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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

M. M.

Petitioner,

v.

Cammilla WAMSLEY, Field Office Director
of Enforcement and Removal Operations,
Seattle Field Office, Immigration and
Customs Enforcement; Kristi NOEM,
Secretary, U.S. Department of Homeland
Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela BONDI,
U.S. Attorney General; EXECUTIVE
OFFICE FOR IMMIGRATION REVIEW;
Bruce SCOTT, Warden of Northwest ICE
Processing Center.

Respondents.

Case No. 2:25-cv-2074

**PETITION FOR WRIT OF
HABEAS CORPUS**

I. INTRODUCTION

1
2 1. Petitioner M.M is in the physical custody of Respondents at the Northwest
3 ICE Processing Center (NWIPC). He now faces unlawful detention because the
4 Department of Homeland Security (DHS) and the Executive Office of Immigration
5 Review (EOIR) have improperly concluded Petitioner is subject to mandatory detention.

6 2. Petitioner is charged with, inter alia, having entered the United States
7 without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

8 3. Based on this allegation in Petitioner’s removal proceeding, DHS denied
9 Petitioner release from immigration custody, consistent with *Yajure-Hurtado*, 29 I&N
10 Dec. 216 (BIA 2025) and a new DHS policy issued on July 8, 2025, instructing all
11 Immigration and Customs Enforcement (ICE) employees to consider anyone
12 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
13 inspection—to be an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A) and
14 therefore subject to mandatory detention.


15 4. Petitioner sought a bond redetermination hearing before Immigration
16 Judge Odell (IJ), on October 22, 2025. Judge Odell denied bond. The IJ based this
17 decision on the legal analysis set forth in *Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025)
18 and the DHS policy delineated above. The IJ concluded that, notwithstanding Petitioner’s
19 fifteen years of residence the United States, he is nevertheless an “applicant for admission”
20 who is “seeking admission” and subject to mandatory detention under § 1225(b)(2)(A).

21 5. Petitioner’s detention on this basis violates the plain language of the
22 Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals
23 like Petitioner who previously entered and are now residing in the United States. Instead,
24 such individuals are subject to a different statute, § 1226(a), that allows for release on
conditional parole or bond. That statute expressly applies to people who, like Petitioner,

1 are charged as inadmissible for having entered the United States without inspection.

2 6. Petitioner is married to a U.S. citizen, Edith S. Nicholson, who is employed
3 with the Southcentral Foundation of Alaska.

4 7. Petitioner's wife suffers from serious heart conditions for which she is
5 currently receiving ongoing medical treatment. M.M.'s presence and support are
6 essential to her care and well-being.

7 8. Petitioner has a 10-year-old child,  for whom he provides
8 emotional and financial support. His strong commitment to meeting his family
9 obligations demonstrates his intent to comply with all legal proceedings so that he may
10 remain in the United States.

11 9. Since arriving in the United States, the Petitioner has maintained steady
12 employment, working diligently to provide for his family. Although his work has been
13 without formal authorization, his consistent employment history—most recently in the
14 construction industry prior to his detention by ERO/ICE—demonstrates responsibility,
15 stability, and a strong work ethic.

16 10. Respondents' new legal interpretation is plainly contrary to the statutory
17 framework, is contrary to decades of agency practice applying § 1226(a) to people like
18 Petitioner, and creates an inequitable result considering Petitioner's significant equities
19 in the United States – including length of residence, family, and employment history.

20 11. Accordingly, Petitioner seeks a writ of habeas corpus requiring that, within
21 three days, he be released or allowed to post bond in the amount of \$25,000 as granted
22 in the alternative by the Immigration Judge in his October 22, 2025 order.

23 //

24 //

1 **II. CUSTODY**

2 12. Petitioner was arrested by agents of the Respondents on September 27,
3 2025, and he is in their actual physical custody at the time of the filing of this petition.

4 **III. PROCEEDING ANONYMOUSLY**

5 13. Petitioner seeks leave to proceed anonymously because public
6 identification creates a risk of retaliatory physical harm risk due to his status as potential
7 asylum seeker or undocumented individual in the United States, and the nature of his
8 claim is sensitive and highly personal. See *Does I thru XXIII v. Advanced Textile Corp.*,
9 214 F.3d 1058, 1068 (9th Cir. 2000).

10 14. Petitioner will provide his name to respondents under seal or other
11 appropriate means of communication under the circumstances of this case.

12 **IV. JURISDICTION**

13 15. Petitioner is in the physical custody of Respondents. Petitioner is detained
14 at the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington.

15 16. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus),
16 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
17 Constitution (the Suspension Clause).

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

20 **V. VENUE**

21 18. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
22 484, 493- 500 (1973), venue lies in the United States District Court for the Western
23 District of Washington, the judicial district in which Petitioner currently is detained.

24 19. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because

1 Respondents are employees, officers, and agencies of the United States, and because a
2 substantial part of the events or omissions giving rise to the claims occurred in the
3 Western District of Washington.

4 VI. REQUIREMENTS OF 28 U.S.C. § 2243

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

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

15 VII. PARTIES

16 22. Petitioner M.M. is a citizen of Mexico who has been in immigration
17 detention since September 27, 2025. After arresting Petitioner in Anchorage, Alaska, ICE
18 did not set bond, and Petitioner requested review of his custody by an Immigration Judge
19 (IJ). On October 22, 2025, Petitioner was denied bond by an IJ at the Tacoma
20 Immigration Court because he was deemed an “applicant for admission.” Petitioner has
21 resided in the United States since 2010.

22 23. Respondent Cammilla Wamsley is the Director of the Seattle Field Office
23 of ICE’s Enforcement and Removal Operations division. As such, Ms. Wamsley is
24 Petitioner’s immediate custodian and is responsible for Petitioner’s detention and
removal. She is named in her official capacity.

1 24. Respondent Kristi Noem is the Secretary of the Department of Homeland
2 Security. She is responsible for the implementation and enforcement of the Immigration
3 and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's
4 detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her
5 official capacity.

6 25. Respondent Department of Homeland Security (DHS) is the federal agency
7 responsible for implementing and enforcing the INA, including the detention and
8 removal of noncitizens.

9 26. Respondent Pamela Bondi is the Attorney General of the United States. She
10 is responsible for the Department of Justice, of which the Executive Office for
11 Immigration Review and the immigration court system it operates is a component agency.
12 She is sued in her official capacity.

13 27. Respondent Executive Office for Immigration Review (EOIR) is the federal
14 agency responsible for implementing and enforcing the INA in removal proceedings,
15 including for custody redeterminations in bond hearings.

16 28. Respondent Bruce Scott is employed by the private corporation GEO Group,
17 Inc., as Warden of NWIPC, where Petitioner is detained. He has immediate physical
18 custody of Petitioner. He is sued in his official capacity.

19 29. Respondent Executive Office for Immigration Review (EOIR) is the federal
20 agency responsible for implementing and enforcing the INA in removal proceedings,
21 including for custody redeterminations in bond hearings.

22 **VIII. LEGAL FRAMEWORK**

23 30. The INA prescribes three basic forms of detention for the vast majority of
24 noncitizens in removal proceedings.

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

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

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

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

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

18 36. In 1997, after Congress amended the INA through IIRIRA, EOIR and the
19 then-Immigration and Naturalization Service issued an interim rule to interpret and
20 apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention
21 of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission,
22 [noncitizens] who are present without having been admitted or paroled (formerly
23 referred to as [noncitizens] who entered without inspection) *will be eligible for bond and
24 bond redetermination.*” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made
clear that individuals who had entered without inspection were eligible for consideration

1 for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing
2 regulations.

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

10 38. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy
11 that rejected well-established understanding of the statutory framework and reversed
12 decades of practice.

13 39. The new policy, entitled “Interim Guidance Regarding Detention Authority
14 for Applicants for Admission,” claims that all persons who entered the United States
15 without inspection shall now be deemed “applicants for admission” under 8 U.S.C. § 1225,
16 and therefore are subject to mandatory detention provision under § 1225(b)(2)(A). The
17 policy applies regardless of when a person is apprehended and affects those who have
18 resided in the United States for months, years, and even decades.

19 40. DHS and EOIR have adopted this position even though federal courts have
20 rejected this exact conclusion. DHS did so by adopting the new reading as its policy and
21 EOIR formalized its position in *Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025) (i.e., that
22 IJs lack bond authority for noncitizens without lawful admission)

23 41. Since the *Rodriguez Vazquez* preliminary injunction decision, court after
24 court has adopted the same reading of the INA’s detention authorities and rejected ICE’s
new policy and EOIR’s new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-

1 JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-
2 11613-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. 11, 2025),
4 report and recommendation adopted, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
5 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH),
6 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-
7 SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No.
8 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v.*
9 *Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*,
10 No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo*
11 *v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-*
12 *Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025);
13 *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27,
14 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL
15 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-
16 EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-
17 cv-02180- DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda*
18 *v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025);
19 *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9,
20 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9,
21 2025); see also, e.g., *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D.
22 Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
23 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025
24 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-
03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

42. Petitioner is a class member of the certified Bond Denial Class in *Rodriguez Vazquez v. Bostock*, No. 3:25-cv-05240-TMC (W.D. Wash.). That class is defined as

1 comprising: “All noncitizens without lawful status detained at the Northwest ICE
2 Processing Center who (1) have entered or will enter the United States without inspection,
3 (2) are not apprehended upon arrival, (3) are not or will not be subject to detention under
4 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the noncitizen is scheduled for or
5 requests a bond hearing.” *Rodriguez Vazquez v. Bostock*, 349 F.R.D. 333, 365 (W.D.
6 Wash. 2025).

7 43. However, 8 U.S.C. § 1252(f)(1) precludes the class from obtaining classwide
8 preliminary or final injunctive relief in *Rodriguez Vazquez*. The parties in that case are
9 awaiting the Court’s decision on the Bond Denial Class’s motion for summary judgment
10 and request for classwide declaratory relief.

11 44. Petitioner therefore seeks individual habeas relief while that decision on
12 final declaratory relief on a classwide basis remains pending. In the alternative, should
13 final declaratory relief issue in *Rodriguez Vazquez*, and should Respondents fail to apply
14 that ruling to Petitioners, Petitioners seek enforcement of that ruling through the instant
15 petition.

16 IX. FACTS

17 45. Petitioner has resided in the United States since 2010 and currently divides
18 his time between Bethel, Alaska and Anchorage, Alaska.

19 46. On or about September 27, 2025, Petitioner was arrested by ICE officials
20 who identified him for removal enforcement, and he is now detained at the NWIPC.

21 47. DHS placed Petitioner in removal proceedings before the Tacoma
22 Immigration Court pursuant to 8 U.S.C. § 1229(a). ICE has charged Petitioner with, *inter*
23 *alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the
24 United States without inspection.

48. M.M. has lived in Alaska for 16 years. He is a well-respected and loved

1 member of the community. He has one U.S. citizen child and is married to a U.S. citizen.
2 He is a devoted father. He was arrested for operating under the influence (OUI) in the
3 year 2019, but all charges were dismissed. In short, Petitioner is neither a flight risk nor
4 a danger to the community.

5 49. Following Petitioner's arrest and transfer to NWIPC, ICE issued a custody
6 determination to continue Petitioner's detention without an opportunity to post bond or
7 be released on other conditions.

8 50. Petitioner subsequently requested a bond redetermination hearing before
9 an IJ, so that a neutral adjudicator could determine his eligibility for release.

10 51. On October 22, 2025, a Tacoma IJ issued a decision that the court lacked
11 jurisdiction to conduct a bond redetermination hearing because Petitioner was in custody
12 under § 1225(b)(2)(A) and therefore his detention was mandatory. In the alternative, the
13 IJ granted bond in the amount of \$25,000 after finding the Petitioner did not pose a flight
14 risk or danger to the community. DHS reserved appeal in this matter.

15 52. As a result, M.M. remains in detention. Without relief from this court, he
16 faces the prospect of months, or even years, in immigration custody.

17 **X. CLAIMS FOR RELIEF**

18 **Violation of the INA**

19 53. Petitioner incorporates by reference the allegations of fact set forth in the
20 preceding paragraphs.

21 54. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply
22 to all noncitizens residing in the United States who are subject to the grounds of
23 inadmissibility. As relevant here, it does not apply to those who previously entered the
24 country and have been residing in the United States prior to being apprehended and

1 placed in removal proceedings by Respondents. Such noncitizens are detained under §
2 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

3 55. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
4 continued detention and violates the INA.

5 **COUNT II**

6 **Violation of Due Process**

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

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

14 58. Petitioner has a fundamental interest in liberty and being free from official
15 restraint.

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

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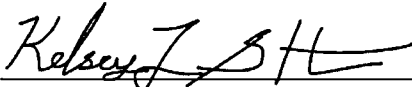
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XI. PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that Respondents release Petitioner or require Petitioner’s release upon payment of the bond amount found in the alternative by the Immigration Judge in his August 22, 2025 order within 7 days;
- c. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- d. Grant any other and further relief that this Court deems just and proper.

RESPECTFULLY SUBMITTED on October 22, 2025.



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VERIFICATION OF COUNSEL

I, KELSEY LEE SHAMRELL-HARRINGTON, hereby certify that I am familiar with the case of the named petitioner and that the facts as stated above are true and correct to the best of my knowledge and belief.



KELSEY LEE SHAMRELL-HARRINGTON

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