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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

**GONZALO QUIAHUA-SALAS**

Case No.: 3:25-CV3165-BJC-KSC

Petitioner

v.

**Kristi NOEM**, Secretary, U.S. Department of  
Homeland Security; et al.,

**Judge:**  
**Hon. Benjamin J. Cheeks**

**PETITIONER’S TRAVERSE TO  
RESPONDENT’S RETURN**

**INTRODUCTION**

Petitioner, Gonzalo Quiahua-Salas, respectfully submits this Traverse in response to Respondents’ Return. Petitioner challenges the Department of Homeland Security’s continued detention under INA § 235(b) rather than § 236(a), contending that this misclassification exceeds statutory authority and violates the Due Process Clause of the Fifth Amendment.

Respondents fail to show that DHS lawfully invoked § 235(b). Petitioner was arrested within the interior of the United States—long after his entry—and therefore falls under § 236(a), which governs interior apprehensions and provides for bond eligibility before an Immigration Judge.

Multiple recent decisions within this District have rejected DHS’s reliance on § 235(b) to detain long-settled residents apprehended in the interior. See *Chavez Valdovinos v. Noem*, No.

1 3:25-cv-02439-TWR-KSC (S.D. Cal. Sept. 25, 2025) (Robinson, J.); *Esquivel-Ipina v. Noem*,  
2 No. 25-cv-2672-JLS-BLM (S.D. Cal. Oct. 24, 2025) (Sammartino, J.); *Mendez Chavez v. Noem*,  
3 No. 25-cv-2818-DMS-SBC (S.D. Cal. Oct. 31, 2025) (Sabraw, J.); *Medina-Ortiz v. Noem*, No.  
4 25-cv-2819-DMS-MMP (S.D. Cal. Oct. 30, 2025) (Sabraw, J.); *Martinez Lopez v. Noem*, No. 25-  
5 cv-2717-JES-AHG (S.D. Cal. Oct. 30, 2025) (Simmons, J.); *Garcia Magadan v. Noem*, No. 25-  
6 cv-2889-JES-KSC (S.D. Cal. Nov. 5, 2025) (Simmons, J.); *Maceda-Garcia v. Noem*, No. 25-cv-  
7 2968-JO-JLB (S.D. Cal. Nov. 13, 2025) (Ohta, J.); *Maravilla Amaya v. Noem*, No. 25-cv-2892-  
8 BTM-DEB (S.D. Cal. Nov. 13, 2025) (Moskowitz, J.); *Lucas-Miguel v. Noem*, No. 3:25-cv-  
9 03022-RSH-JLB (S.D. Cal. Nov. 2025) (Huie, J.); *Fernando-Barrueta v. Noem*, No. 3:25-cv-  
10 02670-LL-SBC (S.D. Cal. Nov. 21, 2025) (Lopez, J.); *Chiapot Perez v. Noem*, No. 3:25-cv-  
11 03161-JES-VET (S.D. Cal. Nov. 2025) (Simmons, J.); *Contreras-Albino v. Noem*, No. 25-cv-  
12 02965-BAS-BLM (S.D. Cal. Nov. 25, 2025) (Bashant, C.J.); and *Ramirez-Rivera v. Noem*, No.  
13 3:25-cv-03072-RBM-DEB (S.D. Cal. Nov. 26, 2025) (Montenegro, J.).

14 Each of these cases—also litigated by undersigned counsel—reached the same  
15 conclusion: DHS may not invoke § 235(b) to detain individuals apprehended in the interior,  
16 often years after entry, and such detention must proceed, if at all, under § 236(a).

17 This consensus is now anchored by the decision of the Chief Judge of this District, who  
18 held that § 1225(b)(2) cannot be used to detain long-settled residents arrested inside the United  
19 States and that DHS’s July 8, 2025 Interim Guidance is inconsistent with the statutory structure  
20 and decades of agency practice. See *Contreras-Albino v. Noem*, No. 25-cv-02965 (S.D. Cal.  
21 Nov. 25, 2025) (Bashant, C.J.).

22 This uniform view is further reinforced by the Central District of California, which has  
23 issued both a merits ruling and certified a nationwide class challenging the same DHS policy at  
24 issue here. In *Maldonado Bautista v. Garland*, No. 2:25-cv-06347-SSS-KS (C.D. Cal. Nov. 20,  
25 2025), the court granted partial summary judgment, holding that § 1225(b)(2) applies only to  
26 individuals undergoing inspection by an examining immigration officer, and that DHS may not  
27 reclassify long-settled residents arrested in the interior as § 235(b) “applicants for admission.”

1 The court concluded that the July 8, 2025 Interim Guidance unlawfully expands § 235(b) and  
2 would, if accepted, improperly render § 236 a nullity.

3 The same court has also certified a nationwide Bond Eligible Class, confirming that  
4 DHS's July 8, 2025 policy is not an isolated or officer-level determination but a uniform,  
5 system-wide practice applied to all noncitizens who entered without inspection and were arrested  
6 in the interior. See *Maldonado Bautista v. Garland*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.  
7 2025) (Order Granting Class Certification). The court found the policy appropriate for class-wide  
8 adjudication under Rule 23(b)(2) and reaffirmed that detention of interior arrestees is governed  
9 exclusively by § 236(a), not § 235(b).

10 Together, these rulings make clear that DHS's July 8, 2025 reinterpretation is unlawful,  
11 structurally incoherent, and inconsistent with decades of statutory practice—further underscoring  
12 that Respondents' position here is untenable.

13 Petitioner's continued confinement under § 235(b), without any bond hearing before an  
14 Immigration Judge, violates the Due Process Clause of the Fifth Amendment and perpetuates  
15 detention under an inapplicable statutory framework.

16 Because DHS's reliance on § 235(b) is contrary to law, Petitioner respectfully requests  
17 that this Court grant the writ of habeas corpus and order his immediate release on the \$2,000  
18 bond previously authorized by the Immigration Judge, or, in the alternative, direct DHS to  
19 provide a new individualized bond hearing under § 236(a) before a neutral adjudicator,  
20 consistent with *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

### 21 JURISDICTION

#### 22 **A. 8 U.S.C. § 1252(b)(9): Does Not Bar Habeas Review of Collateral Custody Challenges**

23 Respondents argue that this Court lacks jurisdiction because, in their view, Petitioner's  
24 custody arises from removal proceedings and thus falls within § 1252(b)(9). That argument fails.

25 Petitioner does not challenge DHS's decision to commence removal proceedings or to  
26 exercise its discretion to detain. Rather, he challenges the statutory and constitutional authority  
27 under which that detention was classified—specifically, DHS's unlawful designation of his  
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1 custody as arising under INA § 235(b) instead of § 236(a). This misclassification deprived him  
2 of the bond hearing Congress mandated for interior arrests.

3 The Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), and the Ninth Circuit  
4 in *Gonzalez v. ICE*, 975 F.3d 788 (9th Cir. 2020), both made clear that § 1252(b)(9) does not bar  
5 such claims, because they “challenge the statutory or constitutional basis of detention rather than  
6 the decision to remove.” *Jennings* also cautioned that § 1252(b)(9) cannot be read so broadly as  
7 to encompass every dispute “in any way connected to deportation proceedings.” *Id.* at 293.

8 Because this petition contests the authority under which DHS asserts custody—not the  
9 validity of any removal order or charging decision—it remains properly before this Court.

10 Other judges within the Southern District of California have reached the same  
11 conclusion. As detailed in the Introduction, multiple courts in this District have held that §  
12 1252(b)(9) does not bar habeas review of collateral challenges to DHS’s custody classification  
13 under § 235(b). The Central District of California has now gone further, certifying a nationwide  
14 class challenging the same July 8, 2025 reclassification policy and confirming that the issue is a  
15 uniform, system-wide practice that cannot be resolved within individual removal proceedings.  
16 See *Maldonado Bautista v. Garland*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. 2025).

17 Respondents also mischaracterize Petitioner’s claim. Petitioner does not challenge DHS’s  
18 discretionary “decision to detain” or its decision to commence removal proceedings. The sole  
19 issue presented is under which statutory authority that detention was classified—whether under  
20 INA § 235(b), which applies only to applicants for admission apprehended at or near the border,  
21 or under § 236(a), which governs interior arrests.

22 This distinction is critical. Petitioner is not contesting whether he may be detained, but  
23 how DHS may lawfully exercise that detention authority. Such a claim is collateral to the  
24 removal process and falls squarely within the scope of habeas review. As *Jennings* explained, §  
25 1252(b)(9) does not bar challenges to “the statutory framework that permits [the alien’s]  
26 detention,” as opposed to challenges to the discretionary decision to detain. *Jennings*, 583 U.S. at  
27 295.

1 Throughout their Return, Respondents rely extensively on *Chavez v. Noem*, No. 3:25-cv-  
2 02325 (S.D. Cal. Sept. 24, 2025). Yet the *Chavez* court rejected a jurisdictional argument  
3 virtually identical to the one advanced here, holding that § 1252(b)(9) “poses no jurisdictional  
4 bar” where the petitioner “was not asking for review of an order of removal, challenging the  
5 decision to detain them in the first place or to seek removal, nor challenging any part of the  
6 process by which their removability will be determined.” (quoting *Jennings v. Rodriguez*, 583  
7 U.S. 281, 294–95 (2018)). As *Chavez* further explained, “detention pursuant to § 1225(b)(2) may  
8 occur during—but remains independent of—the removal proceedings.”

9 Accordingly, Respondents’ reliance on § 1252(b)(9) and § 1252(g) is misplaced, as  
10 Petitioner’s claim concerns the legal basis and classification of custody, not the initiation,  
11 adjudication, or execution of removal proceedings.

12 **B. 8 U.S.C. § 1252(g): Does Not Apply to DHS’s Misclassification of Custody**

13 Respondents further contend that § 1252(g) deprives this Court of jurisdiction because  
14 Petitioner’s detention “stems from ICE’s decision to commence removal proceedings.” That  
15 contention misstates both the scope of § 1252(g) and the nature of Petitioner’s claim.

16 In *Reno v. American-Arab Anti-Discrimination Committee* (“AADC”), 525 U.S. 471, 482  
17 (1999), the Supreme Court held that § 1252(g) applies only to three discrete actions the Attorney  
18 General may take—commencing proceedings, adjudicating cases, or executing removal orders—  
19 and does not extend to “the many other decisions or actions that may be part of the deportation  
20 process.” The Court expressly rejected reading § 1252(g) as a blanket jurisdictional bar over all  
21 claims tangentially related to removal.

22 Here, Petitioner does not challenge DHS’s decision to initiate removal proceedings, nor  
23 any action to adjudicate or execute a removal order. Rather, he challenges DHS’s misapplication  
24 of detention authority—specifically, its decision to classify him under INA § 235(b) instead of §  
25 236(a). That statutory misclassification is a collateral issue wholly independent of any  
26 discretionary enforcement decision and goes to the legal basis of custody itself. EOIR has no  
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1 authority to correct DHS’s custody classification, underscoring that this claim lies outside the  
2 scope of § 1252(g).

3 Courts across this District—including multiple recent decisions cited in the Introduction  
4 —have repeatedly rejected DHS’s reliance on § 1252(g) in this exact context. See *Valdovinos v.*  
5 *Noem*, No. 25-cv-2439-TWR (KSC); *Esquivel-Ipina v. Noem*, No. 25-cv-2672-JLS (BLM);  
6 *Mendez Chavez v. Noem*, No. 25-cv-2818-DMS-SBC; *Medina-Ortiz v. Noem*, No. 25-cv-2819-  
7 DMS-MMP; *Martinez Lopez v. Noem*, No. 25-cv-2717-JES-AHG; *Garcia Magadan v. Noem*,  
8 No. 25-cv-2889-JES-KSC; *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB; *Maravilla Amaya*  
9 *v. Noem*, No. 25-cv-2892-BTM-DEB; *Lucas-Miguel v. Noem*, No. 3:25-cv-03022-RSH-JLB;  
10 *Fernando-Barrueta v. Noem*, No. 3:25-cv-02670-LL-SBC; and *Chiapot Perez v. Noem*, No.  
11 3:25-cv-03161-JES-VET. In each, the Court held that § 1252(g) does not bar habeas review  
12 where the petitioner challenges DHS’s legal authority to classify interior arrestees under §  
13 235(b), rather than any discretionary decision to commence proceedings, adjudicate cases, or  
14 execute a removal order.

15 This conclusion is further supported by the Central District of California’s recent  
16 certification of a nationwide class, which found that DHS’s July 8, 2025 policy is a uniform,  
17 system-wide practice—not a discretionary enforcement action—and therefore falls outside §  
18 1252(g). See *Maldonado Bautista v. Garland*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. 2025).

19 Accordingly, § 1252(g) does not divest this Court of jurisdiction to review Petitioner’s  
20 claim, which challenges DHS’s unlawful custody classification—not any discretionary  
21 enforcement decision.

### 22 EXHAUSTION

23 Exhaustion is excused here because any additional administrative process would be futile.  
24 Petitioner already sought and obtained bond relief before the Immigration Judge, who granted  
25 release on a \$2,000 bond after finding that § 236(a) governed Petitioner’s custody. DHS  
26 appealed. The Board of Immigration Appeals then reversed the IJ solely on the basis of *Matter of*  
27 *Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025)—holding that individuals who entered without

1 inspection must be detained under § 235(b)(2)(A) and that Immigration Judges therefore lack  
2 jurisdiction to issue bond under § 236(a).

3 No further administrative remedy exists because the Board has already foreclosed bond  
4 jurisdiction under § 236(a) through its application of *Yajure-Hurtado* to Petitioner’s case. EOIR  
5 has no authority to revisit or correct DHS’s custody classification, confirming that further  
6 administrative litigation would serve no purpose.

7 The Ninth Circuit’s controlling rule in *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir.  
8 2017), is directly on point: exhaustion may be excused where “administrative remedies are  
9 inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture,  
10 irreparable injury will result, or the administrative proceedings would be void.” (quoting *Laing*  
11 *v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). That is precisely the situation here.

12 Lastly, numerous federal courts within this District have repeatedly recognized that  
13 exhaustion is excused in these circumstances. See the cases cited in the Introduction. This  
14 conclusion is now reinforced by the Central District of California’s nationwide class  
15 certification, which found that DHS’s July 8, 2025 policy is a uniform, system-wide practice.  
16 Because the agency applies a mandatory misclassification policy that EOIR cannot alter, further  
17 administrative steps are not only futile—they are structurally incapable of providing a remedy.

18 Accordingly, the Court should find that exhaustion is not required. Petitioner’s claim  
19 raises a purely legal question that cannot be addressed through existing administrative channels,  
20 and further pursuit of administrative remedies would be futile given the Board’s own precedent  
21 in *Matter of Yajure-Hurtado*. Exhaustion is therefore both legally unnecessary and practically  
22 impossible under the current agency framework.

## 23 ARGUMENT

### 24 **A. The Government Misreads INA §§ 235 and 236**

25 Respondents incorrectly assert that Petitioner is subject to mandatory detention under  
26 INA § 235(b) because he is an “applicant for admission.” That argument fails both legally and  
27 factually. Petitioner was apprehended in the interior of the United States—more than twenty  
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1 years after his entry—and was not encountered at a port of entry, during inspection, or near the  
2 international boundary. Nothing about his circumstances involves inspection or “seeking  
3 admission.”

4 The plain text of § 235(b)(2)(A) applies only when “an immigration officer determines  
5 that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8  
6 U.S.C. § 1225(b)(2)(A) (emphasis added). As multiple courts have explained, “seeking” is a  
7 present-tense, affirmative act. Individuals already living in the interior do not meet that  
8 definition. *Contreras-Albino v. Noem*, slip op. at 4–5 (S.D. Cal. Nov. 25, 2025) (holding that §  
9 1225(b)(2)(A) “applies to an applicant ‘seeking admission,’” meaning someone engaged in  
10 affirmative, present-tense conduct).

11 By contrast, § 236(a) governs the detention of noncitizens who were arrested “on a  
12 warrant” while already inside the United States—exactly Petitioner’s situation. The Supreme  
13 Court has drawn the same line: § 236(a) applies to individuals already present in the country,  
14 while § 235 governs the inspection and admission process at the border. *Jennings v. Rodriguez*,  
15 583 U.S. 281, 297–303 (2018). Treating long-settled residents as “applicants for admission”  
16 collapses the statutory distinction Congress deliberately maintained.

17 Courts across the Southern District of California have repeatedly affirmed that § 235(b)  
18 applies only when a noncitizen takes an affirmative step to seek admission—such as presenting  
19 at a port of entry or filing an application for admission or adjustment of status. Long-settled  
20 residents arrested in the interior do not fall within § 235(b). See, e.g., *Garcia Magadan v. Noem*,  
21 No. 25-cv-2889-JES-KSC; *Medina-Ortiz v. Noem*, No. 25-cv-2819-DMS-MMP.

22 Judge Linda Lopez recently underscored this point in *Fernando-Barrueta v. Noem*, No.  
23 25-cv-02670-LL-SBC (S.D. Cal. Nov. 21, 2025), holding that reading § 235(b)(2) to cover  
24 interior arrestees “ignores the statutory language requiring active, present-tense conduct” and  
25 renders the phrase “seeking admission” superfluous. She further explained that Congress’s 2025  
26 amendments to § 1226(c) presuppose that noncitizens “present without admission or parole” are  
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1 ordinarily detained under § 236(a) unless they fall into narrow criminal categories—proof that  
2 Congress did not view § 235(b) as the default authority for interior arrests.

3 Judge Moskowitz likewise held in *Maravilla Amaya v. Noem*, No. 25-cv-2892-BTM-  
4 DEB (S.D. Cal. Nov. 13, 2025), that *Matter of Yajure-Hurtado* must be rejected because it is  
5 inconsistent with both the text and statutory design of §§ 1225 and 1226. Section 1225 “deals  
6 extensively with arriving noncitizens who are actively seeking admission,” not individuals  
7 arrested years after entering the country.

8 Most recently—and most persuasively for this Court—the Chief Judge of this District  
9 reaffirmed that § 235(b) cannot be used to detain long-settled residents arrested in the interior. In  
10 *Contreras-Albino v. Noem*, the Court held that applying § 1225(b)(2)(A) to interior arrestees  
11 “disregards the plain meaning” of the statute, “disregards the relationship between sections 1225  
12 and 1226,” and “is inconsistent with decades of prior statutory interpretation and practice.” Slip  
13 op. at 3–4. Judge Bashant further rejected DHS’s reliance on its July 8, 2025 Interim Guidance,  
14 holding that treating all interior arrests as § 235(b) “would render section 236 superfluous.” *Id.* at  
15 6–7.

16 The Central District of California has reached the same conclusion. In *Maldonado*  
17 *Bautista v. Garland*, No. 2:25-cv-06347-SSS-KS (C.D. Cal. Nov. 20, 2025), the court held that  
18 long-settled residents arrested in the interior must be detained under § 236(a), and that DHS’s  
19 reinterpretation rewrites the statute and conflicts with congressional design. The same court  
20 thereafter certified a nationwide class based on the agency’s uniform misclassification policy,  
21 further confirming that DHS’s July 8, 2025 reinterpretation cannot be reconciled with the  
22 structure of the INA and cannot convert interior arrestees into § 235(b) “applicants for  
23 admission.

24 The reasoning from these cases applies squarely here. Petitioner took no affirmative step  
25 to seek admission and was arrested decades after entering the United States. Under the plain,  
26 structural, and historical understanding of the INA, he cannot be treated as an “applicant for  
27 admission” under § 235(b).

1 Accordingly, DHS’s reliance on § 235(b) to detain Petitioner is contrary to the INA and  
2 violates due process. His custody falls under § 236(a), entitling him to an individualized bond  
3 determination before a neutral Immigration Judge..

4 **B. DHS’s Sudden Reinterpretation Contradicts Nearly Three Decades of**  
5 **Consistent Policy**

6 For nearly three decades following enactment of the Illegal Immigration Reform and  
7 Immigrant Responsibility Act of 1996 (“IIRIRA”), the government applied INA § 235(b)  
8 detention authority only to arriving noncitizens or those apprehended immediately after crossing  
9 the border. By contrast, individuals arrested in the interior—long after their entry—were  
10 uniformly detained under INA § 236(a), afforded bond eligibility, and placed within the  
11 regulatory framework governing interior arrests. This longstanding practice was not informal or  
12 accidental; it was “codified by regulation,” and “applie[d] to the vast majority of noncitizens  
13 allegedly in this country without valid documentation.” *Contreras-Albino v. Noem*, No. 25-cv-  
14 02965, slip op. at 6 (S.D. Cal. Nov. 25, 2025) (citing *Valencia Zapata v. Kaiser*, 2025 WL  
15 2741654 (N.D. Cal. Sept. 26, 2025), and 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997)). This  
16 interlocking statutory and regulatory practice spanned multiple administrations of both political  
17 parties and reflected the plain distinction Congress drew between “applicants for admission”  
18 encountered at the border and individuals already present in the United States.

19 Only in mid-2025 did DHS abruptly abandon this longstanding framework. On July 8,  
20 2025, ICE issued new guidance—developed “in coordination with the Department of Justice”—  
21 directing officers to classify all noncitizens who entered without inspection (EWIs) as  
22 “applicants for admission,” regardless of the location, circumstances, or timing of arrest. The  
23 agency offered no explanation for discarding decades of practice, nor did it subject this profound  
24 reinterpretation to notice-and-comment rulemaking. The shift was then formalized in *Matter of*  
25 *Yajure-Hurtado*, which—again without statutory grounding—declared that interior arrests of  
26 long-settled residents fall under § 235(b)(2) rather than § 236(a). The Central District of  
27 California has now confirmed that this July 8, 2025 directive is a uniform, system-wide policy  
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1 and not an officer-level discretionary decision, further demonstrating that the abrupt shift was a  
2 top-down reinterpretation rather than an organic change in practice. See *Maldonado Bautista v.*  
3 *Garland*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. 2025) (Order Granting Class Certification).

4 Courts across this District have now recognized that DHS’s 2025 reinterpretation  
5 “disregards the plain meaning of section 1225(b)(2)(A),” “disregards the relationship between  
6 sections 1225 and 1226,” “would render a recent amendment to section 1226(c) superfluous,”  
7 and is “inconsistent with decades of prior statutory interpretation and practice.” *Id.* at 3–4  
8 (quoting *Lepe v. Andrews*, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025)). The Chief Judge of  
9 this Court further emphasized that “the longstanding practice of DHS applying Section 1226 to  
10 those arrested in the interior of the United States supports the finding that this practice was the  
11 best reading of the statute,” especially when Congress amended § 1226(c) in 2025 against that  
12 very backdrop. *Contreras-Albino*, slip op. at 7. Congress is presumed to legislate with awareness  
13 of settled agency interpretations; therefore, DHS’s abrupt reversal undermines—not reinforces—  
14 the statutory design.

15 This sudden and unexplained departure from decades of consistent policy is entitled to  
16 little, if any, deference. As the Supreme Court explained in *INS v. Cardoza-Fonseca*, 480 U.S.  
17 421, 446 n.30 (1987), “An agency interpretation of a relevant provision which conflicts with the  
18 agency’s earlier interpretation is entitled to considerably less deference than a consistently held  
19 agency view.” The Court’s reasoning in *Contreras-Albino* confirms this principle: when  
20 longstanding agency practice aligns with the statutory scheme and Congress subsequently  
21 legislates in harmony with that scheme, an abrupt, post-hoc reinterpretation is not merely  
22 unpersuasive—it is incompatible with the statute.

23 Because DHS’s new position contradicts statutory text, congressional design, decades of  
24 prior practice, and the regulatory framework governing interior arrests, its application to  
25 Petitioner’s custody is arbitrary, capricious, and unlawful.

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CONCLUSION

For the reasons set forth above, Petitioner’s arrest in the interior—more than twenty years after his entry—places his custody squarely within INA § 236(a), not § 235(b). DHS’s reclassification of Petitioner as an “applicant for admission” was legally erroneous, resulted in the unlawful disregard of the Immigration Judge’s August 28, 2025 bond order, and deprived Petitioner of the procedures Congress mandated for individuals arrested inside the United States. Every court in this District to consider DHS’s 2025 reinterpretation has rejected it, and the Central District’s nationwide class certification confirms that the July 8, 2025 policy is a uniform, system-wide misclassification that cannot be squared with the INA.

This habeas petition challenges only the legal basis of custody, a question well within this Court’s jurisdiction under 28 U.S.C. § 2241 and *Jennings v. Rodriguez*, 583 U.S. 281 (2018), as repeatedly confirmed by courts in this District. EOIR lacks authority to correct DHS’s custody classification, and no administrative forum exists that could address the legal defect at issue.

Because Petitioner is properly detained—if at all—under § 236(a), he is entitled to the bond protections that statute guarantees.

Accordingly, Petitioner respectfully requests that the Court: (1) grant the writ of habeas corpus and order his immediate release pursuant to the Immigration Judge’s existing \$2,000 bond order; or, (2) in the alternative, declare that Petitioner is detained under INA § 236(a) and direct DHS to provide an individualized bond hearing consistent with *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

If the Court concludes that oral argument would not aid the decisional process, Petitioner respectfully requests that the Court vacate the hearing and resolve the matter based on the written submissions.

Respectfully submitted,

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Dated: November 27, 2025