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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX, ARIZONA**

Marco Antonio Solorzano Zepeda

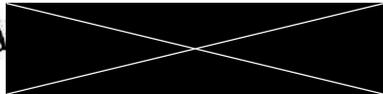
Petitioner,

v.

Kristi Noem, Secretary, U.S. Department
of Homeland Security; Pamela Bondi,
Attorney General of the United States,
Executive Office for Immigration Review
(EOIR); Corina Almeida, Chief Counsel,
Immigration and Customs Enforcement
(ICE), Office of Principal Legal Advisor,
Florence; John Cantu, Field Office
Director, ICE Enforcement and Removal
Operations, Phoenix; Luis Rosa, Jr.,
Warden, Florence Correctional Center,

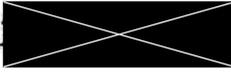
Respondents.

Case No. _____

Immigration Number: A 

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

I. INTRODUCTION

1. Petitioner Marco Antonio Solorzano Zepeda (A , by and through undersigned counsel, respectfully requests this Honorable Court order Respondents to accept payment of a \$2,500 bond, as ordered by an immigration judge should jurisdiction be established, and release Petitioner from the ICE Florence Correction Center, in Florence, Arizona. Respondents deny Petitioner's release by asserting he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2), a new policy argument contrary to decades of EOIR

1 and ICE practice of releasing similarly situated non-citizens pursuant to 8 U.S.C. § 1226(a).
2 Respondents' action during the pendency of Petitioner's civil immigration proceedings
3 subjects Petitioner to prolonged detention in violation of law. By the plain language of
4 the statute, 8 U.S.C. § 1225(b)(2)(A) only applies to persons being inspected by immigration
5 officers at the time of seeking admission. Admission being defined by the lawful entry into
6 the United States. 8 U.S.C. § 1101(a)(13)(A). Without directly interpreting the
7 statutory definition of "admission", Respondents issued *Matter of Yajure Hurtado*, 29 I&N
8 Dec. 216 (BIA 2025), holding that all non-citizens present without inspection, regardless of
9 how many years they have been in the country, are subject to mandatory detention under 8
10 U.S.C. § 1225(b)(2)(A). Pursuant to *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369
11 (2024), this Court is not bound by the Agency's interpretation of the INA. Indeed, one Federal
12 District Court already interpreted the statute, making contrary findings to *Yajure Hurtado*.
13 See *Rodriguez v. Bostock, et al.*, Case No. 3:25-cv-05240-TMC Preliminary Injunction (W.D.
14 Wash., April 24, 2025). Petitioner's detention is unlawful.

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19 2. Petitioner is a 45-year-old single male, citizen of Mexico, who is eligible for
20 relief from removal in the form of cancellation of removal pursuant to INA §240A(b)(1).

21 3. Petitioner entered the United States without inspection on or about January
22 2002 and was never encountered by Border Patrol. He has continuously lived in the United
23 States since that time, more than 23 years.

24
25 4. On or about September 29, 2025, Immigration and Customs Enforcement
26 ("ICE") detained Petitioner on his way to work.

27 5. Prior to his detention, Petitioner resided in Phoenix, Arizona with his long-
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1 time partner and their three (3) United States Citizen children, ages 20, 13, and 12 years old.

2 6. Petitioner has no criminal issues anywhere in the world.

3 7. Petitioner had been at liberty in the United States for over 23 years prior to his
4 detention.

5 8. On or about September 29, 2025, ICE took Petitioner into custody and placed
6 him into removal proceedings by filing a Notice to Appear with the Florence Immigration
7 Court and detaining him at the Florence Correctional Center located at 1100 Bowling Rd,
8 Florence, Arizona 85132. Petitioner requested a bond redetermination and on November 4,
9 Florence, Arizona 85132. Petitioner requested a bond redetermination and on November 4,
10 2025. The Immigration Judge denied his release request based on jurisdiction, as compelled
11 by the recent decision of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) ("*Matter*
12 *of Hurtado*"). However, should jurisdiction be established, in the alternative, the
13 Immigration Judge ordered Petitioner's release upon payment of a \$2,500 bond.
14 Respondents continue to detain the Petitioner in violation of law.

15 9. *Matter of Hurtado* is unlawful and cannot justify Petitioner's ongoing
16 confinement: it misreads the statute, conflicts with binding regulations that limit expedited-
17 removal custody to classes designated by Federal Register notice, and raises grave
18 constitutional concerns the avoidance canon requires courts to steer away from. *See* INA §
19 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A); 8 C.F.R. § 235.3(b)(1)-(2); 62 Fed. Reg. 10,312,
20 10,314, 10,318 (Mar. 6, 1997); 69 Fed. Reg. 48,877, 48,880-81 (Aug. 11, 2004); 84 Fed.
21 Reg. 35,409, 35,412 (July 23, 2019); *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Zadvydas*
22 *v. Davis*, 533 U.S. 678 (2001); *Clark v. Martinez*, 543 U.S. 371 (2005).

23 10. Respondents violated Petitioner's right to be released upon payment of a bond
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1 under the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1226(a), and agency
2 regulations, 8 C.F.R. §§ 1003.19(a), 1236.1(d). Respondents’ coordinated action to hold
3 Petitioner under mandatory detention is not in accordance with law and violates Petitioner’s
4 right to due process.
5

6 11. Petitioner will suffer irreparable and immediate injury from continued unlawful
7 detention unless the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 is granted.
8

9 I. JURISDICTION

10 12. This action arises under the Constitution of the United States and the
11 Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*

12 13. This Court has jurisdiction over petitions for Habeas Corpus pursuant to 28
13 U.S.C. § 2241. The Petitioner is in the custody of the United States.
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15 14. This Court has jurisdiction over civil actions brought under 28 U.S.C. § 1331
16 because this action arises under the Constitution and laws of the United States. This Court
17 has jurisdiction pursuant to 28 U.S.C. § 1361 which authorizes actions in district court, “to
18 compel an officer or employee of the United States or agency thereof to perform a duty
19 owed to the Petitioner.”
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21 15. The aid of the Court is invoked under 28 U.S.C. § 2201 and 2202, authorizing
22 a declaratory judgement.
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24 16. This Court has jurisdiction pursuant to the Administrative Procedures Act
25 (APA) to set aside agency action not in accordance with law and order the agency to perform
26 a duty owed to Petitioner under 5 U.S.C. § 706.

27 17. Petitioner concurrently files a motion for a temporary restraining order and/or
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1 preliminary injunction to protect his right to be protected from deprivation of liberty without
2 due process of law.

3 4 II. VENUE

5 18. Venue is proper because Petitioner is in the custody of the Immigration and
6 Customs Enforcement in Florence, Arizona, which is within the jurisdiction of this District.

7 19. Venue is asserted pursuant to 28 U.S.C. § 1391(e) because the Petitioner is
8 being detained in Florence, Arizona. Respondents are the U.S. Government, and no real
9 property is involved in the action.
10

11 III. EXHAUSTION

12 20. Exhaustion is a prudential rather than a jurisdictional requirement. *Singh v.*
13 *Holder*, 638 F.3d 1196, 1203 n. 3 (9th Cir. 2011). Waiver of exhaustion is appropriate
14 “where administrative remedies are inadequate or not efficacious, pursuit of administrative
15 remedies would be a futile gesture, irreparable injury will result, or the administrative
16 proceedings would be void.” *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation
17 and quotation marks omitted).
18

19 21. In the instant case, Petitioner requested a bond hearing and the Immigration
20 Judge, denied Petitioner’s release request solely based on jurisdiction. While the Petitioner
21 may file an appeal of the custody redetermination to the Board of Immigration Appeals
22 (“BIA”), the appellate division of EOIR, that would be futile in light of *Matter of Hurtado*.
23 Petitioner has no other means of challenging his ongoing prolonged detention in violation
24 of law.
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V. PARTIES

26. Petitioner, Marco Antonio Solorzano Zepeda is a native and citizen of Mexico, and is currently detained by ICE in Florence, Arizona. He is not subject to expedited removal under 8 U.S.C. § 1225(b)(1).

27. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS), responsible for overseeing and directing Immigration and Customs Enforcement. DHS directed the policy to argue Petitioner is subject to mandatory detention.

28. Respondent Pamela Bondi is the Attorney General of the United States. Respondent is the head of the United States Department of Justice and responsible for the entire department, which includes the Executive Office for Immigration Review (“EOIR”), including the BIA.

29. Respondent Corina Almeida, Chief Counsel of the ICE Office of Principal Legal Advisor oversees the ICE attorneys in Florence, Arizona.

30. Respondent John Cantu, Field Office Director Office Enforcement and Removal Operations in Phoenix, Arizona is responsible for Petitioner’s custody in Florence, Arizona. Respondent Cantu is also responsible for the acceptance and processing of the payment of bond and release of ICE detainees in Florence, Arizona.

31. Respondent Luis Rosa, Jr. is the Warden at the ICE contract facility Florence Correctional Center, operated by CoreCivic. Respondent Fred Figueroa is responsible for Petitioner’s physical custody

VI. FACTUAL ALLEGATIONS

32. Petitioner Marco Antonio Solorzano Zepeda is a citizen of Mexico who last

1 entered the United States without inspection on or about January of 2002. He has resided in
2 the United States since that date and has three U.S. citizen children.

3
4 33. On or about September 29, 2025, DHS took Petitioner into custody and placed
5 him into removal proceedings before Florence EOIR by issuing a Notice to Appear charging
6 him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i). The Notice to Appear does not allege
7 Petitioner is an arriving alien, but rather that he is present in the United States without
8 inspection. DHS detained Petitioner at the Florence Detention Center, in Florence, Arizona.
9

10 34. Petitioner is eligible for cancellation of removal pursuant to INA §
11 240A(b)(1). Cancellation of removal is available to nonpermanent residents who (a) have
12 been physically present in the United States for a continuous period of not less than 10 years
13 immediately preceding the date of such application; (b) have been persons of good moral
14 character during such period; (c) have not been convicted of certain disqualifying offenses;
15 (d) establishes that removal would result in exceptional and extremely unusual hardship to
16 their spouse, parent, or child who is a citizen or lawful permanent resident.
17

18 35. Petitioner meets all eligibility requirements, namely, (a) he has been physically
19 present in the United States for a continuous period of 23 years; (b) he is a person of good
20 moral character; (c) he has never been charged or convicted of any criminal offenses
21 anywhere in the world; (d) his three (3) United States citizen children would suffer
22 exceptional and extremely unusual hardship in his absence.
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25 36. Mr. Solórzano Zepeda is currently in the custody of ICE, as he is detained at
26 the Florence Correctional Center in Florence, Arizona.

27 37. Aside from his one and only entry into the United States without inspection,
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1 Mr. Solorzano Zepeda has not violated any laws or ordinances; he has not been cited,
2 arrested or detained for any criminal charge.

3
4 38. In the United States, Mr. Solorzano Zepeda has worked to support himself and
5 his family, most recently as a paver.

6 39. On July 8, 2025, DHS issued new policy instructing ICE to argue and hold
7 anyone they alleged to be inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) subject to
8 mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

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10 40. On August 4, 2025, the BIA issued a precedent decision in *Matter of*
11 *Akhmedov*, 29 I&N Dec. 166 (BIA 2025) finding a non-citizen's custody, who "unlawfully"
12 entered the United States in 2022, was subject to the provisions of 8 U.S.C. § 1226(a).

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14 41. On September 5, 2025, the Board of Immigration Appeals issued *Matter of*
15 *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), implementing the Respondents' concerted
16 policy goal of holding that all persons who entered without inspection are subject to
17 mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

18
19 42. On November 4, 2025, the Florence EOIR, conducted a custody
20 redetermination hearing, where Petitioner contested the ICE argument that he is subject to
21 mandatory detention under 8 U.S.C. § 1225(b)(2).

22
23 43. On November 4, 2025, the IJ issued a summary decision denying bond on the
24 basis of no jurisdiction. The bond order further notes: "If the Court had JX [jurisdiction],
25 the Respondent has not been shown to be a danger, and a flight risk could be ameliorated
26 by a \$2,500 bond."
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1 **VII. LEGAL FRAMEWORK**

2 44. The Immigration and Nationality Act (“INA”) prescribes three basic forms of
3 detention for the vast majority of noncitizens in removal proceedings.
4

5 45. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard
6 removal proceedings before an Immigration Judge (“IJ”). *See* 8 U.S.C. § 1229a.

7 46. Individuals in § 1226(a) detention are generally entitled to a bond hearing at
8 the outset of their detention, *see* 8 C.F.R. § 1003.19(a), 1236.1(d). 8 U.S.C. § 1226(a)
9 governs the general detention and release of non-citizens in removal proceedings: “an alien
10 may be arrested and detained pending a decision on whether the alien is to be removed from
11 the United States . . . and (2) may release the alien on- (A) bond of at least \$1500 . . . or (B)
12 conditional parole.”
13

14 47. 8 U.S.C. § 1226(c), amended by the Laken Riley Act, Pub. L. No. 119-1, 139
15 Stat. 3 (2025), provides for the mandatory detention of inadmissible non-citizens with
16 certain criminal convictions and conduct. The statute and the amendments made by the
17 Laken Riley Act intentionally precludes some, but not all, aliens inadmissible under 8
18 U.S.C. 1182(a)(6)(A)(i) from being granted bond. 8 C.F.R. §§ 1003.19(a), 1236.1(d),
19 provide the parameters for EOIR to provide bond hearings to non-citizens pending removal
20 proceedings.
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23 48. The INA provides for mandatory detention of certain non-citizens with final
24 orders of removal under 8 U.S.C. § 1231, suspected terrorists under 8 U.S.C. § 1226a,
25 noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1), and those “seeking
26 admission” and being reviewed for admissibility at the time of arrival under 8 U.S.C. §
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1 1225(b)(2).

2 49. Petitioner seeks release under 8 U.S.C. § 1226(a) as a non-citizen domiciled
3 in the United States subject to removal proceedings under 8 U.S.C. § 1229a. Respondents
4 purport to deny Petitioner's release under 8 U.S.C. § 1225(b)(2)(A).

6 50. Petitioner's case concerns important distinctions between § 1226(a) and §
7 1225(b)(2). Those provisions were enacted as part of the Illegal Immigration Reform and
8 Immigrant Responsibility Act (IIRIRA) of 1996. Pub. L. No. 104-208, Div. C, § § 302-03,
9 110 Stat. 2009-546, 3009-582 to 3009-583, 3009-585. Section 1226 was most recently
10 amended earlier this year by the Laken Riley Act, Pub. L. 119-1, 139 Stat. 3 (2025).

12 51. Following the enactment of the IIRIRA, the Executive Office for Immigration
13 Review ("EOIR") drafted new regulations explaining that, in general, people who entered
14 the country without inspection were not considered detained under § 1225 and that they
15 were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens;
16 Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures,
17 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens
18 who are present without having been admitted or paroled (formerly referred to as aliens who
19 entered without inspection) will be eligible for bond and bond redetermination.")

22 52. Thus, in the decades that followed, most people who entered without
23 inspection and were thereafter arrested and placed in standard removal proceedings were
24 considered for release on bond and also received bond hearings before an IJ, unless their
25 criminal history rendered them ineligible. That practice is consistent with many more
26 decades of prior practice, in which noncitizens who had entered the United States, even if
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1 without inspection, were entitled to a custody hearing before an IJ or other hearing officer.
2 In contrast, those who were stopped at the border were only entitled to release on parole.
3 See 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting
4 that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).
5

6 53. 8 U.S.C. § 1225 governs the processing of arriving aliens and recent entrants
7 and is not a detention statute. The only mention of “mandatory detention” comes under 8
8 U.S.C. § 1225(b)(1)(B)(IV) stating that applicants for admission pending asylum interviews
9 “subject to the procedures under this clause shall be detained pending final determination of
10 credible fear of persecution” 8 U.S.C. § 1225(b)(1)(A)(iii)(II) explicitly excludes from
11 expedited removal non-citizens who can show they have been “physically present in the
12 United States continuously for the 2-year period immediately prior to the date of the
13 determination of inadmissibility.”
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16 54. 8 U.S.C. § 1225(b)(2)(A) applies to a non-citizen “who is an applicant for
17 admission, if the examining officer determines that an alien seeking admission is not clearly
18 and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under
19 1229a of this title.”
20

21 55. In July 2025, Respondents adopted an entirely new interpretation of the
22 statute, concluding that all noncitizens who entered the United States without admission or
23 parole are considered applicants for admission, and are therefore ineligible for bond hearings
24 before an Immigration Judge under 8 U.S.C. § 1225(b)(2)(A). Around the same time, ICE
25 “in coordination with the Department of Justice” announced a corresponding policy that
26 rejected the well-established understanding of the statutory and regulatory framework and
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1 reversed decades of practice. That policy claims that all persons who entered the United
2 States without inspection shall now be deemed to be subject to mandatory detention under
3 § 1225(b)(2)(A). The policy applies regarding of when a person is apprehended, the section
4 of law under which they were previously released and affects those who have resided in the
5 United States for years.
6

7 56. Cementing the policy and making it binding all IJs, the Board of Immigration
8 Appeals (“BIA”) recently issued a precedent decision: *Matter of Hurtado*, 29 I&N Dec. 216
9 (BIA 2025). In *Hurtado*, the BIA found that any noncitizen who is present in the United
10 States without having been inspected and admitted is subject to detention under 8 U.S.C. §
11 1225(b)(2), not §1226(a).
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13 57. There is no Ninth Circuit precedent to support the Respondents’ holding
14 Petitioner subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
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16 58. The Ninth Circuit has previously interpreted the statutes in question. In *Torres*
17 *v. Barr*, 976 F.3d 918, 923-926 (9th Cir. 2020)(en banc), the Ninth Circuit provides a
18 thorough analysis, finding that applying for admission means doing so from outside the
19 United States or at a port of entry, seeking physical entry into the country. The Torres
20 decision holds that the idea of seeking admission is limited in time, and cannot continue
21 without limit once the non-citizen is already in the United States. *Id.* at 926. “Accordingly,
22 inadmissibility must be measured at the point in time that an immigrant actually submits an
23 application for entry into the United States.” *Id.*; *See also Negrete-Ramirez v. Holder*, 741
24 F.3d 1047, 1051 (9th Cir. 2014) (“The definition refers expressly to entry into the United
25 States, denoting by its plain terms passage into the country from abroad at a port of entry.”)
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1 Based on the Ninth Circuit's statutory analysis, the term "seeking admission" cannot apply
2 to a person already inside the United States for over 23 years.

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4 59. Since Respondents adopted their new policies, dozens of federal courts have
5 uniformly rejected their newly invented misclassification as illegal and because it defies the
6 INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which
7 adopts the same reading of the statute as ICE, ruling that the BIA's decision is not entitled
8 to any deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412-13 (2024).¹
9

10 60. The Western District of Washington has also agreed. In the Tacoma,
11 Washington, immigration Court, IJs previously stopped providing bond hearings for persons
12 who entered the United States without inspection and who have since resided here,
13 reasoning such people are subject to mandatory detention under § 1225(b)(2)(A). There, in
14 granting preliminary injunctive relief, the U.S. District Court for the Western District of
15 Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not
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19 ¹ See, e.g., *Alejandro v. Olson*, No. 1:25-cv-02027-JPH-MKK (S.D. Ind. Oct. 11, 2025); *B.D.V.S. v. Forestal*, No. 1:25-
20 cv-01968-SEB-TAB (S.D. Ind. Oct. 8, 2025); *Campos Leon v. Forestal*, No. 1:25-cv-01774-SEB-MJD, 2025 WL
21 2694763 (S.D. Ind. Sept. 22, 2025); *Ochoa Ochoa v. Noem*, No. 25 C 10865, 2025 WL 2938779 (N.D. Ill. Oct. 16,
22 2025) (Jenkins, J.), *H.G.V.U. v. Smith*, No. 25 C 10931, 2025 WL 2962610 (N.D. Ill. Oct. 20, 2020) (Coleman, J.),
23 *Mariano Miguel v. Noem*, No. 25 C 11137, 2025 WL 2976480 (N.D. Ill. Oct. 21, 2025) (Alonso, J.), and *G.Z.T. v. Smith*,
24 No. 25 C 12802 (N.D. Ill. Oct. 21, 2025) (Ellis, J.), *Corona Diaz v. Olson, et al.*, No. 25-cv-12141 (N.D. Illinois 2025),
25 *Belsai v. Bondi, et al.*, No. 25-cv-3862 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Lepe v. Andrews*, No.
26 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048-
27 LTS-MAR, --- F.Supp.3d ---, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025); *Salazar v. Dedos*, No. 1:25- cv-00835-
28 DHU-JMR, 2025 WL 2676729 (D. N.M. Sept. 17, 2025); *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept.
3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25- cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v.*
Trump, No. 3:25-cv-01093-JE, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-
02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D.
Mass. Aug. 19, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug. 15,
2025); *Aguilar Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Dos Santos v. Noem*,
No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Rocha Rosado v. Figueroa*, No. CV 25-02157,
2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted 2025 WL 2349133 (D. Ariz. Aug. 13,
2025); *Lopez Benitez v. Francis*, No. 25-Civ-5937, 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025); *Martinez v. Hyde*, No.
CV 25-11613-BEM, 2025 WL 2084238, at *9 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025
WL 1869299, at *8 (D. Mass. July 7, 2025).

1 § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States.
2 *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, -- F. Supp. 3d ---, 2025 WL
3 1193850 (W.D. Wash. Apr. 24, 2025).
4

5 61. As the *Rodriguez Vazquez* court and others have explained, the plain text of
6 the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like
7 Petitioner.
8

9 62. DHS's and DOJ's interpretation defies the INA. As the *Rodriguez Vazquez*
10 court explained, the plain text of the statutory provisions demonstrates that § 1226(a), not §
11 1225(b), applies to people like Mr. Solorzano Zepeda.
12

13 63. Section 1226(a) applies by default to all persons "pending a decision on
14 whether the [noncitizen] is to be removed from the United States." These removal hearings
15 are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."
16

17 64. The text of § 1226 also explicitly applies to people charged as being
18 inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E).
19 Subparagraph (E)'s reference to such people makes clear that, by default, such people are
20 afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained,
21 "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that
22 absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d
23 at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400
24 (2010)). Section 1226 therefore leaves no doubt that it applies to people who face charges
25 of being inadmissible to the United States, including those who are present without
26 admission or parole.
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1 65. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
2 very recently entered the United States. The statute's entire framework is premised on
3 inspections at the border of people who are "seeking admission" to the United States. 8
4 U.S.C. § 1225(b)(2)(A); *see also Diaz Martinez*, 2025 WL 2084238, at *8 ("[O]ur
5 immigration laws have long made a distinction between those [noncitizens] who have come
6 to our shores seeking admission . . . and those who are within the United States after an
7 entry, irrespective of its legality." (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187
8 (1958))). Indeed, the Supreme Court has explained that this mandatory detention scheme
9 applies "at the Nation's borders and ports of entry, where the Government must determine
10 whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*,
11 583 U.S. 281, 287 (2018).

12 66. It must be restated, § 1225(b)(2)(A) expressly applies only to the "applicant
13 for admission" "seeking admission." The BIA's interpretation of the law specifically holds
14 that applicants for admission are always "seeking admission," but if this were true, there
15 would be no need for § 1225(b)(2)(A) to limit its application to those "seeking admission."
16 It renders the language superfluous. Seeking admission explicitly indicates an affirmative
17 request or action on the part of the applicant for admission. Yajure Hurtado repeatedly
18 accuses non-citizens present without admission as evading inspection, but then turns around
19 to say they are seeking admission. It cannot be both ways, a person who evades inspection,
20 cannot be considered seeking admission. Yajure Hurtado lacks any validity or
21 persuasiveness due to its outright failure to interpret the statutory definition of "admission"
22 under 8 U.S.C. § 1101(a)(4), (a)(13)(A). The BIA's decision in Yajure Hurtado is written
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1 with the outcome in mind, rather than with a sincere intent to explore and understand the
2 law. The BIA, as a part of the Executive Branch, is a political creature, and the Courts must
3 subject them to the law. Releasing non-citizens present without admission on a bond is not
4 about “rewarding” the evasion of apprehension for more than two years, but rather about
5 protecting the interests accrued in establishing domicile: property, children, family, friends,
6 community, career, and economic interests. There is logic to mandatory detention of persons
7 just arriving to the United States. They have not established any kind of record in the
8 country, making it difficult to determine whether they pose a danger or flight risk while they
9 face removal proceedings. However, people who have been in the United States for over
10 two years should be given an opportunity to demonstrate they not a danger or flight risk,
11 pending removal proceedings. There is a record of their behavior in the United States.
12 Respondents’ desired implementation of the law leads to absurd results very likely never
13 intended by congress. Indeed, in the 28 years since the implementation of IIRIRA, congress
14 never stepped in to correct the ongoing practice and interpretation of the Immigration
15 Courts, BIA, and Federal Courts allowing release under § 1226(a) of those present without
16 admission.

21 67. Respondents’ application of § 1225(b) to Petitioner renders all references to
22 inadmissible non-citizens under § 1226 superfluous.

23 68. Accordingly, the mandatory detention provision of § 1225(b)(2) does not
24 apply to people like Petitioner, who have already entered and were residing in the United
25 States at the time they were apprehended and detained.
26

1 **VIII. CLAIMS FOR RELIEF.**

2 69. Petitioner realleges paragraphs 1 through 68 herein as fully set forth.

3 70. Petitioner's continued detention is a violation of Due Process rights under the
4 Fifth Amendment, which provides that no person shall "be deprived of life, liberty, or
5 property without due process of law" along with the U.S. Constitution and not in accordance
6 with the INA.

7 71. "Freedom from imprisonment – from government custody, detention, or other
8 forms of physical restraint – lies at the heart of the liberty that Clause protects." *Zadvydas*
9 *v. Davis*, 533 U.S. 678, 690 (2001). Moreover, "[t]he Due Process clause applies to all
10 'persons' within the United States, including aliens, whether their presence here is lawful,
11 unlawful, temporary or permanent." *Id.* at 693.

12 72. Pursuant to the APA, the Respondents refusal to release Petitioner on bond is
13 arbitrary, capricious, and not in accordance with the law.

14 73. The APA provides that a "reviewing court shall . . . hold unlawful and set
15 aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an
16 abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

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

3 76. The application of 1225(b)(2) to Petitioner, who should be bond eligible,
4 unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and
5 1003.19.
6

7 77. This Court has jurisdiction to review the Respondents' action and order
8 Petitioner's release on bond.
9

10 78. The Immigration Judge already found Petitioner to not be a danger or flight
11 risk.

12 79. Respondents' mandatory detention of Petitioner without consideration for
13 release on bond or access to a bond hearing violates his due process rights.
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15 80. Petitioner is eligible for payment of attorney's fees, related expenses, and
16 costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.
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18 **IX. PRAYER FOR RELIEF.**

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

- 20 1) Assume jurisdiction over this cause pursuant to 28 U.S.C. § 2241;
- 21 2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition
22 should not be granted within three days;
- 23 3) Order Respondents not to remove Petitioner from the State of Arizona;
- 24 4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner
25 immediately upon the payment of the \$2,500 bond;
- 26 5) Declare that Petitioner's detention violates the Due Process Clause of the Fifth
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Amendment as well as the relevant statute and regulations governing detention of noncitizens;

- 6) Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- 7) That the Court grant further relief as this Court deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED this 13TH day of November 2025.

By: s/ Jessica Anleu, Esq.

Jessica Anleu, Esq.
Attorney for Petitioner

LIST OF ATTACHED EXHIBITS

Exhibit	Description
A	November 4, 2025 Immigration Judge Bond Order
B	September 29, 2025, Form I-862 Notice to Appear

1 CERTIFICATE OF SERVICE

2
3 On the 13th day of November 2025, I, Jessica Anleu, the undersigned, served via certified
4 U.S. Mail, the attached **Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. §**
5 **2241**, on each person/entity listed below addressed as follows:
6

7 Civil Clerk
8 United States Attorney's Office
9 District of Arizona
10 Two Renaissance Square
40 N. Central Avenue, Suite 1200
Phoenix, AZ 85004-4408

11 Luis Rosa, Jr.
12 Warden, Florence Correctional Center
13 1100 Bowling Rd.
Florence, Arizona 85131

14 Attorney General
15 U.S. Department of Justice
16 950 Pennsylvania Avenue, NW
Washington, DC 20530

17 Office of the General Counsel
18 U.S. Department of Homeland Security
19 245 Murray Lane, SW
Mail Stop 0485 Washington, DC 20528

20 *s/ Jessica Anleu, Esq.*
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