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5
6 IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

7
8 Edin Eleazar Quinonez Orosco,
Petitioner,

Case No.: 2:25-cv-2240

9 vs.

PETITION FOR WRIT OF HABEAS CORPUS

10 Todd M. Lyons, Acting Director Immigration & Customs
11 Enforcement, John Doe, Acting Las Vegas/Salt Lake City
Field Office Director, Enforcement and Removal
12 Operations, United States Immigration and Customs
Enforcement (Ice); John Mattos, Warden, Nevada
13 Southern Detention Center; Kristi Noem, Secretary,
United States Department of Homeland Security; Pamela
14 Bondi, Attorney General of the United States; Sirce
Owen, Executive Office for Immigration Review,

15 Respondents.

INTRODUCTION

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1. Counsel is an attorney that practices exclusively immigration law and is licensed to practice in and resides in Utah. Counsel has complied with LR IA 11-2 and the verified petition to allow counsel to represent the parties in this case has been filed.

2. The Petitioner resides in Utah and had retained counsel for immigration matters prior to having been arrested and moved by Immigration & Customs Enforcement (ICE) to Nevada for detention because ICE does not have a detention facility in Utah.

3. Petitioner, Edin Quinonez Orosco (Mr. Quinonez), by and through above-named counsel of record, submit this Petition for Writ of Habeas Corpus against the above-named Respondents for unlawful detention. Mr. Quinonez's immigration case number is A 

4. The Petitioner is a noncitizen detained by Immigration & Customs Enforcement ("ICE") at the Nevada Southern Detention Center. He now faces unlawful detention because the Department of Homeland Security (DHS), through a legally dubious decision of the Board of Immigration Appeals (BIA), has concluded based on novel arguments that he is subject to mandatory detention. A bond hearing was held on October 28, 2025, wherein the immigration judge concluded, based upon this novel interpretation of the law, that the immigration court did not have jurisdiction to grant bond.

5. Mr. Quinonez is a 29-year-old noncitizen who has resided continuously in the U.S. since 2013. He is married to a US citizen and has two US citizen children, ages 10 and 5 years of age respectively.

6. Yasmin Cardona, Mr. Quinonez's US citizen wife, filed a spouse based I-130 petition on his behalf, which has been approved. She was also the qualifying relative for his approved I-601A, Provisional Waiver for Unlawful Presence. Approval of this waiver was based in part on a finding of extreme hardship to Mr. Quinonez's US citizen spouse if there was a prolonged separation. In his absence, Ms. Cardona, is enduring such a separation and is having to care for the children without his aid.

7. Mr. Quinonez last entered the U.S. in 2013. He is prima facie eligible for Cancellation of Removal for non-permanent residents as a form of relief from removal from the United States.

1 8. The Petitioner is charged with, inter alia, having entered the United States without
2 inspection. 8 U.S.C. § 1182(a)(6)(A)(i). He is also being charged with having entered the country without proper
3 documentation under 8 U.S.C. § 1182(a)(7)(A)(i)(I).

4 9. Petitioner was arrested in Utah — far from any port of entry — and placed in removal
5 proceedings under 8 U.S.C. § 1229a. He is not subject to expedited removal under § 1225(b)(1), nor to post-order
6 detention under § 1231(a).

7 10. ICE has recently created a policy that refuses to issue a bond to petitioners based upon a
8 new policy interpreting detention statutes that is unsupported by the law, its history and precedent as discussed
9 below. Unpublished Memo Attached at Page 64. [https://www.aila.org/library/ice-memo-interim-guidance-regarding-](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission)
10 [detention-authority-for-applications-for-admission](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission).

11 11. The Board of Immigration Appeals (BIA) has deemed that the immigration courts do not
12 have the jurisdiction to grant bonds to detainees who have entered the country without inspection, including those
13 that have been here for many years and that their detention is required under § 1225(b)(2). *Matter of Yajure Hurtado*,
14 29 I&N Dec. 216 (BIA 2025).

15 12. The Petitioner has sought a bond redetermination hearing by the Immigration Judge
16 (“IJ”)-Executive Office for Immigration Review (“EOIR”). Due to *Yajure Hurtado*, the immigration court denied
17 bond due to a lack of jurisdiction on October 28, 2025.

18 13. DHS failed to present any evidence for the bond hearing to show that Mr. Quinonez is an
19 applicant for admission, but due the BIA’s new legal conclusions, he is nevertheless an “applicant for admission”
20 who is “seeking admission” and subject to mandatory detention under § 1225(b)(2)(A). This conclusion has been
21 reached in most immigration courts around the country due to *Yajure Hurtado*.

22 14. Mr. Quinonez has reserved appeal of the immigration court’s denial of his request for a
23 bond redetermination. However, because the BIA is where an appeal of a denial of bond redetermination would be
24 made and because of the caselaw under *Yajure Hurtado*, this effort would be fruitless. Mr. Quinonez now presents
25 this petition directly to the U.S. District Court for relief from detention.

26 15. The petitioner’s detention on this basis violates the plain language of the Immigration and
27 Nationality Act (“INA”). 8 U.S.C. § 1225(b)(2)(A) does not apply to individuals like the Petitioner who previously
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1 entered the U.S. years ago, was detained by ICE recently in the interior of the country and has been residing in the
2 United States for many years.

3 16. Respondents' newly asserted interpretation is plainly contrary to the statutory framework
4 and irreconcilable with decades of agency practice, which have consistently applied § 1226(a) and its implementing
5 regulation, 8 C.F.R. § 236.1, to individuals like Petitioner—long-term residents arrested in the interior and placed in
6 removal proceedings under § 1229a.

7 17. The United States District Court for the District of Nevada recently rejected this very
8 policy in *Maldonado Vazquez v. Feeley*, No. 2:25-cv-01542-RFB-EJY (D. Nev. Sept. 17, 2025), finding DHS's
9 invocation of § 1225(b)(2) contrary to the INA.

10 18. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows
11 for release on conditional parole or bond. That statute expressly applies to people who, like the Petitioner, are
12 charged as inadmissible for having entered the United States without inspection.

13 1. Accordingly, Petitioner seeks a writ ordering his release, or in the alternative, a prompt
14 custody redetermination hearing under § 1226(a), free from the unlawful restrictions imposed by Yajure Hurtado
15 and 8 C.F.R. § 1003.19(i)(2).

16 JURISDICTION

17 19. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Nevada
18 Southern Detention Center in Pahrump, Nevada.

19 20. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. §
20 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

21 21. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act,
22 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

23 VENUE

24 22. Under *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973),
25 venue lies in the United States District Court for Nevada, the judicial district in which Petitioners are currently
26 detained. Thus, three residents of Utah and an attorney who resides in Utah are forced to file this action in Nevada
27 solely because ICE moved them from Utah to Nevada.

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

4 REQUIREMENTS OF 28 U.S.C. § 2243

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

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

14 **PARTIES**

15 26. Petitioner Edin Quinonez Orosco is a citizen of Guatemala who has been in immigration
16 detention since in or around September 20, 2025. After arresting Petitioner in Cedar City, Utah, ICE refused to set
17 bond and Petitioner requested review of his custody by an Immigration Judge (“IJ”). On October 17, 2025,
18 Petitioner requested bond in a Motion for Bond Redetermination in the amount of a \$1500. The Las Vegas
19 Immigration Court denied bond after determining that it did not have jurisdiction over the continued detention of the
20 Petitioner. Petitioner has resided in the United States since approximately November 2013.

21 27. Respondent, Todd M. Lyons is currently the national Acting Director Immigration &
22 Customs Enforcement. As such, he over the ICE Las Vegas Field Office and is being named because there is
23 currently no acting director of that office.

24 28. Respondent, Jason Knight was until a few days ago the Acting Director of the Las Vegas
25 Field Office of ICE’s Enforcement and Removal Operations division. He was recently fired and no replacement has
26 been named. Notwithstanding, Mr. Knight’s successor will be Petitioner’s immediate custodian and will be
27 responsible for Petitioner’s detention and removal. He is named in his official capacity.

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

2 39. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal
3 Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–
4 03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this
5 year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

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

10 41. Thus, in the decades that followed, most people who entered without inspection and were
11 placed in standard removal proceedings received bond hearings, unless their criminal history rendered them
12 ineligible. That practice was consistent with many more decades of prior practice, in which all noncitizens who were
13 not apprehended “arriving” at the border were entitled to a custody hearing before an IJ or other hearing officer. See
14 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
15 “restates” the detention authority previously found at § 1252(a)).

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

18 43. The new policy, entitled “Interim Guidance Regarding Detention Authority for
19 Applicants for Admission,” claims that all persons who entered the United States without inspection shall now be
20 deemed “applicants for admission” under 8 U.S.C. § 1225, and therefore are subject to mandatory detention
21 provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those
22 who have resided in the United States for months, years, and even decades.

23 44. ICE has adopted this position even though federal courts have rejected this exact
24 conclusion. For example, after IJs in the Tacoma, Washington, immigration court stopped providing bond hearings
25 for persons who entered the United States without inspection and who have since resided here, the U.S. District
26 Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that §
27 1226(a), not §1225(b), applies to noncitizens who are not apprehended upon arrival to the *United States*. *Rodriguez*

1 *Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *Gomes v. Hyde*, No. 1:25-
2 CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same
3 conclusion); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025); *Diaz*
4 *Martinez v. Hyde*, et al., No. CV 25-11613-BEM, 2025 WL 204238, at *2–3 (D. Mass. July 24, 2025).

5 45. The Board of Immigration Appeals (BIA) rejected decades of contrary practice and held
6 that § 1225(b)(2), not § 1226(a), governs detention of those who enter without inspection (“EWI”) and aided ICE’s
7 policy of mandatory detention of non-arriving aliens entering without inspection, restricting the immigration courts’
8 jurisdiction to grant bond and deeming detainees who have entered the country without inspection as “applicants for
9 admission.” *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *Yajure Hurtado* now prohibits the
10 immigration courts from granting detainees who enter without inspection bond and subjecting them to mandatory
11 detention. *Id.* at 228. This decision comports neatly with ICE’s desired policy outcomes and is the basis for
12 continued detention of the Petitioner.

13 46. DHS’s interpretation defies the INA. As the *Rodriguez Vazquez* court explained, the plain
14 text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

15 47. Almost every federal court to examine this issue has agreed that section 236 applies
16 rather than section 235 to noncitizens like the respondent and that they are therefore not subject to mandatory
17 detention. *See e.g., Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM, ECF No. 14 at * 7-8 (C.D. Cal. July 28, 2025)
18 (holding respondents failed to articulate any valid justification, legal or otherwise, for the application of § 1225
19 rather than § 1226 to the petitioners); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025) (finding that
20 the text of § 1226, canons of statutory interpretation, legislative history, and longstanding agency practice indicate
21 that § 1226, not § 1225(b)(2), applies to noncitizens arrested while living in the U.S.); *Ceja Gonzalez v. Noem*, No.
22 5:25-cv-02054-ODW (C.D. Cal. Aug. 13, 2025) (rejecting the respondents’ interpretation of § 1225(b) based on the
23 statutory text); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099, at *8 (D. Ariz. Aug.
24 11, 2025), report and recommendation adopted sub nom; *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL
25 2084238, at *6 (D. Mass. July 24, 2025) (holding DHS’s selective reading of section 1225—which ignores its
26 “seeking admission” language—violates the rule against surplusage and negates the plain meaning of the text);
27 *Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL 2374411, at *12 (D. Minn. Aug. 15, 2025) (holding
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1 that accepting DHS’s “one-size-fits-all application of § 1225(b)(2) to all aliens, with no distinctions, would violate
2 fundamental canons of statutory construction” . . . and “render § 1226 utterly superfluous” and that the “Laken Riley
3 Act amendments to § 1226(c), the legislative history of the IIRIRA, and longstanding practice supports this
4 holding.”); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025)
5 (holding a proper understanding of the relevant statutes, in light of their plain text, and uniform case law interpreting
6 them, compels the conclusion that § 1225 does not apply to a noncitizen who has been residing in the U.S. for more
7 than two years); *see also Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025);
8 *Vazquez Garcia v. Noem*, No. 25-CV-02180, 2025 WL 254931 (S.D. Cal. Sept. 3, 2025).

9 48. Most recently in this court, District of Nevada, in *Maldonado Vazquez v. Feeley*, No.
10 2:25-cv-01542-RFB-EJY (D. Nev. Sept. 9, 2025), held that EOIR’s automatic stay regulation, 8 C.F.R. §
11 1003.19(i)(2) (Form EOIR-43), is unconstitutional because it deprives noncitizens of liberty without due process.
12 The court ordered same-day release of the petitioner and noted that DHS’s reliance on § 1225(b)(2) to detain long-
13 settled residents raises serious statutory and constitutional concerns.

14 49. As the federal cases demonstrate, the text and structure of the INA make clear that §
15 1226(a) applies to noncitizens apprehended in the interior, including those charged as inadmissible for entry without
16 inspection.

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

20 51. The text of § 1226 also explicitly applies to people charged as being inadmissible,
21 including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such
22 people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez*
23 *Vazquez* court explained, “[w]hen Congress creates “specific exceptions” to a statute’s applicability, it “proves” that
24 absent those exceptions, the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady*
25 *Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

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

