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 Petitioner's detention. Ms.

2 Noem has ultimate custodial authority over Petitioner and is named in her official capacity.

3 24. Respondent Department of Homeland Security (DHS) is the federal agency  
4 responsible for implementing and enforcing the INA, including the detention and removal of  
5 noncitizens.

6 25. Respondent Pamela Bondi is the Attorney General of the United States. She is  
7 responsible for the Department of Justice, of which the Executive Office for Immigration Review  
8 and the immigration court system it operates is a component agency. She is named in her official  
9 capacity.

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 27. Respondent Daren K. Margolin is the Director of EOIR. He is named in his  
14 official capacity.

### 15 LEGAL FRAMEWORK

16 28. The INA prescribes three basic forms of detention for the vast majority of  
17 noncitizens in removal proceedings.

18 29. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal  
19 proceedings before an immigration judge ("IJ"). *See* 8 U.S.C. § 1229a. Individuals in § 1226(a)  
20 detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§  
21 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of  
22 certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

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

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

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

11 33. Following the 1996 enactment of the IIRIRA, EOIR drafted new regulations  
12 explaining that, in general, people who entered the country without inspection were not  
13 considered detained under § 1225 and that they were instead detained under § 1226(a). *See*  
14 *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of*  
15 *Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

16 34. Thus, in the decades that followed, most people who entered without inspection  
17 and were placed in standard removal proceedings received bond hearings, unless their criminal  
18 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent  
19 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”  
20 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)  
21 (1994); *see also* H.R. Rep. No. 104–469, pt. 1, at 229 (1996) (noting that § 1226(a) simply  
22 “restates” the detention authority previously found at § 1252(a)).  
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1 35. On July 8, 2025, ICE, “in coordination with” the Department of Justice,  
2 announced a new policy that rejected well-established understanding of the statutory framework  
3 and reversed decades of practice.

4 36. The new policy, titled “Interim Guidance Regarding Detention Authority for  
5 Applicants for Admission,”<sup>2</sup> claims that all persons who entered the United States without  
6 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The  
7 policy applies regardless of when a person is apprehended, and affects those who have resided in  
8 the United States for months, years, and even decades.

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

13 38. Since Respondents adopted their new policies, dozens of federal courts all across  
14 the country have rejected their new interpretation of the INA’s detention authorities; courts have  
15 likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.  
16 *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025);  
17 *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025);  
18 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,  
19 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL  
20 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025  
21 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE,  
22 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-

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24 <sup>2</sup> Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

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

18 39. Even before ICE or the BIA introduced these nationwide policies, IJs in the  
19 Tacoma Immigration Court stopped providing bond hearings for persons who entered the United  
20 States without inspection and who have since resided here. As stated above, Judge Cartwright of  
21 this District Court recently held that such a reading of the INA is unlawful and that § 1226(a),  
22 not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States.  
23 *Rodriguez Vazquez*, 2025 WL 2782499, at \*27.

1           40.     This Court and dozens across the United States have uniformly rejected DHS's  
2 and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and  
3 others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not  
4 § 1225(b), applies to people like Petitioner.

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

8           42.     The text of § 1226 also explicitly applies to people charged as being inadmissible,  
9 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph  
10 (E)'s reference to such people makes clear that, by default, such people are afforded a bond  
11 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress  
12 creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions,  
13 the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*  
14 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also* *Gomes*, 2025  
15 WL 1869299 at \*7.

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

19           44.     By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who  
20 recently entered the United States. The statute's entire framework is premised on inspections at  
21 the border of people who are "seeking admission" to the United States. 8 U.S.C.  
22 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme  
23 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 45. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not  
4 apply to people like Petitioner, who have already entered and were residing in the United States  
5 at the time they were apprehended.

6 46. Petitioner is a class member of the certified Bond Denial Class in *Rodriguez*  
7 *Vazquez*. That class is defined as comprising: “All noncitizens without lawful status detained at  
8 the Northwest ICE Processing Center who (1) have entered or will enter the United States  
9 without inspection, (2) are not apprehended upon arrival, (3) are not or will not be subject to  
10 detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the noncitizen is  
11 scheduled for or requests a bond hearing.” *Rodriguez Vazquez*, 349 F.R.D. 333, 365 (W.D.  
12 Wash. 2025).

13 47. Although the Court granted summary judgement in favor of the Bond Denial  
14 Class, 8 U.S.C. § 1252(f)(1) precludes the class from obtaining classwide preliminary or final  
15 injunctive relief in *Rodriguez Vazquez*. Petitioner therefore seeks enforcement of that ruling in  
16 the form of individual habeas relief through the instant petition.

### 17 **FACTS**

18 48. Petitioner has resided in the United States for more than five years. He was born  
19 with a cleft lip and palate and spent his childhood in an isolated village, raised by a single mother  
20 who speaks only K’iche’. Throughout his childhood, he received inadequate medical care,  
21 exhibited severe developmental delays, and reached major developmental milestones (including  
22 walking, talking, and toilet training) years later than his peers.

1 49. Prior to this arrest, Petitioner had never had any contact with law enforcement  
2 officials in the United States. Petitioner has never been accused of, arrested for, or convicted of a  
3 crime in any country in the world.

4 50. At the time of his arrest, Petitioner lived in Oakland, California in a home on a  
5 multi-unit property with many non-relative residents, including asylum seekers, lawful  
6 permanent residents, and United States citizens. Sometime before dawn on the morning of  
7 August 12, 2025, an unrelated individual who lived in a separate unit on the property was  
8 criminally arrested. ICE agents proceeded to round up and detain every resident of the home,  
9 some of whom were naked, and several of whom are United States citizens or lawful permanent  
10 residents.

11 51. Petitioner and five residents of the property—including a child—were taken to the  
12 ICE Field Office in San Francisco, California.

13 52. On information and belief, Petitioner was transferred to NWIPC on August 13,  
14 2025. DHS placed Petitioner in removal proceedings before the Tacoma Immigration Court  
15 pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with being inadmissible under 8 U.S.C.  
16 § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

17 53. On August 28, 2025, Abby Sullivan Engen, an attorney affiliated with the  
18 Alameda County Immigration Legal and Education Partnership (ACILEP) submitted a formal  
19 request to ICE for Petitioner's release, attaching evidence of his medical vulnerability and  
20 release plan.<sup>3</sup> Highlighted in this submission are the opinions and conclusions of a medical  
21 doctor and developmental disability specialist that:

- Petitioner's "predisposition to respiratory and gastrointestinal ailments" due to having born with a cleft lip and palate that did not receive proper post-surgical

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24 <sup>3</sup> Immediately following the filing of this Petition, Ms. Sullivan Engen will be filing an Application for Pro Hac Vice Admission for purposes of entering her appearance in this case.

1 care “place[] him at excessive risk for infection and illness while in a carceral  
2 setting”;

- 3 • Petitioner’s “ongoing medical needs—including possible unaddressed hearing  
4 loss, uncorrected visual impairment, and recurrent respiratory illness—[] warrant  
5 specialized medical care and ongoing developmental support”; and
- 6 • Petitioner is “at extreme risk for acquiring otherwise preventable and potentially  
7 lethal infections while in a carceral setting” due to his disability requiring  
8 “assistance with activities of daily living, including selfcare and hygiene,”  
9 compounded by his “history of frequent respiratory and gastrointestinal  
10 symptoms.”

11 (Exhibit A.)

12 54. On August 29, 2025, a Supervising Deportation Officer responded to the release  
13 request as follows: “[U]nless concerns are raised about whether or not detention is appropriate  
14 for your client by our medical department release is unlikely at this time. Under the current  
15 executive orders release is not authorized at this time without further case development requiring  
16 that we facilitate that.” (Exhibit B.) Ms. Sullivan Engen followed up on the release request on  
17 August 29, September 4, October 8, and October 11, 2025, asking if it remained pending or had  
18 been denied, and asking to be connected to the ICE representative in charge of reviewing and  
19 responding to the request. (Exhibit C.) As of the filing of this petition, apart from an e-mail  
20 stating the last name of Petitioner’s “case officer” but providing no way to contact them, Ms.  
21 Sullivan Engen has received no response to the release request. (*Id.*)

22 55. On October 21, 2025, Petitioner appeared for a bond hearing before the Tacoma  
23 Immigration Court. In support of his request for bond, Petitioner submitted 20 exhibits relevant  
24 to his request for release on bond:

- Expert evidence of his intellectual and developmental disabilities, for which he  
has never received proper intervention or care;
- A letter from the Regional Center of the East Bay offering, should Petitioner be  
released, to evaluate him for eligibility for services that are mandatory regardless

1 of immigration status to all qualifying disabled individuals under California's  
2 Lanterman Act;<sup>4</sup>

- 3 • A letter from Oakland Unified School District's English Language Learner and  
4 Multilingual Achievement Office offering Petitioner adult education services if he  
5 is released;
- 6 • A letter from Kehilla Community Synagogue's Immigration Committee offering  
7 Petitioner accompaniment services if he is released, including ensuring he attends  
8 hearings and check-ins;
- 9 • Letters from four of Petitioner's family and community members in Oakland,  
10 California (1) attesting to his honesty, strong work ethic, and dependability; (2)  
11 describing his challenges with activities of daily living due to his disability; (3)  
12 and describing his dependence on the care and support of his close friends and  
13 family (as well as his recognition that his safety and life would be at risk if he  
14 absconded); and
- 15 • Six letters of support from Petitioner's former supervisors and colleagues, as well  
16 as his English tutor, attesting to his honesty, strong work ethic and job  
17 performance, and desire to contribute to the economy and his community.

18 Accordingly, Petitioner is neither a flight risk nor a danger to the community.

19 56. Despite District Judge Cartwright's summary judgement order in favor of the  
20 Bond Denial Class in *Rodriguez Vazquez*, Tacoma immigration judges continue to hold that  
21 *Matter of Yajure Hurtado* precludes them from ordering bond for individuals like Petitioner who  
22 entered the United States without inspection. Here, the IJ stated he would have released  
23 Petitioner on bond of \$7,500 but for the supposed lack of jurisdiction.

24 57. As a result, Petitioner remains in detention. Without relief from this court, he  
faces the prospect of months, or even years, in immigration custody, separated from his family  
members and community.

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<sup>4</sup> Cal. Welf. & Inst. Code § 4500 *et. seq.*

1 **CLAIMS FOR RELIEF**

2 **COUNT I**  
3 **Violation of the INA**

4 58. Petitioner incorporates by reference the allegations of fact set forth in the  
5 preceding paragraphs.

6 59. Respondents' interpretation of 8 U.S.C. § 1225(b)(2)(A) violates the Immigration  
7 and Nationality Act. As numerous courts have found, the mandatory detention statute does not  
8 apply to noncitizens, like Petitioner. The unlawful application of the mandatory detention  
9 provision to all who entered the country without inspection has violated Petitioner's statutory  
10 rights. Noncitizens, like Petitioner, should be deemed detained under § 1226(a), unless they are  
11 subject to § 1225(b)(1), § 1226(c), or § 1231.

12 60. The application of § 1225(b)(2)(A) to Petitioner unlawfully mandates his  
13 continued detention and violates the INA.

14 **COUNT II**  
15 **Request for Relief Pursuant to Declaratory Relief in *Rodriguez Vazquez***

16 61. Petitioner incorporates by reference the allegations of fact set forth in the  
17 preceding paragraphs.

18 62. Respondent's interpretation of § 1225(b)(2)(A) violates the declaratory relief  
19 granted in *Rodriguez Vazquez* on behalf of the Bond Denial Class. In light of this declaratory  
20 relief, Respondents should be prohibited from detaining Petitioner under § 1225(b)(2)(a). He  
21 should instead be deemed detained under 1226(a), and thus eligible for bond.

22 **COUNT III**  
23 **Violation of Due Process**

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

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

5 65. Petitioner has a fundamental interest in liberty and being free from official  
6 restraint.

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

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 11 a. Assume jurisdiction over this matter;
- 12 b. Issue an order prohibiting transfer of Petitioner out of this district until the  
13 litigation on this matter has concluded;
- 14 c. Issue a writ of habeas corpus stating that Petitioner is detained under 8 U.S.C. §  
15 1226(a) and that 8 U.S.C. § 1225(b)(2)(A) does not apply to Petitioner; and,  
16 therefore, order Respondents to release Petitioner immediately upon posting of  
17 the bond amount ordered by the immigration judge;
- 18 d. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act  
19 (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under  
20 law; and
- 21 e. Grant any other and further relief that this Court deems just and proper.

22 //  
23 //  
24 //

1 DATED this 21<sup>st</sup> day of October, 2025.

2  
3 /s/ Michael Filipovic  
4 MICHAEL FILIPOVIC (WABN 12319)  
5 michaelofilipovic@yahoo.com  
6 PO Box 31356  
7 Seattle, WA. 98103  
8 (206) 383-0410  
9 *Attorney for Petitioner*

10 **VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

11 I, Abby Sullivan Engen, am a member in good standing with the California State Bar and the  
12 United States District Court for the Northern District of California, and I will promptly file an  
13 Application for Pro Hac Vice Admission for purposes of entering my appearance in this case  
14 once this Petition is filed. I am submitting this verification on behalf of the Petitioner because he  
15 is in custody with limited ability to sign documents. I have discussed with the Petitioner the  
16 events described in the Petition. Based on those discussions, I hereby verify that the factual  
17 statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the  
18 best of my knowledge. The exhibits attached to this Petition are true and correct copies of  
19 Petitioner's Notice to Appear as well as the release request and subsequent correspondence  
20 described in this Petition.

21 Executed on October 21<sup>st</sup>, 2025, at Oakland, California

22 /s/ Abby Sullivan Engen  
23 Abby Sullivan Engen  
24 Attorney for Petitioner