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UNITED STATES DISTRICT COURT
DISTRICT OF IDAHO

Jose Alberto VERDUGO LOPEZ,

Petitioner,

v.

Steve ANDERSON, Jefferson County Sheriff,
Kenneth PORTER, Assistant Field Office
Director of Enforcement and Removal
Operations, Boise Field Office, Immigration
and Customs Enforcement; Jason KNIGHT,
Field Office Director of Enforcement and
Removal Operations, Salt Lake City Field
Office, Immigration and Customs Enforcement;
Kristi NOEM, Secretary, U.S. DEPARTMENT
OF HOMELAND SECURITY; Pamela
BONDI, U.S. Attorney General; EXECUTIVE
OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. 1:25-cv-00621

**PETITION FOR WRIT OF
HABEAS CORPUS**

1 INTRODUCTION

2 1. Petitioner Jose Alberto Verdugo Lopez is in the physical custody of Respondents
3 at the Jefferson County Jail, in Rigby, Idaho. He now faces unlawful detention because the
4 Department of Homeland Security (DHS) and the Executive Office of Immigration Review
5 (EOIR) have concluded Petitioner is subject to mandatory detention.

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

8 3. Based on this allegation in Petitioner’s removal proceedings, DHS denied
9 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,
10 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
11 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
12 admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and
13 therefore ineligible to be released on bond.

14 4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or
15 Board) issued a precedent decision, binding on all immigration judges, holding that an
16 immigration judge has no authority to consider bond requests for any person who entered the
17 United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
18 The Board determined that such individuals are subject to detention under 8 U.S.C. §
19 1225(b)(2)(A) and therefore are ineligible to be released on bond.

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

1 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
2 having entered the United States without inspection.

3 6. Respondents' new legal interpretation is plainly contrary to the statutory
4 framework and contrary to decades of agency practice applying § 1226(a) to people like
5 Petitioner.

6 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released
7 unless Respondents demonstrate that he is a danger to the community or an unmitigable flight
8 risk.

9 JURISDICTION

10 8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
11 Jefferson County Detention Center in Rigby, Idaho.

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

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

17 VENUE

18 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
19 500 (1973), venue lies in the United States District Court for the District of Idaho, the judicial
20 district in which Petitioner currently is detained.

21 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
22 Respondents are employees, officers, and agencies of the United States, and because a
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1 substantial part of the events or omissions giving rise to the claims occurred in the District of
2 Idaho.

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

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

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

15 **PARTIES**

16 15. Petitioner Jose Alberto Verdugo Lopez is a citizen of Mexico who has been in
17 immigration detention since October 19, 2025. After arresting Petitioner during a mass raid in
18 Wilder, Idaho, ICE did not set bond and Petitioner is unable to obtain review of his custody by
19 an IJ, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA
20 2025).

21 16. Respondent Steve Anderson is the Sheriff of Jefferson County, and as such, the
22 chief official responsible for the Jefferson County Jail, where Petitioner is detained. He has
23 immediate physical custody of Petitioner. He is sued in his official capacity.

1 17. Respondent Kenneth Porter is the Assistant Field Office Director of the Boise
2 Field Office of ICE’s Enforcement and Removal Operations division. As such, AFOD Kenneth
3 Porter is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and
4 removal. He is named in his official capacity.

5 18. Respondent Jason Knight is the Director of the Salt Lake City Field Office of
6 ICE’s Enforcement and Removal Operations division, which has oversight over the Boise Field
7 Office. As such, Director Jason Knight has authority over Petitioner’s custody and is responsible
8 for Petitioner’s detention and removal. He is named in his official capacity.

9 19. Respondent Kristi Noem is the Secretary of the Department of Homeland
10 Security. She is responsible for the implementation and enforcement of the Immigration and
11 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms.
12 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

13 20. Respondent Pamela Bondi is the Attorney General of the United States. She is
14 responsible for the Department of Justice, of which the Executive Office for Immigration Review
15 and the immigration court system it operates is a component agency. She is sued in her official
16 capacity.

17 **LEGAL FRAMEWORK**

18 21. The INA prescribes three basic forms of detention for the vast majority of
19 noncitizens in removal proceedings.

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

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

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

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

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

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

19 28. Thus, in the decades that followed, most people who entered without inspection
20 and were placed in standard removal proceedings received bond hearings, unless their criminal
21 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
22 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
23 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)

1 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
2 “restates” the detention authority previously found at § 1252(a)).

3 29. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
4 rejected well-established understanding of the statutory framework and reversed decades of
5 practice.

6 30. The new policy, entitled “Interim Guidance Regarding Detention Authority for
7 Applicants for Admission,”¹ claims that all persons who entered the United States without
8 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The
9 policy applies regardless of when a person is apprehended, and affects those who have resided in
10 the United States for months, years, and even decades.

11 31. On September 5, 2025, the BIA adopted this same position in a published
12 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the
13 United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are
14 ineligible for IJ bond hearings.

15 32. Since Respondents adopted their new policies, dozens of federal courts have
16 rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected
17 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

18 33. Even before ICE or the BIA introduced these nationwide policies, IJs in the
19 Tacoma, Washington, immigration court stopped providing bond hearings for persons who
20 entered the United States without inspection and who have since resided here. There, the U.S.
21 District Court in the Western District of Washington found that such a reading of the INA is
22 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not

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24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
2 1239 (W.D. Wash. 2025).

3 34. Subsequently, court after court has adopted the same reading of the INA's
4 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*,
5 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,
6 No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
7 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
8 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
9 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
10 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE,
11 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-
12 ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-
13 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH),
14 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-
15 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-
16 02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-
17 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
18 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
19 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
20 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
21 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
22 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
23 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.

1 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
3 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
4 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
5 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

6 35. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it
7 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the
8 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

9 36. Section 1226(a) applies by default to all persons “pending a decision on whether
10 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
11 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

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

20 38. Section 1226 therefore leaves no doubt that it applies to people who face charges
21 of being inadmissible to the United States, including those who are present without admission or
22 parole.

1 39. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
2 recently entered the United States. The statute’s entire framework is premised on inspections at
3 the border of people who are “seeking admission” to the United States. 8 U.S.C.
4 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
5 applies “at the Nation’s borders and ports of entry, where the Government must determine
6 whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583
7 U.S. 281, 287 (2018).

8 40. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not
9 apply to people like Petitioner, who have already entered and were residing in the United States
10 at the time they were apprehended.

11 **FACTS**

12 41. Petitioner has resided in the United States since approximately 2013 and lives in
13 the city of Jerome, Idaho, with his US citizen spouse.

14 42. On October 19, 2025, Petitioner, along with over one hundred others, was
15 detained as part of a mass immigration enforcement action at a horse racing event in Wilder,
16 Idaho. Petitioner is now detained at the Jefferson County Jail in Rigby, Idaho.

17 43. DHS placed Petitioner in removal proceedings before the Portland Immigration
18 Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being
19 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States
20 without inspection.

21 44. Petitioner has resided in the United States for at least 10 years, since
22 approximately 2013. His spouse has filed a Petition for Alien Relative, Form I-130, on
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1 September 25, 2025, which remains pending as of the date of this petition. Petitioner is neither a
2 flight risk nor a danger to the community.

3 45. Following Petitioner's arrest and transfer to the Jefferson County Jail, ICE issued
4 a custody determination to continue Petitioner's detention without an opportunity to post bond or
5 be released on other conditions.

6 46. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider
7 Petitioner's bond request.

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

11 CLAIMS FOR RELIEF

12 COUNT I

13 Violation of the INA

14 48. Petitioner incorporates by reference the allegations of fact set forth in the
15 preceding paragraphs.

16 49. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
17 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
18 relevant here, it does not apply to those who previously entered the country and have been
19 residing in the United States prior to being apprehended and placed in removal proceedings by
20 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
21 § 1225(b)(1), § 1226(c), or § 1231.

22 50. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued
23 detention and violates the INA.

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COUNT II

Violation of Due Process

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

52. 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 (2001).

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

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

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Federal District of Idaho while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
- e. Declare that Petitioner’s detention is unlawful;

1 f. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
2 (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under
3 law; and

4 g. Grant any other and further relief that this Court deems just and proper.

5 DATED this 28th of October, 2025.

6 By: 
7 Casey Parsons
8 *Attorneys for Petitioner*