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6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF TEXAS
9 EL PASO DIVISION

10 Orlin Yovani VASQUEZ CHINCHILLA

11 Petitioner,

12 v.

13 Mary DE ANDA-YBARRA, Acting Field
Office Director of Enforcement and Removal
14 Operations, El Paso Field Office, Immigration
and Customs Enforcement; Todd LYONS,
15 Acting Director U.S. Immigrations and
Customs Enforcement; Kristi NOEM,
16 Secretary, U.S. Department of Homeland
Security; U.S. DEPARTMENT OF
17 HOMELAND SECURITY; Pamela BONDI,
18 U.S. Attorney General; WARDEN OF EL
PASO SERVICE PROCESSING CENTER,
19 Warden of El Paso Service Processing Center,

20 Respondents.

Case No. 3:25-cv-548

**PETITION FOR WRIT OF
HABEAS CORPUS**

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2 **INTRODUCTION**

3 1. Petitioner Orlin Yovani Vasquez Chinchilla is in the physical custody of
4 Respondents at El Paso Service Processing Center. He now faces unlawful detention because the
5 Department of Homeland Security (DHS) and the Executive Office of Immigration Review
6 (EOIR) have concluded Petitioner is subject to mandatory detention.

7 2. Petitioner is charged with, inter alia, having entered the United States without
8 admission or inspection and not having proper documentation. *See* 8 U.S.C. § 1182(a)(6)(A)(i);
9 1182(a)(7)(A)(i)(I).

10 3. Based on the first allegation in his removal proceedings document that he entered
11 without admission or inspection, DHS denied Petitioner release from immigration custody,
12 consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and
13 Customs Enforcement (ICE) employees to consider anyone inadmissible under §
14 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to
15 be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on
16 bond.

17 4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or
18 Board) issued a precedent decision, binding on all immigration judges, holding that an
19 immigration judge has no authority to consider bond requests for any person who entered the
20 United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
21 The Board determined that such individuals are subject to detention under 8 U.S.C. §
22 1225(b)(2)(A) and therefore ineligible to be released on bond.

1 5. Because of the BIA's decision, the Immigration Judge denied Petitioner bond on
2 October 17, 2025, stating he does not have jurisdiction.

3 6. Petitioner's detention on this basis violates the plain language of the Immigration
4 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
5 previously entered and are now residing in the United States. Instead, such individuals are
6 subject to a different detention statute, § 1226(a), that allows for release on conditional parole or
7 bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible
8 for having entered the United States without inspection.

9 7. Respondents' new legal interpretation is plainly contrary to the statutory
10 framework and to decades of agency practice applying § 1226(a) to people like Petitioner.

11 8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released
12 unless Respondents provide a bond hearing under § 1226(a) within seven days.

13 JURISDICTION

14 9. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
15 El Paso Service Processing Center, El Paso, Texas.

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

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

1 **VENUE**

2 12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
3 500 (1973), venue lies in the United States District Court for the Western District of Texas, El
4 Paso Division, the judicial district in which Petitioner currently is detained.

5 13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
6 Respondents are employees, officers, and agencies of the United States, and because a
7 substantial part of the events or omissions giving rise to the claims occurred in the Western
8 District of Texas.

9
10 **REQUIREMENTS OF 28 U.S.C. § 2243**

11 14. The Court must grant the petition for writ of habeas corpus or order Respondents
12 to show cause “forthwith,” unless it appears from the petition that the petitioner is not entitled to
13 relief. 28 U.S.C. § 2243. If the Court issues an order to show cause, Respondents must file a
14 return “within three days unless for good cause additional time, not exceeding twenty days, is
15 allowed.” *Id.*

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

PARTIES

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2 16. Petitioner Orlin Yovan Vasquez Chinchilla is a citizen of Honduras who has been
3 in immigration detention since September 17, 2025. After ICE Agents arrested Petitioner in
4 Chelsea, Massachusetts, ICE did not set a bond or release him, and Petitioner is unable to obtain
5 review of his custody by an IJ, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29
6 I. & N. Dec. 216 (BIA 2025).

7 17. Respondent Mary De Anda-Ibarra is the Director of the El Paso Field Office of
8 ICE's Enforcement and Removal Operations division. As such, Ms. De Anda-Ibarra has
9 authority to produce Petitioner to this Court and to release him from custody. Therefore, Ms. De
10 Anda-Ibarra is Petitioner's immediate custodian and is responsible for Petitioner's detention. She
11 is named in her official capacity.

12 18. Respondent Kristi Noem is the Secretary of Homeland Security. She is
13 responsible for the implementation and enforcement of the Immigration and Nationality Act
14 (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate
15 custodial authority over Petitioner and is sued in her official capacity.

16 19. Respondent Department of Homeland Security (DHS) is a federal agency
17 responsible for implementing and enforcing the INA, including the detention and removal of
18 noncitizens.

19 20. Respondent Pamela Bondi is the Attorney General of the United States. She is
20 responsible for the Department of Justice, of which the Executive Office for Immigration
21 Review, which operates the immigration court system, is a component agency. She is sued in her
22 official capacity.

1 whether removal to a particular country should be withheld due to a likelihood of persecution),
2 *see* 8 U.S.C. § 1231(a)–(b).

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

4 27. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
5 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
6 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section
7 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1,
8 139 Stat. 3 (2025).

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

16 29. Thus, in the decades that followed, most people who entered without inspection
17 and were placed in standard removal proceedings received bond hearings, unless their criminal
18 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
19 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
20 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
21 (1994); *see also* H.R. Rep. No. 104–469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
22 “restates” the detention authority previously found at § 1252(a)).

1 30. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
2 rejected this well-established understanding of the statutory framework and reversed decades of
3 practice.

4 31. The new policy, entitled “Interim Guidance Regarding Detention Authority for
5 Applicants for Admission,”² claims that all persons who entered the United States without
6 inspection shall now be subject to the detention provision under § 1225(b)(2)(A) and thus
7 ineligible for release on bond. The policy applies regardless of when a person is apprehended by
8 DHS, and affects those who have resided in the United States for months, years, and even
9 decades.

10 32. On September 5, 2025, the BIA adopted this same position in a published
11 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the
12 United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are
13 ineligible for IJ bond hearings.

14 33. Since Respondents adopted their new policies, dozens of federal courts have
15 rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected
16 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

17 34. Even before ICE or the BIA introduced these nationwide policies, IJs in the
18 Tacoma, Washington, immigration court stopped providing bond hearings for persons who
19 entered the United States without inspection and who have since resided here. There, the U.S.
20 District Court in the Western District of Washington found that such a reading of the INA is
21 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
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23 _____
24 ² Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
2 1239 (W.D. Wash. 2025).

3 35. Subsequently, court after court has adopted the same reading of the INA's
4 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Lopez-Arevalo v.*
5 *Ripa*, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Lopez Santos v. Noem*, 2025 WL 2642278
6 (W.D. La. Sept. 11, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136
7 (W.D. La. Aug. 27, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D.
8 Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025
9 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR
10 (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No.
11 CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v.*
12 *Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v.*
13 *Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-*
14 *Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15,
15 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025);
16 *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez*
17 *Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-*
18 *Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Jose*
19 *J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn.
20 Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379
21 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL
22 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS
23 (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-

1 12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-
2 JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No.
3 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to
4 agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-
5 03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*,
6 No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same); *Dos*
7 *Santos v. Noem*, 2025 WL2370988 (D.Mass. Aug. 14, 2025); *Doe v. Moniz*, 2025 WL 2576819
8 (D. Mass. Sept. 5, 2025); *Encarnacion v. Moniz*, No. 25-12237 (D. Mass. Sept 5, 2025); *Hilario*
9 *Rodriguez v. Moniz*, No. 25-12358 (D. Mass. Sept. 18, 2025); *Chogllo Chafila v. Scott*, 2025 WL
10 2688541 (D. Me. Sept. 2, 2025); *Jimenez v. FCI Berlin, Warden*, 2025 WL 2639390 (D.N.H.
11 Sept. 8, 2025); *Savane v. Francis*, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025); *Luna Quispe v.*
12 *Crawford*, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025); *Rivera Zumba v. Bondi*, 2025 WL
13 2753496 (D. N.J. Sept. 26, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D.Md. Aug. 24,
14 2025); *Hasan v. Crawford*, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Beltran Barrera v.*
15 *Tindall*, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Singh v. Lewis*, 2025 WL 2699219 (W.D.
16 Ky. Sept. 22, 2025); *Campos Leon v. Forestal*, 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025);
17 *Giron Reyes v. Lyons*, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Santiago Helbrum v.*
18 *Williams*, 4:25-cv-00349 (S.D. Iowa Sept. 30, 2025); *Hernandez Marcelo v. Trump*, (S.D. Iowa
19 Sept. 10, 2025); *Brito Barrajas v. Noem*, No. 4:25-cv-00322 (S.D. Iowa Sept. 23, 2025); *Belsai*
20 *D.S. v. Bondi*, 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *O.E. v. Bondi*, 2025 WL 2466670 (D.
21 Minn. Aug. 27, 2025); *Garcia Jimenez v. Kramer*, 2025 WL 2374223 (D. Neb. Aug. 14, 2025);
22 *Carmona-Lorenzo v. Trump*, 2025 WL2531521 (D. Neb. Sept. 3, 2025); *Cortez Fernandez v.*
23 *Lyons*, 2025 WL 2531539 (D. Neb. Sept. 3, 2025); *Lorenzo Perez v. Kramer*, 2025 WL 2624387
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1 (D. Neb. Sept. 1, 2025); *Ozuna Carlon v. Kramer*, 2025 WL 2624386 (D. Neb. Sept 11, 2025);
2 *Genchi Palma v. Trump*, 2025 WL 2624385 (D. Neb. Sept. 11, 2025); *Duenas Arce v. Trump*,
3 2025 WL 2675934 (D. Neb. Sept. 18, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256
4 (E.D. Cal. Sept. 9, 2025); *Guerrero Lepe v. Andrews*, 2025 WL 2716910 (E.D. Cal. Sept. 23,
5 2025); *Hernandez Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); *Caicedo*
6 *Hinestroza v. Kaiser*, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Salcedo Aceros v. Kaiser*,
7 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); *Maldonado Vazquez v. Feeley*, 2025 WL 2676082
8 (D. Nev. Sept. 17, 2025); *Sanchez Roman v. Noem*, 2025 WL 2710211 (D. Nev. Sept. 23, 2025);
9 *Rodriguez Vazquez v. Bostock*, 779 F.Supp.3d 1239(W.D. Wash. 2025); *Garcia Cortes v. Noem*,
10 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Salazar v. Dedos*, 2025 WL 2676729 (D.N.M.
11 Sept. 17, 2025); *Gamez Lira v. Noem*, (D.N.M. Sept. 24, 2025); *Hernandez Lopez v. Hardin*,
12 (M.D. Fla. Sept. 25, 2025); *Da Silva v. ICE*, 2025 WL 2778083 (D.N.H. Sept. 29, 2025)(same).

13 36. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it
14 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the
15 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

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

19 38. The text of § 1226 also explicitly applies to people charged as being inadmissible,
20 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
21 (E)’s reference to such people makes clear that, by default, such people are afforded a bond
22 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress
23 creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions,
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1 the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
2 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025
3 WL 1869299, at *7.

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

7 40. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
8 recently entered the United States. The statute’s entire framework is premised on inspections at
9 the border of people who are “seeking admission” to the United States. 8 U.S.C.

10 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that section 1225(b)’s mandatory
11 detention scheme applies “at the Nation’s borders and ports of entry, where the Government
12 must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v.*
13 *Rodriguez*, 583 U.S. 281, 287 (2018).

14 41. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not
15 apply to people like Petitioner, who have already entered and were residing in the United States
16 at the time they were apprehended.

17 42. Furthermore, detention of unaccompanied minors is governed by the “William
18 Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (“TVPRA”). The
19 Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164. Under 8
20 U.S.C. § 1232(c)(2)(B), there remains a statutory preference for release from DHS custody to an
21 appropriate sponsor, even after the child turns eighteen, and DHS must consider placement in the
22 least restrictive setting in the child’s best interest.

1 **FACTS**

2 43. Petitioner has resided in the United States since November 2021 and lives in
3 Revere, Massachusetts.

4 44. Petitioner entered as an unaccompanied minor in 2021 and his detention and
5 release was governed by the "William Wilberforce Trafficking Victims Protection
6 Reauthorization Act of 2008 ("TVPRA"). The Trafficking Victims Protection Reauthorization
7 Act of 2005, Pub. L. No. 109-164.

8 45. He was first detained in 2021 and placed in the custody of the Department of
9 Health and Human Resources, Office of Refugee Resettlement (ORR). He was then released to
10 the custody of his brother. They have both applied for asylum.

11 46. On September 17, 2025 Petitioner was stopped by Immigration and Customs
12 Enforcement ("ICE") without any provocation, sitting at a bus stop in Chelsea, Massachusetts.
13 He was never accused of a crime or traffic violation. ICE took physical custody of Petitioner on
14 the same day, moved him to New York, and then transported him to the El Paso Service
15 Processing Center on September 26, 2025, where he continues to be detained.

16 47. DHS has allegedly placed Petitioner in removal proceedings before the Executive
17 Office for Immigration Review (hereinafter "EOIR") pursuant to 8 U.S.C. § 1229a. ICE has
18 produced an alleged document charging Petitioner with being inadmissible under 8 U.S.C. §
19 1182(a)(6)(A)(i) as someone who entered the United States without inspection in a Notice to
20 Appear.

21 48. Petitioner is unmarried and employed in Massachusetts, where he also attends
22 church. Petitioner has no criminal history anywhere in the world. Petitioner is neither a flight risk
23 nor a danger to the community.

1 49. Petitioner is the beneficiary of a work authorization document approved by the
2 U.S. Department of Homeland Security (hereinafter “DHS”) U.S. Citizenship and Immigration
3 Services (hereinafter “USCIS”) arising from the asylum application pending with USCIS. The
4 employment authorization is still valid and has not been revoked.

5 50. Following Petitioner’s arrest and transfer, ICE made a custody determination to
6 continue Petitioner’s detention without an opportunity to post bond or be released on other
7 conditions.

8 51. Petitioner submitted to EOIR a request for a bond redetermination hearing. That
9 request was accepted by the court and a hearing was held on October 17, 2025.

10 52. The immigration judge found that he was unable to consider Petitioner’s bond
11 request, and denied his request for bond redetermination for “no jurisdiction.”

12 53. As a result, Petitioner remains in detention. Without relief from this court, he
13 faces the prospect of months, or even years, in immigration custody, separated from his family
14 and community.

15
16 **CLAIMS FOR RELIEF**

17 **COUNT I**

18 **Violation of the INA**

19 54. Petitioner incorporates by reference the allegations of fact set forth in the
20 preceding paragraphs.

21 55. The detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens
22 residing in the United States who are subject to the grounds of inadmissibility. As relevant here,
23 it does not apply to those who previously entered the country and have been residing in the
24

1 United States prior to being apprehended and placed in removal proceedings by Respondents.

2 Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), §

3 1226(c), or § 1231.

4 56. Respondents' application of § 1225(b)(2) to Petitioner unlawfully mandates his
5 continued detention and violates the INA. Thus, Petitioner is "in custody in violation of the ...

6 laws... of the United States," warranting issuance of a writ of habeas corpus. 28 U.S.C. §

7 2241(c)(3).

8 **COUNT II**

9 **Violation of Due Process**

10 57. Petitioner repeats, re-alleges, and incorporates by reference each and every
11 allegation in the preceding paragraphs as if fully set forth herein.

12 58. The government may not deprive a person of life, liberty, or property without due
13 process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government
14 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
15 Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Due Process Clause protects
16 people in immigration detention. *Id.*

17 59. Petitioner has a fundamental interest in liberty and being free from official
18 restraint.

19 60. Respondents' detention of Petitioner without a bond redetermination hearing by a
20 neutral adjudicator to determine whether he is a flight risk or danger to others violates his right to
21 due process.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 3 a. Assume jurisdiction over this matter;
- 4 b. Order that Petitioner shall not be transferred outside the Western District of
5 Texas, while this habeas petition is pending, unless he is transferred within ten
6 miles of Revere, Massachusetts;
- 7 c. Issue an Order to Show Cause ordering Respondents to show cause why this
8 Petition should not be granted within three days;
- 9 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in
10 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §
11 1226(a) within seven days;
- 12 e. Declare that Petitioner's detention is unlawful;
- 13 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
14 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
15 law; and
- 16 g. Grant any other and further relief that this Court deems just and proper.

17 DATED this 14th day of November, 2025.

18 Respectfully Submitted,
19 /s/ Ashley Morris
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22 Law Office of Ashley Morris PLLC
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24 Austin, TX 78761-4194
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Attorney for Petitioner

VERIFICATION

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Pursuant to 28 U.S.C. § 2242, undersigned counsel certifies under penalty of perjury that I am submitting this verification because I am the Petitioner’s attorney and I have discussed the facts within this Petition with the Petitioner. Pursuant to these discussions, I have reviewed the foregoing petition and that, to the best of my knowledge, the facts therein are true and accurate and the attachments to the petition are true and correct.

DATED this 14th day of November, 2025.

Respectfully Submitted,
/s/ Ashley Morris
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Attorney for Petitioner

CERTIFICATE OF SERVICE

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I hereby certify that the defendants on this case are known filing users and service will be accomplished through the Notice of Electronic Filing (NEF).

DATED this 14th day of November, 2025.

Respectfully Submitted,
/s/ Ashley Morris
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