

1 Nera Shefer, Esq.
2 Shefer Law Firm, P.A.
3 Florida Bar# 0814121
4 Admitted pro hac vice
5 800 SE 4th. Ave #803
6 Hallandale Beach, Florida 33009
7 Telephone: (786) 295-9077
8 Attorney for Respondent
9 Admitted *Pro Hac Vice*

7 UNITED STATES DISTRICT COURT
8 DISTRICT OF ARIZONA

10 **Victor Hugo Padron-Carreron,**
11 **Petitioner,**

12 v.

13 **Kristi Noem**, Secretary of the United States Department
14 of Homeland Security, in her official capacity;
15 **Todd Lyons**, Acting Director U.S. Immigration and
16 Customs Enforcement, in his official capacity;
17 **John Cantu**, Field Office Director for ICE's
18 Enforcement and Removal Operation's ("ERO")
19 Phoenix, Arizona Field Office, in his official capacity;
20 **Luis Rosa, Jr.**, Warden of the Central Arizona Florence
21 Correctional Complex, in his official capacity; **Sirce**
22 **Owen**, Acting Director of Executive Office for
23 Immigration Review, in her official capacity;
24 **Respondents.**

Case No.

Agency No. 

**PETITION FOR WRIT OF
HABEAS CORPUS
PURSUANT TO 28 U.S.C. §
2241**

22 INTRODUCTION

23 The Respondents are unlawfully detaining Petitioner Victor Hugo Padron-Carreron at Florence
24 Correctional Center in Florence, Arizona, due to an Immigration Judge's misinterpretation of the
25 relevant federal statutes.¹ Consistent with this position, the Department of Homeland Security (DHS)
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28 ¹ See, Order Denying Bond, filed herewith as Exhibit 1.

1 recently changed its long-standing position with regard to the status of mandatory detention.² And
2 the Bureau of Immigration Appeals (BIA) issued a precedential decision on September 5, 2025,
3 holding that all noncitizens present in the United States without admission – no matter how long they
4 have resided here – are still “applicants for admission” under 8 U.S.C. § 1225(a) and therefore subject
5 to mandatory detention under § 1225(b)(2)(A). *See, Matter of Yajure Hurtado*, 29 I&N Dec. 216
6 (B.I.A. 2025).³

8 But this interpretation of the Immigration and Naturalization Act (INA) violates both
9 procedural and substantive Fifth Amendment protections, ignores the plain statutory language of both
10 § 1225 and § 1226, and is contrary to numerous recent Federal Court decisions in this District that
11 have rejected these exact arguments. *See e.g.* 10/3/2025 Order entered in *Francisco Echevarria v.*
12 *Pam Bondi, et al.*, CV-25-03252-PHX-DWL (ESW), (D. Ariz. 10/3/2025).⁴

14 Petitioner has been living in the United States for almost 20 years, since he last entered the
15 United States in 2005 years; he has continuously resided in Tallahassee, Florida since 2005 and has
16 2 children born in the United States.⁵ He also submitted evidence that he has been employed and
17 paid taxes for many years.⁶ Although Petitioner has one misdemeanor offense for driving without a
18 license in May of 2025, which has already been dismissed by the State of Florida..⁷ Further, when
19 Respondents issued a Notice to Appear, it identified Petitioner as an “alien present in the United
20 States” despite “arriving alien” being an option.⁸

24 ² *See, ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission* (last
visited September 8, 2025) (last visited September 8, 2025), filed herewith as Exhibit 2.

25 ³ *See, Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), filed herewith as Exhibit 3.

26 ⁴ *See, 10/3/2025 Order entered in Francisco Echevarria v. Pam Bondi, et al.*, CV-25-03252-PHX-DWL (ESW),
(D. Ariz. 10/3/2025), filed herewith as Exhibit 14.

27 ⁵ *See, Petitioner’s Evidence in Support of Bond Hearing*, filed herewith as Exhibit 5.

28 ⁶ *Id.*

⁷ *Id.*

⁸ *See, Petitioner’s Notice to Appear*, filed herewith as Exhibit 4.

1 Because *Matter of Yajure Hurtado* is not binding on federal courts,⁹ this Court is in the best
2 position to determine whether the IJ misinterpreted the federal statutes in denying Mr. Pena-Ramirez
3 bond. The petition for writ of habeas corpus should be granted.

4 JURISDICTION & CUSTODY

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6 1. Petitioner Victor Hugo Padron-Carreron in the physical custody of Respondents
7 and Immigration and Customs Enforcement (ICE), an agency within the Department of Homeland
8 Security.

9
10 2. Petitioner is currently detained at the Florence Correctional Center in Florence
11 Correctional Center in Florence, Arizona and is under the direct control of Respondents and their
12 agents.¹⁰

13
14 3. This action arises under the Constitution of the United States and 8 U.S.C. §
15 1101 et seq.

16
17 4. This Court has jurisdiction under 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United
18 States Constitution, 28 U.S.C. § 1331, and the common law. This Court may grant relief pursuant
19 to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs
20 Act, 28 U.S.C. § 1651.

21
22 5. Congress has preserved judicial review of challenges to immigration detention.
23 *See Jennings v. Rodriguez*, 583 U.S. 122, 130-131 (2018) (holding that 8 U.S.C. §§ 1226(e) and
24 1252(b)(9) do not bar review of challenges to prolonged immigration detention).

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26 ⁹ In addition to BIA decisions not being binding precedent upon this Court, the Supreme Court decision last
27 year in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 400 (2024), made clear that federal courts
28 must independently interpret statutes and no longer defer to an Executive Branch agency's legal
interpretations under so-called *Chevron* deference to agency interpretations of statutes.

¹⁰ *See*, 11-4-25 ICE Locator Page for Victor Hugo Padron-Carreron, filed herewith as Exhibit 7.

1 Appear on July 21, 2025.¹⁴

2 20. On August 15, 2025, a custody redetermination hearing was held in Florence,
3 Arizona, where Petitioner submitted evidence, including: His Mexican passport; (B) his high school
4 diploma; (C) his 2 U.S. born children's birth certificates; (D) tax returns and annual reports from
5 his self-owned construction company; (E) Good Character Letters; (F) Nolle Prose disposition of
6 misdemeanor offense for driving without a license in May of 2025 in Wakulla County, Florida..¹⁵

7
8 21. On Respondent did not establish that the Immigration Court or an Immigration
9 Judge would have jurisdiction to redetermine the conditions of his custody or release him on bond
10 or parole under INA 236(a), and that he is not an 'applicant for admission' under INA 235(a)(1)
11 and/or that he is not subject to mandatory detention under INA 235(b)(1) or 235(b)(2). *See*, Exhibit
12 1, Order Denying Bond.¹⁶

13 14 LEGAL FRAMEWORK

15 22. The length of time that a petitioner has been living in the United States is a
16 constitutionally relevant consideration, because "once an alien enters the country, the legal
17 circumstance changes, for the Due Process Clause applies to all 'persons' within the United States,
18 including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."
19 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). It is therefore reasonable to read these statutes "against
20 [that] backdrop." *See Hewitt v. United States*, 605 U.S. —, 145 S. Ct. 2165, 2173 (2025).

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22 23. Due process thus requires "adequate procedural protections" to ensure that the
23 government's asserted justification for a noncitizen's physical confinement "outweighs the
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27 ¹⁴ *See*, Petitioner's Notice to Appear, filed herewith as Exhibit 4.

28 ¹⁵ *See*, Petitioner's Evidence in Support of Bond Hearing, filed herewith as Exhibit 5.

¹⁶ *Id.*

1 individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S.
2 at 690 (internal quotation marks omitted).

3 24. In the immigration context, the Supreme Court has recognized only two valid
4 purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight.
5 *Id.*; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other
6 justification.
7

8 25. Congress has granted the Attorney General discretion to decide whether to
9 detain or release certain noncitizens pending a removal decision. *See* 8 U.S.C. § 1226(a). The
10 Attorney General has delegated that authority to IJs. 8 C.F.R. §§ 1003.19, 1236.1.
11

12 26. On July 8, 2025, DHS adopted a new policy on mandatory detention for
13 noncitizens who have been residing in the United States.¹⁷

14 27. On September 5, 2025, the BIA entered the precedential decision *Matter of*
15 *Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025),¹⁸ which holds that all noncitizens who enter
16 without inspection are "applicants for admission" under 8 U.S.C. § 1225(a) and therefore subject
17 to mandatory detention under § 1225(b)(2), without regard for the length of time they have lived in
18 the United States.
19

20 28. The Ninth Circuit has held that § 1226(a) is the "default" detention statute for
21 aliens in removal proceedings "[8 U.S.C. §1226(a) ("Subsection A")] is the default detention statute
22 for noncitizens in removal proceedings and applies to noncitizens "[e]xcept as provided in
23 [Subsection C]." 8 U.S.C. § 1226(a)." *Avilez v. Garland*, 69 F. 4th 525, 529-530 (9th Cir. 2022).
24 *Accord, Rodriguez Diaz v. Garland*, 83 F. 4th 1177, 1179 (9th Cir. 2023); *Sarr v. Scott*, 765 F.
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27 ¹⁷ *See, ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission* (last
28 visited September 8, 2025) (last visited September 8, 2025), filed herewith as Exhibit 2.

¹⁸ *See, Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), filed herewith as Exhibit 3.

1 Supp. 3d 1091, 1095 (WD Wash. 2025); *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir.
2 2008). *Casas-Castrillon v. DHS*, 535 F.3d 942 (9th Cir. 2008).

3 29. Almost every District Court that has considered the issue has found that DHS's
4 interpretation defies the Immigration and Nationality Act(INA). In Arizona, the following
5 decisions so hold and collect cases so holding from other District Courts:
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8 A. 11-6-2025 Order Granting Habeas in *Abrego-Zarate v. Noem, et al.*, Case No. 25-
9 cv-03564-KML (D. Ariz. 11-6-25)("the great weigh of authority is that individuals
10 like petitioner are not subject to mandatory detention. This court agrees with the
11 majority view. For these reasons, the petition is granted, and petitioner must receive
12 a bond hearing without application of *Matter of Yajure Hurtado*, 29 I&N 216 (B.I.A.
13 2025)."¹⁹

14 B. 11/03/25 Order granting habeas petition in *Lopez-Cruz v. Noem, et al*, No. 2:25-cv-
15 03566-DJH--ASB (D. Ariz. 11/3/2025)("dozens of other district courts have
16 concluded individuals like Petitioner are subject to § 1226 and not § 1225 and,
17 therefore, are not subject to mandatory detention. This Court agrees with this
18 conclusion.")²⁰

19 C. Order granting habeas petition in *Garcia-Rosales v. Noem, et al.*, No. 2:25-cv-
20 03391-SHD-DMF at page 2 (D. Ariz. Oct. 22, 2025)("while Respondents point to
21 two district court opinions adopting their interpretation of § 1225(b)(2)(A), myriad
22 other district courts have reached the same conclusion as *Echevarria* and held
23 individuals like Petitioner are not subject to mandatory detention under
24 1225(b)(2)(A)");²¹

25 D. Order granting habeas petition in *Benitez-Cornejo v. Cantu, et al.*, No. 2:25-cv-
26 03672 (D. Arizona Oct. 17, 2025)("individuals like Petitioner are not "arriving
27 aliens" subject to mandatory detention but, rather, are subject to the general removal
28 statute, 8 U.S.C. § 1226(a)").²²

29 E. Order granting habeas petition entered in *Hector Lopez-Melo v. Bondi, et. al.*, Case
30 No. Case 2:25-cv-03394-DJH--JZB (D. Ariz. 10/9/2025)("petitioner, who had been

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¹⁹ See, 11-6-2025 Order entered in *Abrego-Zarate v. Noem, et al.*, Case No. 25-cv-03564-KML (D. Ariz. 11-6-25, filed herewith as Exhibit 8.

²⁰ See, 10/22/2025 Order entered in *Lopez-Cruz v. Noem, et al*, No. 2:25-cv-03566-DJH--ASB (D. Ariz. 11/3/2025), filed herewith as Exhibit 9.

²¹ See, 10/22/2025 Order entered in *Garcia-Rosales v. Noem, et al.*, No. 2:25-cv-03391-SHD—DMF (D. Ariz. Oct. 22, 2025), filed herewith as Exhibit 10.

²² See, 10/17/2025 Order granting habeas corpus in *Benitez-Cornejo v. Cantu, et al.*, No. 2:25-cv-03672 (D. Arizona Oct. 17, 2025); filed herewith as Exhibit 11.

1 present in the United States for years, was not an applicant for admission under
2 1225(b)(2)(A) or subject to mandatory detention”);²³

3 F. 10/07/2025 Order granting habeas petition in *Bo Li v. Cantu, et al.*, No. CV-25-
4 02989-PHX-SPL (D Arizona 10/07/2025)(“Respondents maintain he is subject to
5 mandatory detention under 1225(b)(2). Again, Respondents are mistaken.”);²⁴

6 G. 10/3/2025 Order granting habeas petition in *Echevarria v. Bondi, et al.*, No. 2:25-
7 cv-03252-PHX-DWL, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025)(“Court agrees
8 with the majority of courts that have concluded that § 1226(a), rather than §
9 1225(b)(2)(A), applies in this circumstance.”)²⁵

10 H. August 11, 2025 Magistrate’s Report and Recommendation in *Rocha Rosado v.*
11 *Figueroa*, No. CV-25-02157-PHX-DLR 2025 WL 2349133 at *10 (D. Ariz. Aug.
12 13, 2025)(Magistrate’s Report and Recommendation Adopted at 2025 WL
13 2349133)([t]he text of § 1226, the canons of statutory interpretation, this section’s
14 legislative history, and longstanding agency practice indicate that Rosado is subject
15 to § 1226(a)’s ‘default’ rule for discretionary detention rather than § 1225’s
16 mandatory detention requirement, and that the IJ erred by finding they did not have
17 jurisdiction to consider Rosado’s detention.”) *report and recommendation adopted*
18 *sub nom.* 2025 WL 2349133 (D. Ariz. Aug. 13, 2025).²⁶

19 30. Petitioner has only found two cases in other district courts that hold to the contrary,
20 *Chavez v. Noem*, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) and *Vargas Lopez v. Trump*, 2025 WL
21 2780351 (D. Neb. Sept. 30, 2025). However, in *Vargas Lopez*, the Court held that Vargas Lopez fails
22 to meet his burden to show that he falls under § 1226(a), so “his Petition fails *regardless of the*
23 *parties’ arguments about the scope of § 1225(b) and § 1226(a).*” *Vargas Lopez v. Trump*, 2025 WL
24 2780351 at *7 (emphasis added). And in *Chavez v. Noem*, the court spent less than 2 pages analyzing
25 the statutory language and caselaw before concluding that “Petitioners have not shown either a

26 ²³ See, 10/9/2025 Order entered in *Hector Lopez-Melo v. Bondi, et al.*, Case No. Case 2:25-cv-03394-DJH-
27 JZB [docket no. 11] (D.C. Ariz.) filed herewith as Exhibit 12.

28 ²⁴ See, 10/07/2025 Order granting habeas corpus in *Bo Li v. Cantu, et al.*, No. CV-25-02989-PHX-SPL (D
Arizona 0/07/2025), filed herewith as Exhibit 13.

²⁵ See, 10/3/2025 Order entered in *Francisco Echevarria v. Pam Bondi, et al.*, CV-25-03252-PHX-DWL (ESW),
(D. Ariz. 10/3/2025), filed herewith as Exhibit 14.

²⁶ See, 8/13/2025 Magistrate’s Report and Recommendation in *Rocha Rosado v. Figueroa*, No. CV-25-02157-
PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025), filed herewith as Exhibit 15.

1 likelihood of success or serious questions going to the merits [therefore] we do not address the
2 remaining *Winter* factors.” *Chavez v. Noem*, 2025 WL 2730228 at *5.

3 30. In 1997, after Congress amended the INA through the Illegal Immigration
4 Reform and Immigrant Responsibility Act of 1996 (IIRIRA), EOIR and the then-Immigration and
5 Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the
6 heading of “Apprehension, Custody, and Detention of Aliens,” the agencies explained that:

8 Despite being applicants for admission, aliens who are present without
9 having been admitted or paroled (formerly referred to as aliens who
10 entered without inspection) *will be eligible* for bond and bond
redetermination.

11 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had
12 entered without inspection *were* eligible for consideration for bond and bond hearings before IJs
13 under 8 U.S.C. § 1226 and its implementing regulations.

14 31. At his bond hearing, Petitioner emphasized his strong ties to the community and
15 submitted multiple letters of support.²⁷

16 32. DHS did not argue that Petitioner is a flight risk nor a danger to the community;
17 rather DHS argued that Petitioner is subject to mandatory detention under § 1225(b)(2)(A), which
18 governs the inspection process for noncitizen “applicants for admission”—new arrivals to the
19 country pursuant.
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21 33. The IJ denied Petitioner bond on the grounds that “Respondent did not establish
22 that the Immigration Court or an Immigration Judge would have jurisdiction to redetermine the
23 conditions of his custody or release him on bond or parole under INA 236(a), and that he is not an
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28 ²⁷ *See*, Petitioner’s Evidence in Support of Bond Hearing, filed herewith as Exhibit 5.

1 'applicant for admission' under INA 235(a)(1) and/or that he is not subject to mandatory detention
2 under INA 235(b)(1) or 235(b)(2)..²⁸

3
4 **CLAIMS FOR RELIEF**
5 **FIRST CLAIM FOR RELIEF**
6 **Violation of Fifth Amendment – Substantive Due Process**

7 34. Petitioner realleges and incorporates herein the allegations contained in the
8 preceding paragraphs of the petition as if fully set forth herein.

9 35. The Due Process Clause of the Fifth Amendment forbids the government from
10 depriving any "person" of liberty "without due process of law," including noncitizens. U.S. Const.
11 amend. V.

12 36. Substantive due process asks whether a person's life, liberty, or property is
13 deprived without sufficient purpose. There is no question that Petitioner has been deprived of his
14 liberty in this case.

15 37. The government's continued detention of Petitioner is not supported by any
16 special interest or compelling justification that outweighs his liberty interest.

17 38. Petitioner's ongoing detention when so many federal courts have held that he is
18 entitled to be considered for release upon posting an appropriate bond under § 1225 constitutes
19 prolonged detention and violates his substantive due process rights.
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21
22 **SECOND CLAIM FOR RELIEF**
23 **Violation of Fifth Amendment Right - Procedural Due Process**

24 39. Petitioner realleges and incorporates herein the allegations contained in the
25 preceding paragraphs of the petition as if fully set forth herein.
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²⁸ See, Order Denying Bond, filed herewith as Exhibit 1.

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner Victor Hugo Padron-Carreron, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 10th day of November, 2025.

By: */s/ Nera Shefer*
Nera Shefer, Esq.

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LIST OF EXHIBITS	
Exhibit 1	Order Denying Bond.
Exhibit 2	<u>ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission</u> (last visited September 8, 2025).
Exhibit 3	<i>Matter of Yajure Hurtado</i>, 29 I&N Dec. 216 (B.I.A. 2025).
Exhibit 4	Notice to Appear
Exhibit 5	Petitioner's Bond Hearing Evidence
Exhibit 6	DHS's Bond Hearing Evidence
Exhibit 7	11-4-25 ICE Locator Page for Petitioner Victor Hugo Padron-Carreron
Exhibit 8	11-6-2025 Order entered in <i>Abrego-Zarate v. Noem, et al.</i>, Case No. 25-cv-03564-KML (D. Ariz. 11-6-25)
Exhibit 9	10/22/2025 Order entered in <i>Lopez-Cruz v. Noem, et al.</i>, No. 2:25-cv-03566-DJH--ASB (D. Ariz. 11/3/2025)
Exhibit 10	10/22/2025 Order entered in <i>Garcia-Rosales v. Noem, et al.</i>, No. 2:25-cv-03391-SHD—DMF (D. Ariz. Oct. 22, 2025)
Exhibit 11	10/17/2025 Order granting habeas corpus in <i>Benitez-Cornejo v. Cantu, et al.</i>, No. 2:25-cv-03672 (D. Arizona Oct. 17, 2025)
Exhibit 12	10/9/2025 Order entered in <i>Hector Lopez-Melo v. Bondi, et al.</i>, Case No. Case 2:25-cv-03394-DJH--JZB [docket no. 11] (D.C. Ariz. 10/9/2025)
Exhibit 13	10/07/2025 Order granting habeas corpus in <i>Bo Li v. Cantu, et al.</i>, No. CV-25-02989-PHX-SPL (D Arizona 0/07/2025)
Exhibit 14	10/3/2025 Order entered in <i>Francisco Echevarria v. Pam Bondi, et al.</i>, CV-25-03252-PHX-DWL (ESW), (D. Ariz. 10/3/2025)
Exhibit 15	8/13/2025 Magistrate's Report and Recommendation in <i>Rocha Rosado v. Figueroa</i>, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025)