

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. 25-cv-03078-RSH-MM

Agency No. 

Petitioner's Traverse

1 **INTRODUCTION**

2 As of November 18, 2025, 282 of the 288 district courts to have considered the
3 statutory issue at the heart of this case have rejected the government’s insistence that all
4 noncitizens alleged to be removeable under 8 U.S.C. § 1182(a)(6) for being present in the
5 United States without having been admitted or paroled—no matter whether they have
6 resided here for years or even decades—are “seeking admission” and thus subject to
7 mandatory detention under 8 U.S.C. § 1225(b). *Demirel v. Fed. Detention Ctr. Phila*, No.
8 25-5488, 2025 WL 3218243 (E.D. Pa. Nov. 18, 2025). Respondents’ return to Petitioner
9 Alberto Miranda Álvarez’s habeas petition provides no reason for this Court to depart
10 from this overwhelming consensus. The Court should therefore grant the petition and
11 order Mr. Miranda released under the \$1,500 bond that an IJ has already found sufficient
12 to guarantee his continued appearance at his removal proceedings.

13 **RELEVANT DEVELOPMENTS POST-DATING MR. MIRANDA’S PETITION**

14 Four developments post-dating Mr. Miranda’s habeas petition bear highlighting
15 here. First, while Mr. Miranda originally believed that his family had posted bond for him
16 following the entry of the IJ order setting bond at \$1,500, counsel for Mr. Miranda has
17 since learned that while his sister attempted to post bond for him on August 25, 2025,
18 DHS refused to accept the bond. Declaration of Christopher Medeiros in Support of
19 Traverse, ¶ 2.

20 Second, while Mr. Miranda’s next hearing in immigration court—at which the IJ
21 will hear argument on his motion to withdraw his pro se pleadings—was originally
22 scheduled for December 4, 2025, the IJ, to accommodate the hearing in this Court on that
23 date, has continued the to December 17, 2025. *Id.* at ¶ 3.

24 Third, on November 26, 2025, the Board of Immigration Appeals—relying on
25 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—granted DHS’s appeal and
26 vacated the IJ order granting bond to Mr. Miranda. Ex A. As a result, Mr. Miranda is no
27 longer detained pursuant the automatic stay of the IJ’s bond order that DHS originally
28

1 obtained and his due-process challenge to the automatic-stay regulations is thus presently
2 moot.

3 Fourth, while Mr. Miranda’s habeas petition has been pending, the Central District
4 of California has: (1) granted summary judgment to habeas petitioners challenging the
5 executive branch’s interpretation of 8 U.S.C. §§ 1225(b) and 1226, as espoused in *Yajure*
6 *Hurtado*, and (2) certified a “Bond Eligible Class” consisting of:

7 All noncitizens in the United States without lawful status who (1) have entered
8 or will enter the United States without inspection; (2) were not or will not be
9 apprehended upon arrival; and (3) are not or will not be subject to detention
10 under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department
of Homeland Security makes an initial custody determination.

11 *Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2025 WL 3289861,
12 at *11 (C.D. Cal. Nov. 20, 2025); *id.*, 2025 WL 3288403, at *1 (C.D. Cal. Nov. 25,
13 2025). Mr. Miranda belongs to this class. His counsel understands that IJs at the Otay
14 Mesa Immigration Court have been granting bond to members of the Bond Eligible
15 Class. Thus, Mr. Miranda has moved for the IJ to reissue the original issue order
16 granting him bond, or in the alternative, schedule a bond hearing for him. Medeiros
17 Decl, ¶ 5; Ex. B (motion to reissue).

18 **ARGUMENT**

19 **I. This Court Has Jurisdiction Over Mr. Miranda’s Claims**

20 Undeterred by the myriad district courts that have resoundingly rejected these
21 arguments, Respondents press that 8 U.S.C. § 1252(b)(9) and (g) deprive this Court of
22 jurisdiction over Mr. Miranda’s habeas petition. *See* ECF No. 6 at 6-9. But Respondents
23 are incorrect, and those provisions do not affect this Court’s jurisdiction.

24 Section 1252(g) provides that “no court shall have jurisdiction to hear any cause or
25 claim by or on behalf of any alien arising from the decision or action by the Attorney
26 General to commence proceedings, adjudicate cases, or execute removal orders against
27 any alien under this chapter.” “[T]he Supreme Court and Ninth Circuit have consistently
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1 recognized that section 1252(g)'s 'narrow' scope does not sweep in non-discretionary,
2 purely legal questions such as those presented" in petitions challenging the government's
3 novel interpretation of section 1225(b)(2). *Rodriguez v. Bostock* (quoting *Reno v. Am.-*
4 *Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999)). Thus, in the months since
5 the BIA has decided *Yajure Hurtado*, district courts have readily concluded that section
6 1252(g) poses no obstacle to reaching the merits of detainees' challenges to the BIA's
7 erroneous statutory interpretation in that case. *See, e.g., Aquino v. LaRose*, No. 25-cv-
8 2904-RSH-MMP, 2025 WL 3158676, at *1-2 (S.D. Cal. Nov. 12, 2025); *Esquivel-Ipina*
9 *v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361, at *2-3 (S.D. Cal. Oct. 24,
10 2025); *Demirel*, 2025 WL 3218243, at *3. This Court should similarly hold that—
11 because Mr. Miranda is not challenging "the decision to commence removal proceedings
12 or any act to adjudicate or execute a removal order"—section 1252(g) does not impact its
13 jurisdiction over his petition. *Esquivel-Ipina*, 2025 WL 2998361, at *2-3.

14 Respondents arguments involving 8 U.S.C. § 1252(b)(9) are likewise meritless.

15 That provisions states that:

16 Judicial review of all questions of law and fact, including interpretation and
17 application of constitutional and statutory provisions, arising from any action
18 taken or proceeding brought to remove an alien from the United States under
19 this subchapter shall be available only in judicial review of a final order under
this section.

20 The Supreme Court has recognized that section 1252(b)(9) does not bar noncitizens from
21 challenging via habeas their detention incident to removal proceedings. *Jenninvs v.*
22 *Rodriguez*, 583 U.S. 281, 294-95 (2018). Thus, section 1252(b)(9) is inapposite here,
23 because Mr. Miranda's s petition "challenges [only] the legality of his detention rather
24 than challenging an order of removal or Respondents' decision to charge him with being
25 a removable noncitizen." *Aquino*, 2025 WL 3158676, at *2; *see also, e.g., Esquivel-Ipina*,
26 2025 WL 2998361, at *3.

1 This Court should therefore hold that it has jurisdiction over Mr. Miranda’s
2 petition.¹

3 **II. Mr. Miranda is Detained Under Section 1226(a)**

4 Turning to the merits, Respondents’ statutory arguments likewise provide no
5 reason for this Court to part ways with the “overwhelming majority of courts to address
6 the issue,” which “have agreed that [s]ection 1226(a), rather than the mandatory detention
7 provision of [s]ection 1225(b)(2)(A), applies to a noncitizen in [Mr. Miranda’s] position
8 who has resided in the United States for many years.” *Aquino*, 2025 WL 3158676, at *3.

9 Respondents’ protestations to the contrary appear to boil down to the assertion that
10 Congress, in specifying that section 1225(b)(2)’s mandatory-detention regime applies to
11 “applicant[s] for admission” who are “seeking admission,” was not singling out a subset
12 of the broader category of all applicants for admission, but rather employing a belt-and-
13 suspenders approach and simply, for emphatic reasons, describing applicants for
14 admission in two ways. *See* ECF No. 6 at 12. But that argument is unavailing. And for it
15 to carry the day, the Court would have to discard the rule against surplusage, look past
16 Congress’s clear demonstration in the Laken Riley Act of its understanding that
17 noncitizens who have entered the United States without inspection are detained under
18 section 1226(a), and eschew “the general distinction between [s]ection 1225(b) and
19 1226(a) explained by the Supreme Court in *Jennings*.” *Aquino*, 2025 WL 3158676, at *3
20 (citing *Jennings v. Rodriguez*, 583 U.S. at (explaining that “U.S. immigration law
21 authorizes the Government to detain certain aliens seeking admission into the country
22 under §§ 1225(b)(1) and (b)(2)” and “also authorizes the Government to detain certain
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24
25 ¹ “Respondents also argue in a footnote that ‘the Court should ensure Petitioner properly
26 exhausts administrative remedies.’ ECF No. 6 at 9 n.1.” *Aquino*, 2025 WL 3158676, at *2. But—for the
27 reasons provided in Mr. Miranda’s petition, *see* ECF No. 1 at 7-8—“[t]his Court, following other courts
28 in this District, [should find] that exhaustion would be futile here because the Board of Immigration
Appeals would be obligated to apply administrative precedent to conclude that detention is mandatory
under 8 U.S.C. § 1225(b)(2).” *Aquino*, 2025 WL 3158676, at *2.

1 aliens already in the country pending the outcome of removal proceedings under §§
2 1226(a) and (c)"); *see also Pelico Calel*, No. 25-cv-02883-GPC-JLB, 2025 WL
3 3171898, at *5 (S.D. Cal. Nov. 11, 2025) (“As many cases in this District and this Circuit
4 have found, ‘seeking admission’ is best understood to require ‘an affirmative act such as
5 entering the United States or applying for status.’”).

6 This Court should thus hold that Mr. Miranda is being detained in violation of the
7 Immigration and Nationality Act and grant his petition for a writ of habeas corpus.

8 **III. Mr. Miranda’s Pending Request for the IJ to Reissue the Original Bond**
9 **Order Does Not Moot His Habeas Petition**

10 Based on his counsel’s understanding that, following the summary judgment and
11 class-certification orders in *Maldonado Bautista*, IJs at the Otay Mesa Immigration Court
12 have been providing bond hearings to members of the Bond Eligible Class, Mr. Miranda
13 has moved for the Immigration Court to reissue the order setting bond, or in the
14 alternative, schedule a bond hearing for him. Medeiros Decl., ¶ 5; Ex. B. That still-
15 pending motion does not moot Mr. Miranda’s habeas petition, as Mr. Miranda remains
16 detained in violation of the INA. Nor should the Court defer ruling on his habeas petition
17 until after the Immigration Court has decided his motion. Even if the Court grants the
18 motion to reissue, or alternatively grants him bond after another hearing, DHS could still
19 appeal and invoke 8 C.F.R. § 1003.19(i)(1)’s automatic stay—which would prolong Mr.
20 Miranda’s detention in violation of the INA and also revive the currently moot first cause
21 of action (challenging the automatic-stay regulation on due-process grounds) of his
22 habeas petition.

CONCLUSION

For the foregoing reasons, the Court should grant Mr. Miranda’s petition for a writ of habeas corpus.

Respectfully submitted,

Dated: November 29, 2025

s/ Christopher Paul Kailani Medeiros
Christopher Paul Kailani Medeiros
Attorney for Alberto Miranda Álvarez

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