Alejandro Monsalve
CA SBN 324958
Alex Monsalve Law Firm, PC
240 Woodlawn Ave., Suite 9
Chula Vista, CA 91910
(619) 777-6796
Counsel for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ELIUT MARAVILLA AMAYA
Petitioner

v.

Kristi NOEM, Secretary, U.S. Department of Homeland Security;
Todd LYONS, Acting Director, U.S. Immigration and Customs Enforcement;
Patrick DIVVER, Field Office Director, San Diego Field Office, U.S. Immigration and Customs Enforcement.
Christopher LAROSE, Senior Warden, Otay Mesa Detention Center;
Sirce OWEN, Acting Director of the Executive Office for Immigration Review (EOIR), U.S. Department of Justice.
Pamela BONDI, Attorney General, U.S. Department of Justice.
Respondents

Case No.: '25CV2892 BTM DEB

Agency File No: A[redacted]

PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR ORDER TO SHOW CAUSE WITHIN THREE DAYS

INTRODUCTION

1. Petitioner, Eliut Maravilla Amaya, is a citizen and national of El Salvador who has resided in the United States since 2006 and is currently in the custody of the Department of Homeland Security (DHS) at the Otay Mesa Detention Center.

2. Petitioner now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have adopted a new interpretation of the Immigration and Nationality Act (INA), recently formalized by the Board of Immigration Appeals (BIA) in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which treats all individuals who entered without inspection as "applicants for admission" subject to mandatory detention under INA § 235(b)(2)(A).

3. For decades, both the immigration courts and the DHS have recognized that individuals, like Petitioner, who entered years ago and were later apprehended in the interior, fall under § 1226(a), which authorizes release on bond or conditional parole.

4. The newly adopted interpretation bars noncitizens like Petitioner from seeking release on bond under INA § 236 (8 U.S.C. § 1226) and from accessing the bond procedures provided in 8 C.F.R. §§ 1003.19(a), 1236.1(d).

5. Because this interpretation eliminates Immigration Judge jurisdiction in such cases, any request for a bond hearing before EOIR would be futile. As further discussed in the Exhaustion of Remedies section below, administrative review is both unavailable and ineffective, and exhaustion should therefore be excused.

6. Petitioner's detention on this basis violates the plain language of the INA, longstanding agency practice, and the constitutional guarantees of Due Process.

7. This habeas petition challenges the government's position that Petitioner is subject to mandatory custody under INA § 235 (8 U.S.C. § 1225).

8. Petitioner seeks a writ of habeas corpus ordering his release, or alternatively, a constitutionally adequate bond hearing before a neutral decisionmaker, where the Government

must prove by clear and convincing evidence that continued detention is warranted under the Due Process Clause of the Fifth Amendment.

JURISDICTION AND VENUE

9. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in the custody of the Department of Homeland Security within this District and he challenges the legality of that custody.

10. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States, including the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

11. Neither 8 U.S.C. § 1252(g) nor § 1252(b)(9) strips this Court of jurisdiction. Section 1252(g) bars only challenges to the Attorney General's discretionary decisions to "commence proceedings, adjudicate cases, or execute removal orders," not independent challenges to unlawful detention. Likewise, § 1252(b)(9) consolidates review of removal orders in the courts of appeals, but does not foreclose habeas review of detention claims, which are collateral to the removal proceedings.

12. Venue is proper in this District under 28 U.S.C. § 1391(e) because Petitioner is detained at the Otay Mesa Detention Center, which lies within the jurisdiction of this Court.

PARTIES

13. Petitioner, Eliut Maravilla Amaya, is a citizen and national of El Salvador, currently detained at the Otay Mesa Detention Center in San Diego, California.

14. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS).

15. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE).

16. Respondent Patrick Divver is the Director of the San Diego Field Office of U.S. Immigration and Customs Enforcement.

17. Respondent Christopher LaRose is the Senior Warden of the Otay Mesa Detention Center.

18. Respondent Sirce Owen is the Acting Director of the Executive Office for Immigration Review (EOIR).

19. Respondent Pamela Bondi is the Attorney General of the United States and the head of the U.S. Department of Justice (DOJ).

20. All Respondents are named in their official capacities.

LEGAL FRAMEWORK

21. The Immigration and Nationality Act ("INA"), codified at 8 U.S.C. § 1101 et seq., provides multiple detention authorities. For decades, courts, Congress, and agencies have consistently distinguished between two distinct statutory frameworks: INA § 235 (8 U.S.C. § 1225), which governs applicants for admission encountered at or near the border, and INA § 236 (8 U.S.C. § 1226), which governs the arrest and detention of individuals already present in the United States and placed in removal proceedings. The Supreme Court analyzed the interplay between these provisions in *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

22. Section 1225 provides that, for purposes of initial inspection at the border, "an alien who arrives in the United States or is present in this country but has not been admitted, is treated as an applicant for admission." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (quoting 8 U.S.C. § 1225(a)(1)). The Court explained that decisions concerning who may enter or remain in the United States "generally begin at the Nation's borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is admissible." *Id.* Section 1225(b) governs this inspection and admission process, applying primarily to individuals encountered at or near the border, subjecting them either to expedited removal under § 1225(b)(1)—which includes a credible-fear process for those expressing an intent to seek asylum—or to detention pending a decision on admission under § 1225(b)(2). *Id.* at 297; see also *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103 (2020).

23. By contrast, § 1226(a) governs the detention of individuals who entered years ago and were later apprehended in the interior, "pending a decision on whether [they are] to be removed from the United States." *Jennings*, 583 U.S. at 303. Unlike § 1225, which applies at the border, § 1226(a) authorizes the Attorney General to detain or release such individuals on bond or conditional parole, except as provided in subsection (c), which applies only to a narrow category of noncitizens with specified criminal or security-related grounds. *Id.* at 303, 306. Arrests made pursuant to § 1226(a) are ordinarily executed on administrative warrants, and longstanding regulations confirm that such individuals are eligible for Immigration Judge bond hearings. See 8 C.F.R. §§ 236.1(c)(8), 236.1(d)(1), 1236.1(d)(1); 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Congress further described § 1226(a) as merely a "restatement" of prior detention authority under former INA § 242(a), confirming its application to interior arrests pending removal. H.R. Rep. No. 104-469, pt. 1, at 229 (1996).

24. For decades, individuals who entered without inspection but resided in the United States and were later arrested under administrative warrants were consistently treated as subject to § 1226(a)'s discretionary detention framework. This included those who could not lawfully be placed in expedited removal because they had been continuously present in the United States for more than two years, as required by § 1225(b)(1)(A)(iii)(II).

25. Only in 2025 did DHS and the BIA begin advancing a contrary interpretation—asserting that all noncitizens who entered without inspection must be treated as detained under § 1225(b)(2). This abrupt shift departed from decades of agency practice and contradicted settled expectations regarding custody jurisdiction.

26. On July 8, 2025, ICE, "in coordination with the Department of Justice," issued Interim Guidance Regarding Detention Authority for Applicants for Admission. The policy declared that all noncitizens who entered without inspection would henceforth be subject to mandatory detention under § 1225(b)(2)(A), regardless of when or where they were apprehended —even if they had resided in the United States for many years.

27. That same interpretation was recently formalized in *Matter of Yajure Hurtado*, a precedential decision eliminating Immigration Judge jurisdiction to redetermine custody for such individuals.

28. In contrast, in January 2025, Congress reaffirmed that 8 U.S.C. § 1226(a), not § 1225(b), governs custody for noncitizens apprehended in the interior. Through the Laken Riley Act of 2025, Congress amended § 1226(c) to add subparagraph (E), extending mandatory detention only to a narrow category of individuals who (i) are inadmissible under § 1182(a)(6)–(7) and (ii) also meet specific criminal-conduct criteria. By creating this limited carve-out, Congress confirmed that § 1226(a) remains the general detention framework for interior arrests, and that mandatory detention applies only to the narrow class defined in new § 1226(c)(E). If, as DHS and the BIA now contend, all such individuals were already subject to mandatory detention under § 1225(b)(2), Congress's amendment would have been superfluous.

EXHAUSTION OF REMEDIES

29. Although 28 U.S.C. § 2241 contains no explicit exhaustion requirement, the Ninth Circuit recognizes both statutory and prudential exhaustion doctrines. "Exhaustion can be either statutorily or judicially required." *Acevedo-Carranza v. Ashcroft*, 371 F.3d 539, 541 (9th Cir. 2004). While § 2241 "does not specifically require petitioners to exhaust direct appeals before filing petitions for habeas corpus," the Ninth Circuit "require[s], as a prudential matter, that habeas petitioners exhaust available judicial and administrative remedies before seeking relief under § 2241." *Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001), abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006).

30. Prudential exhaustion is generally required when "(1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review." *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007) (citing *Noriega-Lopez v. Ashcroft*, 335 F.3d 874, 881 (9th Cir. 2003)). Nevertheless, prudential

exhaustion may be excused when "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)).

31. Here, exhaustion should be excused because any administrative relief would be futile. The Board of Immigration Appeals' precedential decision in *Matter of Yajure Hurtado* compels classification of long-term interior arrests under § 235(b) and divests Immigration Judges of bond jurisdiction. Because *Yajure Hurtado* is binding on all Immigration Judges, any request for a bond hearing would be summarily rejected. Accordingly, Petitioner has never received—and under current law cannot obtain—such a hearing. Judicial intervention is therefore the only available means to prevent continued unlawful detention and irreparable harm.

FACTS

32. Petitioner, Eliut Maravilla Amaya, is a citizen and national of El Salvador who entered the United States without inspection on or about 2006.

33. On September 25, 2025, agents of U.S. Immigration and Customs Enforcement (ICE) arrested Petitioner as he was leaving a Home Depot store near his residence in the Greater Los Angeles area. The arrest was conducted pursuant to an interior enforcement action based on information indicating that Petitioner was residing in the United States without lawful status.

34. Following his arrest, ICE served Petitioner with a Notice to Appear (Form I-862), thereby initiating removal proceedings before the Otay Mesa Immigration Court.

35. Petitioner is the father of three U.S.-born minor children, each of whom has been diagnosed with autism.

36. Petitioner has resided continuously in the United States for nearly two decades, establishing deep family and community ties.

37. Petitioner is *prima facie* eligible for Cancellation of Removal under INA § 240A(b), 8 U.S.C. § 1229b(b), based on his long-term residence, good moral character, and exceptional hardship to his U.S. citizen children.

38. Despite his long-term presence and family equities, no bond hearing has ever been held in his case. DHS has asserted that Petitioner is detained under INA § 235(b)(2), which, under the agency's new interpretation, categorically precludes Immigration Judge jurisdiction to redetermine custody.

39. As a result, Petitioner remains detained without any meaningful opportunity for an individualized bond hearing, despite his strong family and community ties and the absence of any evidence suggesting danger to the community or flight risk.

40. Absent relief from this Court, Petitioner faces unjustifiable and prolonged immigration custody without ever receiving an individualized determination to justify his continued detention, in violation of the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. This petition presents purely legal questions regarding the statutory authority for Petitioner's detention and whether it comports with constitutional due process.

CLAIM FOR RELIEF

COUNT 1

Violation of the Immigration and Nationality Act (INA)

41. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

42. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to grounds of inadmissibility. It applies only to individuals who are "applicants for admission" encountered at or near the border, during inspection, or immediately upon entry. It does not extend to long-term residents apprehended in the interior who have been continuously present in the United States beyond the two-year limitation Congress established for expedited removal. See 8 U.S.C. § 1225(b)(1)(A)(iii)(II). Petitioner has lived in the United States since 2006 and is therefore not lawfully detained under INA § 235(b). To the extent he remains in custody, detention must proceed under INA § 236(a) (8 U.S.C. § 1226(a)), which authorizes release on bond or conditional parole.

43. The application of INA § 235(b)(2) (8 U.S.C. § 1225(b)(2)) to Petitioner unlawfully mandates his continued detention in violation of the INA. Section 235(b)(2) applies only to "applicants for admission" encountered at or near the border—not to individuals who, like Petitioner, entered the United States long ago and were later arrested in the interior. See *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018); *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 113 (2020).

44. By treating Petitioner as an applicant for admission rather than a respondent under INA § 236(a) (8 U.S.C. § 1226(a)), DHS and EOIR have acted contrary to the statutory text, decades of agency practice, and the limits Congress reaffirmed in the Laken Riley Act of 2025.

45. The Southern District of California recently reaffirmed this statutory distinction in *Esquivel-Ipina v. Noem*, No. 25-CV-2672 JLS (BLM) (S.D. Cal. Oct. 24, 2025), holding that detention under § 1225(b) applies only to "applicants for admission" encountered at or near the border—not to long-term residents arrested in the interior. The court emphasized that individuals who "were not encountered at a port of entry, during inspection at the border, or among individuals intercepted near the international boundary" cannot be treated as applicants for admission because "seeking admission requires an affirmative act such as entering the United States or applying for status." *Id.* at 8–9. The court therefore concluded that such petitioners are properly classified under § 1226(a) and entitled to an individualized bond hearing. Consistent with *Esquivel-Ipina*, other district courts within this Circuit have uniformly rejected the government's position that interior arrests fall under § 1225(b). See, e.g., *Mosqueda v. Noem*, No. 25-CV-2304 CAS (BFM), 2025 WL 2591530, at 5 (C.D. Cal. Sept. 8, 2025); *Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082, at 11–16 (D. Nev. Sept. 17, 2025); *Rodriguez*, 2025 WL 2782499, at 1; *Guzman v. Andrews*, No. 25-CV-1015-KES-SKO (HC), 2025 WL 2617256, at 4–5 (E.D. Cal. Sept. 9, 2025); *Garcia*, 2025 WL 2549431, at 8; *Valdovinos v. Noem*, No. 25-CV-2439-TWR (KSC), slip op. at 9 (S.D. Cal. Sept. 25, 2025).

46. These decisions confirm that individuals like Petitioner—long-term residents apprehended far from the border—are not "applicants for admission" under § 1225(b). His detention must therefore proceed under § 1226(a), which authorizes release on bond or conditional parole and entitles him to an individualized custody redetermination before an Immigration Judge.

COUNT 2

Violation of the Due Process Clause of the Fifth Amendment

47. Petitioner realleges and incorporates the preceding paragraphs as if fully set forth herein.

48. The Fifth Amendment to the United States Constitution provides that "[n]o person shall be deprived of life, liberty, or property, without due process of law."

49. "Freedom from imprisonment—from government custody, detention, or other form of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

50. Civil immigration detention is constitutionally permissible only when reasonably related to a legitimate governmental purpose, such as preventing flight or protecting the community. *Id.* at 690. Continued detention that serves no such purpose becomes punitive and violates due process.

51. By detaining Petitioner indefinitely under INA § 235(b), without possibility of bond, and denying him any meaningful opportunity for an individualized hearing before a neutral decisionmaker—at which the Government must justify continued detention by clear and convincing evidence—Respondents' continued detention of Petitioner violates the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

A. Assume jurisdiction over this matter;

B. Direct Respondents to refrain from transferring Petitioner outside the jurisdiction of this District while these proceedings are pending;

C. Issue an Order to Show Cause within three days, pursuant to 28 U.S.C. § 2243, requiring Respondents to explain the legal basis for Petitioner's continued detention;

D. Declare that Petitioner is not lawfully detained under INA § 235(b) and that, to the extent he remains in custody, such detention must proceed under INA § 236(a);

E. Declare that, by depriving Petitioner of any meaningful opportunity to seek release, Respondents have violated the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment;

F. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately from custody, or, in the alternative, to conduct a constitutionally adequate bond hearing before a neutral decisionmaker at which the Government must justify continued detention by clear and convincing evidence; and

G. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Alejandro J. Monsalve, Esq. CA SBN 324958
Alex Monsalve Law Firm, PC
240 Woodlawn Ave, Suite 9
Chula Vista, CA 91910
Phone: (619) 777-6796
Email: info@alexmonsalvelawfirm.com
Counsel for Petitioner

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