Medeiros Law
Christopher Paul Kailani Medeiros (Cal. 319418)
P.O. Box #38
Lemon Grove, CA 91945
(619) 354-4227
kai@medeiros.law

Attorney for Petitioner Alberto Miranda Álvarez

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Alberto Miranda Álvarez,

Petitioner,

v.

Pamela J. Bondi, United States Attorney General; **Kristi Noem**, Secretary of Homeland Security; **Todd M. Lyons**, Acting Director of Immigration and Customs Enforcement; **Patrick Divver**; San Diego Field Office Director, Immigration and Customs Enforcement; **Christopher J. LaRose**, Senior Warden, Otay Mesa Detention Center

Respondents.

Case No. '25CV3078 RSH MMP

Agency No. [redacted]

Petition for a Writ of Habeas Corpus

INTRODUCTION

1. Petitioner Alberto Miranda Álvarez petitions this Court to remedy his illegal detention at the Otay Mesa Detention Center (OMDC) in San Diego.

2. The Department of Homeland Security (DHS) arrested Mr. Miranda—who has lived in this country for over three decades and has two U.S.-citizen daughters—on July 8, 2025 while he was walking into a Home Depot in Los Angeles to purchase supplies for his painting business. DHS subsequently initiated removal proceedings against Mr. Miranda and transferred him to OMDC.

3. On August 22, 2025, an Immigration Judge (IJ)—after considering his strong community ties and lack of criminal record—set bond for Mr. Miranda at the statutory minimum of $1,500. *See* 8 U.S.C. § 1226(a)(2). Two days later, DHS noticed its intent to appeal the IJ's bond order, and invoked 8 C.F.R. § 1003.19(i)(2)'s automatic-stay provision. As a result, the IJ's bond order "remains in abeyance pending" the Board of Immigration Appeals's (BIA) resolution of DHS's appeal.

4. Two weeks after the IJ's bond decision, the BIA decided *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). There—bucking longstanding agency practice—it held that noncitizens apprehended in the interior of the United States, such as Mr. Miranda, are not eligible for bond. Specifically, according to the BIA, noncitizens such as Mr. Miranda are "applicants for admission" who are "seeking admission" to the United States and are subject to mandatory detention under 8 U.S.C. § 1225(b)(2). *Id.* at 22. As a result, the outcome of DHS's still-pending appeal of Mr. Miranda's grant of bond is inevitable; the BIA will hold that the IJ lacked the authority to set bond for Mr. Miranda and vacate the order setting bond at $1,500.

5. The BIA's interpretation of the Immigration and Nationality Act (INA) in *Yajure Hurtado*, however, is egregiously wrong, and has been resoundingly rejected by a multitude of district courts across the nation. *See, e.g.*, *Bethancourt Soto v. Soto*, ---F.Supp.3d---, No. 25-cv-16200, 2025 WL 2976572, at *7 (D.N.J. Oct. 22, 2025) (collecting cases) *Hyppolite v. Noem*, No. 25-CV-4304 (NRM), 2025 WL 2829511, at

*12 (E.D.N.Y. Oct. 6, 2025) ("[I]n the approximately two and one-half-months since Respondents began to broadly invoke § 1225(b)(2)(A) to justify the mandatory detention of noncitizens who already reside within the United States, well over a dozen federal courts around the country have rejected Respondents' novel and illogical interpretation of the INA.")

6. Because—as this every-growing chorus of district courts has recognized—*Yajure Hurtado* cannot be squared with the relevant statutory text, legislative history, or longstanding agency practice, this Court should join the cascade of courts that have rejected its reasoning and grant Mr. Miranda's petition for a writ of habeas corpus. This Court should then order Respondents to: (1) release Mr. Miranda pursuant to the $1,500 bond that the IJ set and he subsequently posted; (2) not vacate or reverse the IJ's bond order on the grounds that he is detained under 8 U.S.C. § 1225(b)(2); and (3) not re-detain Mr. Miranda on the grounds that he is subject to mandatory detention under section 1252(b)(2).

PARTIES

7. DHS has alleged that Petitioner Alberto Miranda Álvarez is a native and citizen of Mexico. According to DHS, Mr. Miranda's first and only entry to the United States was in 1993. Mr. Miranda has two United-States-citizen daughters, ages 28 and six. He has been detained at OMDC since approximately July 9, 2025. He is currently in removal proceedings under 8 U.S.C. § 1229a.

8. Respondent Pamela J. Bondi is the United States Attorney General. She is responsible for implementing and enforcing the immigration laws of the United States. Some of this authority is delegated to the Executive Office for Immigration Review, the agency that houses the immigration courts and BIA. *See* 8 C.F.R. § 1003.0(a). Attorney General Bondi is a legal custodian of Mr. Miranda. She is sued in her official capacity.

9. Respondent Kristi Noem is the Secretary of Homeland Security. She is responsible for enforcing the immigration laws of the United States, including those

concerning the detention of noncitizens. Ms. Noem is a legal custodian of Mr. Miranda. She is sued in her official capacity.

10. Respondent Todd M. Lyons is the Acting Director of United States Immigration and Customs Enforcement (ICE). The Department of Homeland Security (DHS) is ICE's parent agency. Mr. Lyons is responsible for ICE's policies, practices, and procedures, including those pertaining to the detention of noncitizens. Mr. Lyons is a legal custodian of Mr. Miranda. He is sued in his official capacity.

11. Respondent Patrick Divver is the Field Director of ICE's San Diego Field Office. The San Diego Field Office is responsible for ICE's detention operations at OMDC. Field Director Divver is a legal custodian of Mr. Miranda. He is sued in his official capacity.

12. Respondent Christopher J. LaRose is the senior warden of OMDC. He is employed by the private corporation CoreCivic. Warden LaRose is Mr. Miranda's immediate physical custodian. He is sued in his official capacity.

JURISDICTION & VENUE

13. 28 U.S.C. §§ 1331 and 2241, and Article I, section nine, clause two of the United States Constitution give the Court jurisdiction over this petition. The Court may grant relief pursuant to 28 U.S.C. §§ 2201, 2241, and 1651.

14. Neither 8 U.S.C. § 1226(e) nor § 1252(a)(2)(B)(ii) deprive the Court of jurisdiction over this petition, because Mr. Miranda is not challenging any discretionary determinations. *See Romero-Salas v. Barr*, No. 20cv0073-BAS (KSC), 2020 WL 919135, at *4 (S.D. Cal. Feb 26, 2020) ("[A] federal district court has habeas jurisdiction under 28 U.S.C. § 2241 to review [] bond hearing determinations for constitutional claims and legal error." (quoting *Singh v. Holder*, 638 F.3d 1196, 1200-01 (9th Cir. 2011)) (alterations in original); *see also Rodriguez v. Bostok*, ---F.Supp.3d---, No. 25-cv-05240-TMC, 2025 WL 2782499, at *8-12 (rejecting arguments that 8 U.S.C. § 1252(b)(9), (f)(1), and (g) divested district court of jurisdiction over claims that noncitizens were detained under section 1226(a) and not 1252(b)(2)).

15. Venue is proper in the Southern District of California because Mr. Miranda is detained here. See 28 U.S.C. §§ 1391(e), 2241.

BACKGROUND

I. DHS detains Mr. Miranda and brings removal proceedings against him

16. DHS has alleged that Mr. Miranda Mr. Miranda is a citizen and national of Mexico, but has lived in the United States since 1993. Exs. A, D. He has two U.S.-citizen daughters, ages 28 and six. He has no criminal record.

17. On July 8, 2024, ICE agents arrested Mr. Miranda as he entered a Home Depot in Los Angeles to purchase supplies for his painting business. Four days later, he was transferred to OMDC.

18. DHS filed a Notice to Appear (NTA) for Mr. Miranda in the Otay Mesa Immigration Court on July 14, 2025, thereby initiating removal proceedings against him. *See* 8 U.S.C. § 1229(a). The NTA originally alleged that Mr. Miranda is removable as an "alien present in the United States without being admitted or paroled." Ex A; *see* 8 U.S.C. § 1182(a)(6)(A)(i). But on August 18, 2025, DHS would amend the NTA to replace that charge with the charge that Mr. Miranda is removeable "as an immigrant who, at the time of application for admission, is not in possession of a . . . valid entry document[.]" Ex. C; *see* 8 U.S.C. § 1182(a)(7)(i)(I).

II. An IJ sets bond for Mr. Miranda at $1,500, but DHS appeals and invokes 8 C.F.R. § 1003.19(i)(2) to automatically stay the IJ's bond order

19. Mr. Miranda appeared before IJ Paula Dixon of the Otay Mesa Immigration Court for a bond hearing on August 22, 2025. Ex. E. In anticipation of that hearing, Mr. Miranda submitted a packet of evidence that included: (1) information about his U.S.-citizen daughters; (2) his tax returns from 2013 to 2024; (3) numerous letters from family friends that described Mr. Miranda as a caring father, hard worker, and upstanding community member. Ex. B.

20. DHS's evidentiary submission consisted of Mr. Miranda's I-213, "Record of Deportable/Inadmissible Alien." Ex. B. That document indicated that DHS's database search confirmed that Mr. Miranda does not have any criminal history.

21. At the bond hearing, the IJ found that Mr. Miranda posed neither a flight risk nor a danger, and thus ordered that Mr. Miranda be released from DHS custody under a bond of $1,500—the statutory minimum amount. Ex E; *see* 8 U.S.C. § 1226(a); *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006) (listing the factors that IJ's should consider in bond hearings). On information and belief, Mr. Miranda's family subsequently posted bond for him. *See* Declaration of Christopher Medeiros, ¶ 12.

22. Three days after the IJ set bond for Mr. Miranda, DHS filed a form EOIR-43, "Notice of ICE Intent to Appeal Custody Redetermination." Ex F. The filing of that form had the effect of automatically staying the IJ's order setting bond. 8 C.F.R. § 1003.19(i)(2). Hence, despite his posting of bond, Mr. Miranda has not been released.

III. The BIA decides *Yajure Hurtado*, which makes it inevitable that DHS will prevail on its appeal of the IJ's decision setting bond for Mr. Miranda

23. On September 5, 2025, the BIA issued a published decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). There, the BIA held that noncitizens, like Mr. Miranda, "who are present in the United States without admission" are not detained under 8 U.S.C. § 1226, but rather should be considered "applicants for admission" who are "seeking admission" to the United States and thus subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *Id.* at 220.

24. Three days after *Yajure Hurtado* issued, DHS filed its notice of appeal of Mr. Miranda's grant of bond. Ex. G. It would append to the notice of appeal a boilerplate memorandum of law asserting that Mr. Miranda was detained under section 1225(b)(2)(A) and not section 1226 and that the IJ thus lacked the authority to set bond for him. Ex. G at 4. That memorandum did not mention *Yajure Hurtado*, and indeed, urged the BIA to resolve the question presented in a precedential decision. *Id.* The memorandum also did not make any particular arguments concerning Mr. Miranda—for

example, that the IJ misapplied the factors set forth in *Matter of Guerra*, 24 I. & N. Dec. at 40, that govern bond determinations.

IV. Mr. Miranda remains detained at OMDC, where he will be forced to litigate his removal proceedings at a significant disadvantage without this Court's intervention

25. Today, Mr. Miranda remains detained at OMDC and is forced to litigate his removal proceedings on the expedited "detained docket" of the Otay Mesa Immigration Court. Mr. Miranda's next hearing in his removal proceedings has been scheduled for December 4, 2025. Medeiros Decl., ¶ 13. On that date, an IJ will hear Mr. Miranda's pending motion to withdraw the concession of DHS's charge of removability that he entered while pro se, before undersigned counsel began representing him in his removal proceedings.[1] *Id.*

EXHAUSTION

26. While 28 U.S.C. § 2241 contains no administrative exhaustion requirement, district courts hearing habeas petitions by noncitizens challenging the outcome of a bond hearing will generally, as a prudential matter, refrain from adjudicating the habeas petition until the BIA has reviewed the IJ order in question. *See Romero-Salas*, 2020 WL 919135, at *3. District courts will waive that prudential exhaustion requirement, though, if "pursuit of administrative remedies would be a futile gesture." *Id.* (quoting *Liang v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)).

27. Accordingly, numerous courts, including in this district, have declined to require petitioners challenging their detention under *Yajure Hurtado* to first exhaust an appeal to the BIA. *See, e.g., Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361, at *4 (S.D. Cal. Oct. 24, 2025) ("[E]xhaustion would be futile

[1] If the Court denies that motion, it will not be the end of Mr. Miranda's removal proceedings. Rather, he will proceed to file one or more applications for relief from removal. *Cf., e.g.*, 8 U.S.C. § 1229b(b) ("Cancellation of removal and adjustment of status for certain nonpermanent residents").

because the [BIA] is obligated to apply the binding precedent of *Matter of Yajure Hurtado* . . . to find that detention is mandatory under 8 U.S.C. § 1225(b)(2)."); *Puga v. Assistant Field Office Dir., Krome N. Serv. Processing Ctr.*, No. 25-24535-CIV-ALTONAGA, 2025 WL 2938369, at *2 (S.D. Fla. Oct. 15, 2025).

28. Because the outcome of DHS's pending appeal of the IJ's stayed order setting bond for Mr. Miranda is certain, waiting to see if the BIA will dissolve the stay and affirm the IJ's order "would be a futile gesture." *Romero-Salas*, 2020 WL 919135, at *3. Thus, this Court should waive the prudential exhaustion requirement and proceed to the merits of Mr. Miranda's petition.

CAUSES OF ACTION

First Cause of Action

Violation of Due Process

29. The Due Process Clause of the United States Constitution provides that "[n]o person shall . . . be deprived of . . . liberty . . . without due process of law."

30. Mr. Miranda is detained today in spite of the IJ's order setting bond for him because of DHS's invocation of the unilateral "automatic stay" authority provided for under 8 C.F.R. § 1003.19(i)(1). *See J.M.P. v. Arteta*, ---F.Supp.3d.---, No. 25 Civ. 4987 (DEH), 2025 WL 2984913, at *10-11 (providing a "brief history of the regulations governing stays of bond determinations").

31. By depriving Mr. Miranda of his liberty simply by checking a box on a form, DHS has violated his procedural due process rights. Indeed, one court in this district has already held, applying the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), that the automatic-stay provision violated the procedural-due-process rights of a detainee under materially identical circumstances as Mr. Miranda. *Silva v. Larose*, No. 25-cv-2329-JES-KSC, 2025 WL 2770639, at *4-5 (S.D. Cal. Sept. 29, 2025).

32. As concerns the first *Mathews* factor, Mr. Miranda's private interest is at its paramount, as "'The interest in being free from physical detention' is 'the most elemental of liberty interests.'" *Id.* (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). Like the

petitioner in *Silva*, Mr. Miranda "is experiencing all the deprivations that come with physical detention, including, but not limited to, separation from his family and lack of privacy." *Id.* So too is he confronting—despite an IJ having deemed him suitable for release on bond—the prospect of being detained for "months, or even years." *Id.* Like the petitioners in *J.M.P.*, 2025 WL 2984913, at *16, and *Günaydın v. Trump*, 784 F.Supp.3d 1175, 1187 (D. Minn. 2025), he is detained at a facility that also houses "pre-trial criminal arrestees." And while he, like the petitioner in *J.M.P.*, "is being held in a unit exclusively for ICE detainees," Mr. Miranda is likewise detained at a "facility [that] has been the subject of complaints for its treatment of ICE detainees." *J.M.P.*, 2025 WL 2984913, at *19; *see, e.g.*, Gustavo Solis, *Overcrowded conditions plague Otay Mesa and other immigrant detention facilities*, KPBS (July 28, 2025), https://tinyurl.com/cjjm535n (describing OMDC as "beset by overcrowding" and highlighting reports of "detainees sleeping on the floor" and "deferred medical care resulting in hospitalizations"); Cal. Dep't of Just., *Immigration Detention in California: A Comprehensive Review with a Focus on Mental Health* 133 (Apr. 2025), https://tinyurl.com/3z4mpe8r (highlighting deficiencies in the provision of healthcare and mental-health care at OMDC); DHS, Office of the Inspector Gen., *Violations of ICE Detention Standards at Otay Mesa Detention Center* 3 (Sept. 14, 2021), https://tinyurl.com/2p7vafwh (finding numerous "violations of ICE detention standards that compromised the health, safety, and rights of detainees"). The first *Mathews* factor thus sharply favors Mr. Miranda.

33. So does *Mathews* factor two: "the risk of an erroneous deprivation of [Mr. Miranda's liberty] interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards." *Mathews*, 424 U.S. at 335. As the court in *J.M.P.* noted, this is so for three reasons. First, "[m]ultiple district courts, in considering challenges to automatic stays under Section 1003.19(i)(2), have found a 'significant risk of erroneous deprivation . . . because the only detainees subject to the automatic stay are those," like Mr. Miranda, "whose detention an IJ has already determined to be

unsupported by sufficient evidence.'" *J.M.P.*, 2025 WL 2984913, at *17 (quoting *Arcos v. Noem*, No. 25-cv-04599, 2025 WL 2856558, at *2 (S.D. Tex. Oct. 8, 2025)). Second, "the lack of opportunity for J.M.P. to be heard before either stay was entered heightens the risk of erroneous deprivation." *J.M.P.*, 2025 WL 2984913, at *17; *see also Silva*, 2025 WL 2770639, at *5 (Section 1003.19(i)(1)'s "unilateral stay stands in contrast to the ordinary requirements of overriding a judge's order pending appeal, which requires a showing of, *inter alia*, a likeliness of success on the merits of the appeal and irreparable injury in the absence of a stay.") (quoting *Herrera v. Knight*, No. 25-cv-01366-RFB-DJA, 2025 WL 2581792, at *11 (D Nev. Sept. 5, 2025)). And third, "the risk of erroneous deprivation caused by the stay is exacerbated by the lack of any burden placed on DHS to prove the need for J.M.P.'s continued detention." *J.M.P.*, 2025 WL 2984913, at *18; *see also Silva*, 2025 WL 2770639, at *4 ("[T]he Court finds that DHS' unchecked power to prolong an individual's detention, cannot possibly be construed as a 'carefully limited exception' to one's right to liberty as required by the Due Process Clause." (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987))).

34. Finally, *Mathews* factor three—the "Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. at 335—likewise favors Mr. Miranda. The government does have "a legitimate interest in ensuring [Mr. Miranda's] appearance at removal proceedings and mitigating the risk of harm to the community." *Silva*, 2025 WL 2770639, at *5. But as in *Silva*, Mr. Miranda's continued detention does not implicate those interests because the IJ found him not to be a flight risk or a danger, and DHS did not challenge those findings in its appeal of the IJ's bond order. *Id.*; *see also Günaydın*, 784 F.Supp.3d at 1189-90.

35. Applying the *Mathews* factors thus compels the conclusion that Mr. Miranda's present detention pursuant to the automatic-stay regulation violates his due process rights. The Court should therefore grant his petition for a writ of habeas corpus and order him released pursuant to the IJ's currently stayed bond order

Second Cause of Action

Violation of INA

36. Mr. Miranda incorporates by reference all preceding paragraphs.

37. Prior to *Yajure Hurtado*, it would have been uncontroversial that Mr. Miranda is detained under 8 U.S.C. § 1226(a). That subsection gives DHS and the Attorney General to arrest and detain noncitizens "pending a decision on whether [they are] to be removed from the United States."[2] *Id.* It also gives the Attorney General the discretionary authority to release noncitizens detained thereunder on "a bond of at least $1,500," *id.*, so long as they do not fall within the categories of noncitizens set forth in section 1226(c) for whom detention is mandatory for the duration of their removal proceedings. *See Nielsen v. Preap*, 586 U.S. 392, 397 (2019).

38. According to Respondents, Mr. Miranda is detained under 8 U.S.C. § 1225(b)(2). That subsection provides that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for [removal proceedings] under section 1229a." *Id.* § 1225(b)(2)(A); *see also id.* § 1225(a)(1) (defining "applicant for admission" to include any noncitizen "present in the United States who has not been admitted"). *Yajure Hurtado* holds that all noncitizens alleged to have entered the United States without inspection—regardless of how long they have been physically present in the country—are not just "applicants for admission," but are also "seeking admission" within the meaning of section 1225(b)(2)(A). 29 I. & N. Dec. at 221.

39. In the short time since the BIA decided *Yajure Hurtado*, a consensus has rapidly emerged that it embodies legal error, for three principal reasons. *See Loper Bright*

---

[2] Section 1226 speaks only of the Attorney General. But the Homeland Security Act of 2002 transferred many of the Attorney General's functions to DHS, without amending the Immigration and Nationality Act to reflect those reallocated functions. *See United States v. Gambino-Ruiz*, 91 F.4th 981, 986 n.4 (9th Cir. 2024).

Enters. v. Raimundo, 603 U.S. 369, 400 (2024) (courts must "use every tool at their disposal to determine the best reading of the statute"). First, district courts have correctly recognized that the BIA's conclusion that noncitizens such as Mr. Miranda are detained under 8 U.S.C. § 1225(b)(2) cannot be squared with statutory text. Indeed, by declaring that all applicants for admission are necessarily also "seeking admission," *Yajure Hurtado* renders superfluous the words "seeking admission" in section 1225(b)(2)(A). *See Rodriguez*, 2025 WL 2782499, at *21; *Salcedo Aceros v. Kaiser*, No. 25-cv-06924-EMC (EMC), 2025 WL 2637503 at *11 (N.D. Cal. Sept. 12, 2025). But because Congress must have meant for those words—and in particular, its use of the present participle—to have substance, section 1225(b)(2)(A) must apply to those applicants for admission who are presently engaged in "an affirmative act such as entering the United States or applying for status." *Esquivel-Ipina*, 2025 WL 2998361, at *5 (quoting *Mosqueda v. Noem*, No. 25-CV-2304 CAS (BFM), 2025 WL 2591530, at *5 (C.D. Cal. Sept. 8, 2025)); *see also Rodriguez*, 2025 WL 2782499, at *21.[3]

40. *Yajure Hurtado* likewise renders superfluous the recently enacted Laken Riley Act, Pub. L. 119-1, 139 Stat. 3 (2025), which extends mandatory detention under section 1226(c) to applicants for admission who have been charged with certain qualifying crimes. *See* 8 U.S.C. § 1226(c)(1)(E). Were all applicants for admission already subject to mandatory detention under section 1225(b)(2), there would have been no need for Congress specify that this particular subset of them are not eligible for bond

---

[3] Further demonstrating the frailty of *Yajure Hurtado*'s reasoning, if Mr. Miranda were somehow detained under 8 U.S.C. § 1225(b), it would be under subsection (b)(1), not (b)(2). "[A]pplicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Section 1225(b)(1) applies to noncitizens, like Mr. Miranda, "determined to be inadmissible due to . . . lack of valid documentation." *Id.* Section 1225(b)(2), in contrast, "is broader" and "serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1)." *Id.*; *see also Innovation Law Lab v. Wolf*, 951 F.3d 1073, 1084 (9th Cir. 2020) (noting that "[b]oth § (b)(1) and § (b)(2) applicants can thus be placed in regular removal proceedings under § 1229a, though by different routes," but that "the fact that an applicant is in removal proceedings under § 1229a does not change his or her underlying category"), *vacated as moot*, 5 F.4th 1099 (2021) (mem.).

under section 1226(a). *See Garcia*, 2025 WL 2549431, at *6; *Sampiao v. Hyde*, ---F.Supp.3d---, No. 25-cv-11981-JEK, 2025 WL 2607924, at *8 (D. Mass. Sept. 9, 2025); *Rodriguez*, 2025 WL 2782499, at *18.

41. Second, district courts have correctly found additional support for the conclusion that *Yajure Hurtado* was wrongly decided in the legislative history of the relevant statutory provisions. Section 1226 was enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009. IIRIRA's predecessor statute permitted the Attorney General to grant bond to noncitizens arrested within the United States. *Rodriguez*, 2025 WL 2782499, at *23 (citing 8 U.S.C. § 1252 (1994)). And "according to the legislative record," today's section 1226(a) "restates" the pre-IIRIRA framework "regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States." *Salcedo Aceros*, 2025 WL 2637503, at *12; *see also Rodriguez*, 2025 WL 2782499, at *23-24.

42. Third, district courts have further cemented their rejection of *Yajure Hurtado* in its departure from longstanding agency practice. *See Loper Bright*, 603 U.S. at 370 (the persuasive authority of a given agency interpretation depends, in part, on its "consistency with earlier . . . pronouncements" (quoting *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944)). Indeed, in promulgating IIRIRA's still-unchanged implementing regulations, DHS and EOIR recognized that "[d]espite being applicants for admission, aliens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination." *Rodriguez*, 2025 WL 2782499, at *25 (quoting Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997)). And the BIA held as recently as June 30, 2025 "that a noncitizen who had entered the United States unlawfully three years earlier was subject to discretionary detention under section 1226(a)." *Id.* (citing *Matter of Akhmedov*, 19 I. & N. Dec. 116 (BIA 2025)).

43. Thus, while the BIA, citing *Yajure Hurtado*, is certain to hold otherwise when it decides DHS's appeal of Mr. Miranda's grant of bond, it is plain that Mr. Miranda is detained under 8 U.S.C. § 1226(a) and that the IJ did not err in setting bond for him.[4] Because Mr. Miranda's continued detention therefore violates the INA, the Court should therefore grant Mr. Miranda's petition for a writ of habeas corpus.

PRAYER FOR RELIEF

WHEREFORE, Mr. Miranda prays that the Court:

a. Assume jurisdiction over this case;

b. Order that Respondents refrain from transferring Mr. Miranda outside of the Southern district of California while his petition remains pending;

c. Declare that Mr. Miranda's detention is unlawful;

d. Issue a writ of habeas corpus ordering Respondents to: (1) release Mr. Miranda pursuant to the $1,500 bond that the IJ set for him and which he subsequently posted; (2) not vacate or reverse the IJ's bond order on the grounds that he is detained under 8 U.S.C. § 1225(b)(2); and (3) not re-detain Mr. Miranda on the grounds that he is subject to mandatory detention under section 1225(b)(2).

e. Award counsel for Mr. Miranda attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and

---

[4] One court in this district has, in denying an application for a temporary restraining order, declined to join the overwhelming consensus among district courts that *Yajure Hurtado* cannot be squared with the INA. *See Chavez v. Noem*, ---F.Supp.3d---, No. 25-cv-02325-CAB-SBC, 2025 WL 2730228, at *4-5/ That brief opinion, however, reflect the exigencies inherent in addressing expedited requests for interim relief, and does not engage with the body of district court precedent reaching the opposite conclusion. *See id. Chavez*'s determination, then, that the petitioner in that case was not likely to succeed on the merits for purposes of obtaining a temporary restraining order should not give this Court pause before joining the dozens of other district courts that have rejected *Yajure Hurtado*'s flawed reasoning. *See also Covarrubias v. Vergara*, No. 25-CV-112, 2025 WL 2950097, at *4 n.2 (S.D. Tex. Oct. 8, 2025) ("respectfully disagree[ing]" with *Chavez*).

f. Grant all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: November 10, 2025

s/ Christopher Paul Kailani Medeiros

Christopher Paul Kailani Medeiros
Attorney for Alberto Miranda Álvarez