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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Erick Danilo Aldana Sanabria, Eduardo Reyes Macias, and Lorenzo Camacho Rodriguez,

Petitioners,

v.

Luis Rosa, Jr., in his official capacity as Warden of the Central Arizona Florence Correctional Center;

Justin Smith, in his official capacity as Assistant Field Office Director, Florence Service Processing Center;

Phoenix Field Office Director for U.S. Immigration and Customs Enforcement, in their official capacity;

Todd Lyons, in his official capacity as Acting Director of U.S. Customs and Immigration Enforcement;

Kristi Noem, in her official capacity as Secretary of the Department of Homeland Security; and

Case No. _____

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

Pamela Bondi, in her official capacity as Attorney General of the United States,

Respondents.

INTRODUCTION

1. The three Petitioners in this case have lived in the United States for years and have established lives here with their wives and U.S.-citizen children, including working, paying taxes, and building ties to their communities. Despite these facts, Respondents are purporting to detain them pursuant to 8 U.S.C. § 1225(b)(2), a statute that requires mandatory detention for "arriving aliens" who are "seeking admission" before an "examining immigration officer" at the border or a port of entry. More than 300 district court decisions have rejected Respondents' position, including courts in the District of Arizona. *See Vargas-Murillo v. Bondi*, CV-25-3396 (D. Ariz. Nov. 25, 2025) (Liburdi, J.); *Rodriguez Plascencia v. Bondi*, CV-25-4140 (D. Ariz. Nov. 21, 2025) (Lanza, J.); *Perez Rodriguez v. Noem*, CV-25-3921 (D. Ariz. Nov. 13, 2025) (Tuchi, J); *Gonzalez Rodriguez v. Bondi*, CV-25-3917 (Tuchi, J.); *Benitez-Cornejo v. Cantu*, CV-25-3672, 2025 WL 2992211 (D. Ariz. Oct. 17, 2025) (Tuchi, J.); *Echevarria v. Bondi*, CV-25-3252, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025) (Lanza, J.); *Rosado v. Figueroa*, CV-25-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted sub nom. Rocha Rosado v. Figueroa*, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) (Rayes, J.). In these cases, and hundreds of others like them, federal courts have ordered

that Respondents either release individuals like Petitioners or provide them with a bond hearing pursuant to 8 U.S.C. § 1226(a).

2. Additionally, Petitioners are members of the certified classes in two separate cases where courts have ruled that Petitioners are detained pursuant to § 1226(a), not § 1225(b). All three Petitioners were initially detained after their arrests at the Northwest ICE Processing Center in Tacoma, Washington, and, accordingly, are members of the class certified in *Rodriguez v. Bostock*, 349 F.R.D. 333, 365 (W.D. Wash. 2025). On September 30, 2025, the *Rodriguez* court entered summary judgment in favor of the class, finding "that their detention under 8 U.S.C. § 1225(b)(2) is unlawful," and declaring that class members "are detained under 8 U.S.C. § 1226(a)." *Rodriguez v. Bostock*, -- F. Supp. 3d --, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025). Furthermore, Petitioners are members of the class certified in *Maldonado Bautista v. Santacruz*, 5:25-cv-1873-SSS-BFM, Dkt. 82 (C.D. Cal. Nov. 25, 2025). The *Maldonado Bautista* court entered partial summary judgment on November 25, 2025, declaring that class members are detained pursuant to § 1226(a), not § 1225(b). *Id.* at Dkt. 81. These two rulings are now res judicata as to Petitioners' claim that they are properly detained pursuant to § 1226(a).

3. Petitioners have been placed in removal proceedings, where they are charged with entering the United States without inspection pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). They are represented by counsel in their removal proceedings, and all three are eligible to seek relief from removal, as described more fully below.

4. On July 8, 2025, DHS issued a new policy instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—*i.e.*, those who entered the United States without inspection—to be an "applicant for admission" under § 1225(b)(2)(A) and therefore subject to mandatory detention. Consistent with this policy, DHS has denied Petitioners release from immigration custody.

5. Petitioners' detention on this basis violates the plain language of the INA. Section 1225(b)(2) does not apply to individuals like Petitioners, given that they entered the United States years ago – about 20 years ago in the case of two of the Petitioners – and are not seeking admission at the border or a port of entry. Instead, such individuals are subject to discretionary detention under § 1226(a), which allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioners, are charged as inadmissible for having entered the United States without inspection.

6. Respondents' new legal interpretation is plainly contrary to the statutory text, statutory framework, Congressional intent, decades of agency practice, and decisions of federal courts across the nation, including several courts in this district, which apply § 1226(a) to people like Petitioners. Further, Respondents' detention of individuals like Petitioners without a bond hearing to determine whether they are a flight risk or danger to others violates their right to due process.

7. Additionally, as part of the *Rodriguez* class action, Petitioner Aldana received a bond hearing before a Tacoma immigration judge, who said that if she had jurisdiction she would order him released on bond of $7,500. *See* ECF No. 1-1 at 1.

8. Accordingly, Petitioners seek a writ of habeas corpus requiring their immediate release, or in the alternative, a bond hearing under § 1226(a), at which Respondents bear the burden to demonstrate by clear and convincing evidence that their continued detention is warranted.

JURISDICTION

9. Petitioners are in the physical custody of Respondents. Petitioners Aldana and Camacho are detained at the Florence Correctional Center and Petitioner Reyes is detained at the Florence Service Processing Center, both of which detention facilities are within the jurisdiction of this Court.

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

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

VENUE

12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the District of Arizona, the judicial district in which Petitioners are currently detained.

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

REQUIREMENTS OF 28 U.S.C. § 2243

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

15. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000). The Supreme Court "has constantly emphasized the fundamental importance of the writ of habeas corpus in our constitutional scheme, and the Congress has demonstrated its solicitude for the vigor of the Great Writ." *Johnson v. Avery*, 393 U.S. 483, 485 (1969).

PARTIES

16. Petitioner Erick Aldana Sanabria is a 41-year-old citizen of Guatemala and resident of Washington. He has been in immigration detention since approximately

September 2, 2025. He is currently held at the Central Arizona Florence Correctional Center in Florence, Arizona.

17. Petitioner Eduardo Reyes Macias is a citizen of Mexico and resident of Washington who entered the United States in 2006 and has been detained by Respondents since on or about October 20, 2025. He is currently held at the Florence Service Processing Center in Florence, Arizona.

18. Petitioner Lorenzo Camacho Rodriguez is a 44-year-old citizen of Mexico and resident of Washington who entered the United States in 2004 and has been detained by Respondents since on or about October 22, 2025. He is currently held at the Central Arizona Florence Correctional Center in Florence, Arizona.

19. Respondent Luis Rosa, Jr. is the Warden of the Central Arizona Florence Correctional Center, which detains individuals suspected of civil immigration violations pursuant to a contract with Immigration and Customs Enforcement (ICE). He is named in his official capacity.

20. Respondent Justin Smith is the Assistant Field Office Director and Officer in Charge at the Florence Service Processing Center, a facility run by ICE that detains individuals suspected of civil immigration violations. He is named in his official capacity.

21. Respondent Director of the ICE Phoenix Field Office is responsible for ICE activities in Arizona, including the Florence Service Processing Center. This position was recently held by John Cantu, but he has apparently been replaced, and it is unclear who now fills this position. Once this individual's name is supplied by Respondents in this

case, his name can be substituted in the caption. Respondent's place of business is in the District of Arizona, and he or she is an immediate legal custodian responsible for Petitioners' detention. He or she is named in his or her official capacity.

22. Respondent Todd Lyons is the Acting Director of ICE. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioners. As such, he is also a legal custodian of Petitioners. He is sued in his official capacity.

23. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioners' detention. Ms. Noem has ultimate custodial authority over Petitioners and is sued in her official capacity.

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

FACTUAL BACKGROUND

Petitioner Erick Aldana Sanabria

25. Petitioner Erick Aldana Sanabria is a 41-year-old citizen of Guatemala who entered the United States without inspection on or around May 2, 2021 near Eagle Pass, Texas.

26. Mr. Aldana left Guatemala after he endured [redacted].

27. Mr. Aldana made his way to Washington state, where he knew work could be found, and he was later joined by his wife Roxana and their young son, E.S.A.D. The family settled in Renton, Washington and Mr. Aldana worked in construction to support them. Shortly after, Roxana became pregnant with their second child, R.A.D., who was born in Washington in April 2025 and is a U.S. citizen.

28. Mr. Aldana has no criminal history in any country, including the U.S. and Guatemala. He has a history of filing his taxes since his arrival in the U.S., and he has the support of his U.S.-citizen family members, including his older brother, whose own children work in immigration enforcement.

29. Mr. Aldana is represented by pro bono counsel from the Northwest Immigrant Rights Project in his underlying immigration proceedings, in which he is seeking asylum, withholding of removal, and protection under the Convention Against Torture.

30. On October 29, 2025, a bond hearing was held before IJ Theresa Scala in Tacoma, WA. IJ Scala held that the immigration court lacked authority to adjudicate a bond application because of the BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), but held that, in the alternative, if the Court had jurisdiction, she would order him released on $7,500 bond. *See* ECF No. 1-1 at 1.

31. Mr. Aldana was issued a Notice to Appear on or about September 2, 2025, charging him with being "an alien present in the United States who has not been admitted or paroled" pursuant to U.S.C. § 1182(a)(6)(A)(i) because he had entered the United States without inspection. *See* ECF No. 1-1 at 3. Notably, despite Respondents' use of § 1225(b)(2) to detain him, Respondents did not charge him in the NTA with being an "arriving alien," but instead as "an alien present in the United States." *See, e.g., E.M. v. Noem*, 2025 WL 3157839 (D. Minn. Nov. 12, 2025), at *7 (citing this as evidence that § 1226, not § 1225, applied to petitioner's detention); *Guaita Quinapanta v. Bondi*, 2025 WL 3157867 (W.D. Wis. Nov. 12, 2025), at *5 (same).

Petitioner Eduardo Reyes Macias

32. Petitioner Eduardo Reyes Macias is a citizen of Mexico who entered the United States in 2006 and has remained here since. He has three U.S.-citizen children, ages 18, 16, and 13 and no criminal record. He owns his own construction business, an LLC, and pays his taxes. He is the financial breadwinner for his family. His detention not only deprives him of his liberty, but also prevents him from supporting his family.

33. He was detained by ICE on or about October 20, 2025 and initially jailed at the Northwest ICE Processing Center in Tacoma before being transferred to Arizona. Accordingly, he is a member of the *Rodriguez* class (*see supra* at ¶2).

34. He is represented by counsel in his immigration case and will be pursuing cancellation of removal based on his long residency in the U.S. and the hardship that would be suffered by his U.S.-citizen children.

Petitioner Lorenzo Camacho Rodriguez

35. Petitioner Lorenzo Camacho Rodriguez is a 44-year-old citizen of Mexico who most recently entered the United States in 2004, without inspection. He has lived in the U.S. since that time.

36. Mr. Camacho is married to a U.S. citizen and the couple have a 19-year-old U.S.-citizen son. The family lives in Vancouver, Washington. Mr. Camacho supports his family by working in landscaping.

37. Mr. Camacho is a pillar of his community, including instilling values of teamwork, discipline, and community spirit through his 13 years coaching Little League and soccer. He is also well-loved in the Native American community (his wife is Native American).

38. In his father's absence, Mr. Camacho's son has been struggling to focus on his studies without his guidance and support. Additionally, with Mr. Camacho detained, the family has lost the benefit of his financial support.

39. Mr. Camacho completed a diversion program in 2003 after a DUI arrest, but has no other criminal history.

40. Mr. Camacho was arrested by ICE officers on October 22, 2025 after they smashed his car window and forcibly removed him from the car. He was initially detained at the Northwest ICE Processing Center in Tacoma, Washington and was thus a member of the *Rodriguez* class. *See supra* at ¶ 2; Decl. of Jessie Schaller, ECF No. 1-1 at 7-8. He was subsequently transferred to Arizona on or about October 31, 2025.

41. Like the other petitioners, Mr. Camacho was not charged as an "arriving alien," but as a noncitizen present in the United States. *See* ECF No. 1-1 at 9.

42. Pursuant to Respondents' new policy, discussed *infra*, Petitioners remain in mandatory detention. Absent relief from this Court, they face the prospect of months, or even years, in immigration custody, separated from their families and communities, without ever receiving an individualized bond hearing to determine whether their continued detention is warranted or necessary. This is a violation both of the INA and the Due Process Clause.

EXHAUSTION OF REMEDIES

43. No statutory requirement of administrative exhaustion applies to Petitioners' case. *See, e.g., L.G. v. Choate*, 744 F. Supp. 3d 1172, 1181 (D. Colo. 2024) (noting that in habeas cases under 28 U.S.C. § 2241, "the government admits administrative exhaustion is not required by statute"). Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioners' present challenge, as there are no prescribed administrative remedies to which they could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), *superseded by statute on other grounds as recognized in Woodford v. Ngo*, 548 U.S. 81 (2006).

44. In particular, DHS has taken the position that noncitizens like Petitioners, who entered without inspection, are subject to mandatory detention under 8 U.S.C. § 1225, and the Executive Office for Immigration Review has affirmed that view. In a

published decision, the Board of Immigration Appeals recently held that "Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission." *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under the BIA's interpretation, Petitioners are ineligible for bond as a noncitizen who entered the United States without inspection. Accordingly, there are no administrative remedies that they could exhaust before seeking habeas relief. *See Singh v. Lewis*, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025) ("[t]he United States has made clear their position on Section 1225, and it is being applied at all levels within the DHS. Therefore, it is unlikely that any administrative review would lead to the United States changing its position and precluding judicial review"); *Lopez-Campos v. Raycraft*, 2025 WL 2496379, at *4 (E.D. Mich. Aug. 29, 2025) ("Because exhaustion would be futile and unable to provide Lopez-Campos with the relief he requests in a timely manner, the Court waives administrative exhaustion and will address the merits of the habeas petition.").

45. Further, neither an immigration judge nor the Board of Immigration Appeals can rule on a petitioner's constitutional claims. *See Matter of R-A-V-P-*, 27 I&N Dec. 803, 804 n.2 (BIA 2020) (holding that IJs and the BIA lack authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C-*, 20 I&N Dec. 529, 532 (BIA 1992) ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations."); s*ee also Gonzalez v. O'Connell*, 355

F.3d 1010, 1017 (7th Cir. 2004) (noting that "the BIA has no jurisdiction to adjudicate constitutional issues").

46. As courts have held, the Government's argument that petitioners should be forced to exhaust futile administrative remedies before seeking habeas relief "is Kafkaesque. Requiring Petitioner to exhaust his administrative remedies would be futile because Respondents' position is that he is *statutorily precluded* from obtaining the relief he seeks." *Delgado Avila v. Crowley*, -- F. Supp. 3d --, 2025 WL 3171175 (S.D. Ind. Nov. 13, 2025), at *2 (citing *Valencia v. Noem*, 2025 WL 3042520 (N.D. Ill. Oct. 31, 2025), at *2).

47. Although Petitioners are apparently members of the *Maldonado Bautista* class (*see supra* at ¶ 2), which ostensibly gives them the ability to seek a bond hearing under § 1226(a), in practice, Petitioners believe any chance of obtaining bond by such means is wholly illusory, as evidenced by the fact that the IJ in Petitioner Aldana's case persisted in holding that she lacked jurisdiction over a bond application even after the U.S. District Court for the Western District of Washington had finally adjudicated the issue in *Rodriguez*. *See supra* at ¶ 2; *see also* ECF No. 1-1 at 1 (IJ bond order).

ARGUMENT

I. Despite Respondents' recent attempts to expand mandatory detention under § 1225(b), Petitioners in this case remain subject to discretionary detention under § 1226(a) and are eligible for release.

48. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

49. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens who are in removal proceedings. *See* 8 U.S.C. § 1229a; *see also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings"). Under § 1226(a), individuals who are taken into immigration custody pending a decision on whether they are to be removed can be detained, but are generally entitled to seek release on bond. The bond may be set by ICE itself as part of an initial custody determination, *see* 8 C.F.R. § 1236.1(c)(8), and/or the individual may seek a bond hearing in immigration court at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Section 1226(a) is the statute that, for decades, has been applied to people like Petitioners, who have been living in the United States and are charged with inadmissibility under § 1182(a)(6)(A)(i).

50. Section 1226(c) "carves out a statutory category" of noncitizens from § 1226(a) for whom detention is mandatory, composed of individuals who have committed certain "enumerated … criminal offenses [or] terrorist activities." *Jennings*, 583 U.S. at 289 (citing § 1226(c)(1)). Among the individuals carved out and subject to mandatory detention are certain categories of "inadmissible" noncitizens. § 1226(c)(1)(A), (D), (E). Reference to such inadmissible noncitizens makes clear that, by default, people who are applicants for admission but encountered in the interior are afforded a bond hearing under § 1226(a). Courts have confirmed this understanding of § 1226. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010))

("When Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies."); *see also, e.g.*, *Gomes v. Hyde*, 2025 WL 1869299, at *6 (D. Mass. July 7, 2025) ("inadmissibility on one of the three grounds specified in Section 1226(c)(1)(E)(i) is not by itself sufficient to except [a noncitizen] from Section 1226(a)'s discretionary detention framework").

51. Second, the INA provides for mandatory detention of certain recently arrived noncitizens, namely those subject to expedited removal under 8 U.S.C. § 1225(b)(1), and other recent arrivals seeking admission under § 1225(b)(2). *See Jennings*, 583 U.S. at 287, 289 (explaining that § 1225(b)(2)'s mandatory detention scheme applies "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the United States."). Noncitizens subject to mandatory detention under § 1225 may not be released except "for urgent humanitarian reasons or significant public benefit" under the parole authority provided by 8 U.S.C. § 1182(d)(5)(A). *See id.* at 300. Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Petitioners.

52. Section 1225 is split into two categories. Section 1225(b)(1) provides for mandatory detention of noncitizens charged with enumerated grounds of inadmissibility *and* placed in expedited removal proceedings. 8 U.S.C. § 1225(b)(1)(A)(i). Meanwhile, Section 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry.

53. Lastly, the INA also provides for detention of noncitizens who have already been ordered removed, *see* 8 U.S.C. § 1231. Section 1231 is not relevant here.

54. This case challenges Respondents' erroneous decision that Petitioners are subject to mandatory detention without bond under § 1225(b)(2), rather than being bond-eligible under § 1226(a).

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

56. Following the 1996 enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not detained under § 1225 and were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (explaining that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.").

57. Thus, in the three decades that followed, people who entered without inspection and were subsequently placed in removal proceedings received bond hearings if ICE chose to detain them, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other

hearing officer. *See* 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 "restates" the detention authority previously found at § 1252(a)).

58. However, on July 8, 2025, ICE, "in coordination with" the Department of Justice, suddenly announced a new governmental policy that rejected the well-established understanding of the statutory framework and reversed decades of agency practice.

59. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection are subject to mandatory detention without bond under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months or even years.

60. In decision after decision, federal courts—both nationwide and here in the District of Arizona—have rejected Respondents' sudden reinterpretation of the statutory scheme, and have instead held that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *See Vargas-Murillo v. Bondi*, CV-25-3396 (D. Ariz. Nov. 25, 2025) (Liburdi, J.); *Rodriguez Plascencia v. Bondi*, CV-25-4140 (D. Ariz. Nov. 21, 2025) (Lanza, J.); *Perez Rodriguez v. Noem*, CV-25-3921 (D. Ariz. Nov. 13, 2025) (Tuchi, J); *Gonzalez Rodriguez v. Bondi*, CV-25-3917 (Tuchi, J.); *Benitez-Cornejo v. Cantu*, CV-25-3672, 2025 WL 2992211 (D. Ariz. Oct. 17, 2025) (Tuchi, J.); *Echevarria v. Bondi*, CV-25-3252, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025) (Lanza, J.); *Rosado v. Figueroa*, CV-25-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug.

11, 2025), *report and recommendation adopted sub nom. Rocha Rosado v. Figueroa*, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) (Rayes, J.); *see also Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, 792 F. Supp. 3d 211 (D. Mass. 2025); *Lopez Benitez v. Francis*, -- F. Supp. 3d --, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, -- F. Supp. 3d --, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, -- F. Supp. 3d --, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce,* 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Larysa Kostak v. Trump et al.*, 25-CV-1093 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Diaz Diaz v. Mattivelo*, 2025 WL 2457610 (D. Mass. Aug. 27, 2025); *Francisco T. v. Bondi*, 2025 WL 2629839 (D. Minn. Aug. 29, 2025); *Lopez-Campos v. Raycraft*, -- F. Supp. 3d --, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Garcia v. Noem*, 2025 WL 2549431 (S.D. Ca. Sept. 3, 2025); *Hernandez Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal., Sept. 3, 2025); *Doe v. Moniz*, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Jimenez v. FCI Berlin, Warden*, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Mosqueda v. Noem*, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Hinestroza v. Kaiser*, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Guzman v. Andrews*, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Lopez Santos v.*

Noem, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Salcedo Aceros v. Kaiser*, 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); *Garcia Cortes v. Noem*, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Maldonado Vazquez v. Feeley,* 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Velasquez Salazar v. Dedos*, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Hasan v. Crawford*, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Yumbillo v. Stamper*, 2025 WL 2688160 (D. Me. Sept. 19, 2025); *Beltran Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Chogllo Chafla v. Scott*, 2025 WL 2688541 (D. Me. Sept. 21, 2025); *Giron Reyes v. Lyons*, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Brito Barrajas v. Noem*, 2025 WL 2717650 (S.D. Iowa Sept. 23, 2025); *Lepe v. Andrews*, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Hernandez Lopez v. Hardin*, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025); *Valencia Zapata v. Kaiser*, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025); *Zumba v. Noem*, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Tocagon v. Moniz*, 2025 WL 2778023 (D. Mass. Sept. 29, 2025); *Romero-Nolasco v. McDonald*, 2025 WL 2778036 (D. Mass. Sept. 29, 2025); *J.U. v. Maldonado*, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Barrios v. Shepley*, 2025 WL 2772579 (D. Me. Sept. 29, 2025); *Quispe-Ardiles v. Noem*, 2025 WL 2783800 (E.D. Va. Sept. 30, 2025); *A.A. v. Olson*, 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Alejandro v. Olson*, 2025 WL 2896348 (S.D. Ind. Oct. 11, 2025); *Merino v. Ripa*, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025); *Ochoa v. Noem*, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *Miguel v. Noem*, 2025 WL 2976480 (N.D. Ill. Oct. 21, 2025); *Loa Caballero v. Baltazar*, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *Martinez-Elvir v. Olson*, 2025 WL 3006772 (W.D. Ky. Oct. 27, 2025); *Ayala Amaya v.*

Bondi, 2025 WL 3033880 (D.N.J. Oct. 30, 2025); *Tumba Huamani v. Francis*, 2025 WL 3079014 (S.D.N.Y. Nov. 4, 2025); *Reyes Arizmendi v Noem*, 2025 WL 3089107 (N.D. Ill. Nov. 5, 2025); *Chilel v. Sheehan*, 2025 WL 3158617 (N.D. Iowa Nov. 12, 2025); *Guaita Quinapanta v. Bondi*, 2025 WL 3157867 (W.D. Wis. Nov. 12, 2025); *Delgado Avila v. Crowley*, -- F. Supp. 3d --, 2025 WL 3171175 (S.D. Ind. Nov. 13, 2025); *Mairena-Munguia v. Arnott*, -- F. Supp. 3d --, 2025 WL 3229132 (W.D. Mo. Nov. 19, 2025).

61. This list is far from complete. As the media has reported, the government's new no-bond policy has "led to dozens of recent rulings from gobsmacked judges who say the administration has violated the law and due process rights …. The pile up of decisions is growing daily." Kyle Cheney and Myah Ward, *Trump's New Detention Policy Targets Millions Of Immigrants. Judges Keep Saying It's Illegal*, Politico (Sept. 20, 2025, at 4:00 PM ET), https://www.politico.com/news/2025/09/20/ice-detention-immigration-policy-00573850. In fact, as of November 18, 2025, 282 district court opinions around the country support Petitioners' position, compared with only 6 that have endorsed Respondents' novel arguments. *Demirel v. Fed. Detention Ctr. Philadelphia*, 2025 WL 3218243 (E.D. Pa. Nov. 18, 2025), at *1 (listing all 288 cases in an appendix).

62. In recent months, courts in this district have repeatedly rejected the Government's interpretation of the INA and granted writs of habeas corpus to detained noncitizens to whom Respondents denied a bond hearing.

63. On October 3, 2025, in *Echevarria*, Judge Lanza granted habeas relief to a petitioner whom DHS purported to detain under § 1225(b), finding that "[i]t is hard to see

how Petitioner could be deemed to have been 'seeking' admission at the time of [his detention]. By that point, Petitioner had already been present in the United States for 24 years." 2025 WL 2821282 at *6. The court found that the petitioner was detained subject to § 1226(a), not § 1225(b). 2025 WL 2337099, at *5, (noting that "[t]he Court … agrees with the majority of courts that have conclude that § 1226(a), rather than § 1225(b)(2)(A), applies in this circumstance.").

64. Similarly, on November 13, 2025, in *Perez Rodriguez* Judge Tuchi cited the fact that "the vast majority of courts concluded individuals like Petitioner are subject to § 1226 and not § 1225 and, therefore, are not subject to mandatory detention. This Court agrees with the weight of authority." *Perez Rodriguez*, 25-CV-3921, Dkt. 8, at 3-4 (collecting cases). Judge Tuchi agreed with Judge Lanza that Respondents' interpretation "would push the statutory text beyond its breaking point" and "fails to take account of the entirety of the statutory scheme." *Id.* at 3 (citing *Echevarria*, 2025 WL 2821212, at *6, 9).

65. On September 5, 2025, the BIA issued a precedential decision that rejected the overwhelming consensus of the federal courts. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision held that all noncitizens who entered the United States without admission or parole are ineligible for bond hearings before an IJ.

66. The *Yajure Hurtado* decision—like the government policy it seeks to uphold—defies the INA. As one court recently wrote, the BIA's reasoning is unpersuasive and "a non-binding decision that [] deviat[es] from longstanding practice." *Alejandro*, 2025 WL 2896348, at *6. *See also Sampiao*, 2025 WL 2607924, at *8 n.11 (noting court's

disagreement with BIA's analysis in *Yajure Hurtado*); *Beltran Barrera*, 2025 WL 2690565, at *5 (same); *Chogllo Chafla*, 2025 WL 2688541, at *7-8 (same).

67. As court after court has explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioners.

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

69. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez*, 779 F. Supp. 3d at 1256-57 (citation omitted).

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

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

U.S.C. § 1225(b)(2)(A). *See Jennings*, 583 U.S. at 287 (explaining that this mandatory-detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.").

72. The text of § 1225, along with its placement in the overall detention scheme of the INA, make clear that the terms "applicant for admission" and "seeking admission" in § 1225(b)(2) do not include individuals who have entered without inspection and are apprehended when already inside the United States.

73. Section 1225 is titled: "Inspection by immigration officers; expedited removal of inadmissible *arriving* aliens; referral for hearing." (emphasis added). As courts have recognized, "[t]he added word of 'arriving' indicates that the statute governs 'arriving' noncitizens, not those present already." *Beltran Barrera v. Tindall*, 2025 WL 2690565, at *4 (W.D. Ky. Sept. 19, 2025) (citing *Pizarro Reyes v. Raycraft*, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025)). This limitation is particularly clear when compared to § 1226's general title: "Apprehension and detention of aliens."

74. Further, § 1225(b)(2)'s specific subheading, "Inspection of Other Aliens," subsection 1225(b)(2)(B)'s mention of "crewm[e]n" and "stowaway[s]," and § 1225(b)(2)(C)'s use of the present participle "arriving," reinforce the limited scope of § 1225(b)(2)'s applicability to those who have recently arrived at a border or port of entry.

75. Finally, the term "seeking" in "seeking admission" "implies action –

something that is currently occurring, and in this instance, would most logically occur at the border upon inspection." *Lopez-Campos*, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025); *see also Beltran Barrera,* 2025 WL 2690565, at *4. Noncitizens who have been present in the country for years are not "seeking admission." *Lopez-Campos*, 2025 WL 2496379, at *6; *Beltran Barrera*, 2025 WL 2690565, at *4.

76. The INA's entire framework is premised on § 1225 governing detention of "arriving [noncitizens]" while § 1226 "applies to [noncitizens] already present in the United States." *Jennings*, 583 U.S. at 288, 301; *see also Lopez Benitez*, 2025 WL 2371588, at *8 ("[T]he line historically drawn between sections 1225 and 1226, which makes sense of their text and the overall statutory scheme, is that section 1225 governs detention of non-citizens 'seeking admission into the country,' whereas section 1226 governs detention of non-citizens 'already in the country.'") (cleaned up) (citing *Jennings*, 583 U.S. at 288-89); *Martinez*, 792 F. Supp. 3d at 222 ("The idea that a different detention scheme would apply to non-citizens 'already in the country,' as compared to those 'seeking admission into the country,' is consonant with the core logic of our immigration system") (cleaned up) (citing *Jennings*, 583 U.S. at 289).

77. A fundamental principle of statutory construction is that courts must interpret statutes to give meaning to all provisions and avoid reading out or rendering superfluous any single provision. *Corley v. United States*, 556 U.S. 303, 314 (2009) ("one of the most basic interpretive canons . . . [a] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or

insignificant[.]") (cleaned up). The government's current reading of § 1225(b)(2) violates this principle.

78. Section 1226(c) includes carve-outs for certain categories of inadmissible noncitizens, who would otherwise fall under § 1226(a), that are instead subject to mandatory detention. 8 U.S.C. § 1226(c)(1)(A), (D), (E). The inclusion of these carve-outs in § 1226(c) indicates that, contrary to Respondents' interpretation, there are noncitizens who have not been admitted and that are not governed by § 1225's mandatory detention scheme. Indeed, if the government's interpretation were correct, it would render these portions of § 1226(c) superfluous since those same individuals would already be subject to mandatory detention under § 1225(b)(2).

79. The recent amendment to § 1226(c) confirms this statutory framework. Just this year, Congress passed the Laken Riley Act, which added additional categories of § 1226(a) carve-outs that are now subject to mandatory detention under § 1226(c). Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c)(1)(E). Specifically, the Laken Riley Act mandates detention of noncitizens who are inadmissible under §§ 1182(a)(6)(A) (noncitizens "present in the United States without being admitted or paroled"), 1182(a)(6)(C) (misrepresentation), or 1182(a)(7) (lacking valid documentation) and who have been arrested for, charged with, or convicted of certain crimes. *Id.* Again, if § 1225(b)(2) were already meant to subject these groups of inadmissible noncitizens to mandatory detention, it would render this portion of the Laken Riley Act redundant. *See Beltran Barrera*, 2025 WL 2690565, at *4; *Lopez-Campos*, 2025 WL 2496379, at *8.

80. The mandatory-detention provision of § 1225(b)(2) does not apply to people who have already entered and were long residing in the United States at the time they were apprehended by immigration authorities and detained. Because § 1226(a), not § 1225(b), is the applicable statute, Petitioners' detention without eligibility for bond is unlawful.

II. Petitioners' Detention Violates the INA

81. As discussed above, mandatory detention under § 1225(b)(2) applies only to recently arrived noncitizens seeking admission at a border or port of entry, not individuals who entered without inspection and were later detained inside the country.

82. Here, "there is nothing in the record to suggest that [Petitioners] ever attempted to gain lawful entry." *Lopez-Campos*, 2025 WL 2496379, at *6. Petitioners entered without inspection and lived in the United States for years before being detained. In addition, Petitioners' Form I-213s and Petitioner Camacho's Notice to Appear indicate that they are noncitizens present in the United States; the "arriving alien" box is not checked. As such, Petitioners are not subject to mandatory detention under § 1225(b)(2).

83. Petitioners' ongoing detention is not authorized under § 1226(a), either. As discussed above, § 1226(a)'s discretionary detention framework requires a bond hearing to make an individualized custody determination based on Petitioners' risk of flight or dangerousness. Here, where Petitioners have deep ties to their community and family, and only one petitioner has any criminal history (a 22-year-old DUI for which he served two days in jail), they would be eligible for bond under § 1226(a).

84. Lacking any statutory basis for their detention, Respondents must release

Petitioners or, in the alternative, promptly hold a bond hearing to determine whether they should remain in custody. At such a bond hearing, Respondents must bear the burden to demonstrate by clear and convincing evidence that Petitioners' continuing detention is warranted. "When granting immigrant detainees' habeas petitions, an 'overwhelming consensus' of courts have placed the burden on the government to prove by clear and convincing evidence that the detainee poses a danger or flight risk." *Ochoa v. Noem*, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025), at *8 (citing cases from the First, Second, Third, and Ninth Circuits and several district courts); *see also L.G.*, 744 F. Supp. 3d at 1186 (recognizing that "the rights of noncitizens are not the same as citizens" but nonetheless concluding that due process requires the burden to be on the Government). Indeed, a new bond hearing is not even necessary in Mr. Aldana's case, since an IJ already considered his bond application and found that he should be released on $7,500 bond.

III. Applying the three-part test from *Mathews v. Eldridge*, Petitioners' detention violates their due process rights.

85. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). To determine whether civil detention violates a noncitizen's Fifth Amendment due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

86. Under *Mathews*, courts weigh three factors: (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute

procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. at 335.

a. Private Interest

87. As to the first *Mathews* factor, "[t]he interest in being free from physical detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 531 (2004). Petitioners have been detained for more than a month in conditions that are indistinguishable from criminal incarceration. This detention prevents them from seeing their families, going to work to support themselves, and deprives them of any privacy and freedom of movement. Courts in similar cases have not hesitated to find that the first *Mathews* factor weighs in favor of petitioners. *See, e.g., Sanchez Alvarez v. Noem,* 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025), at *7 ("The first *Mathews* factor weighs strongly in favor of Petitioner. There is no dispute that Petitioner has a significant private interest in avoiding detention."); *Ochoa Ochoa v. Noem*, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025), at *7 ("Ochoa Ochoa has a cognizable private interest in being freed from unlawful detention without any opportunity for a bond hearing").

b. ***Risk of Erroneous Deprivation***

88. As to the second *Mathews* factor, courts must "assess whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Gunaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. 2025). The current procedures cause an erroneous

deprivation of Petitioners' liberty interest in remaining free from detention.

89. As discussed above, the statutory text and framework, congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation leave no doubt that § 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry, not noncitizens who entered without inspection and were detained inside the country.

90. Here, Petitioners were not arriving at a border or port of entry when they was detained. Instead, they entered without inspection and lived in the United States for years, or even decades, before being detained. As such, Petitioners are not subject to mandatory detention under § 1225(b)(2).

91. Therefore, it is clear that the government's current procedure, subjecting Petitioners to mandatory detention under § 1225(b)(2), creates a substantial risk of erroneous deprivation of Petitioners' interest in being free from arbitrary confinement.

92. Additionally, there are reasonable alternatives available for Respondents to pursue. As discussed above, § 1226(a) applies to noncitizens facing charges of inadmissibility, including noncitizens like Petitioners who entered without inspection and were later detained while residing inside the country. As such, proper application of the INA's detention scheme allows for the possibility of detaining Petitioners under § 1226(a) but first requires a bond hearing to make an individualized determination of their risk of flight or dangerousness. Courts have held that without such a bond hearing, the risk of erroneous deprivation of a petitioner's freedom is high. *See Singh v. Lewis*, 2025 WL

2699219, at *9 ("the risk of erroneously depriving him of his freedom is high if the IJ fails to assess his risk of flight or dangerousness."); *Ochoa*, 2025 WL 2938779, at *7 ("there is a severe risk of erroneous deprivation"); *Sanchez Alvarez*, 2025 WL 2942648, at *8 ("The second *Mathews* factor also weighs in Petitioner's favor. An individualized bond hearing ensures that an immigration judge can assess whether Petitioner poses a flight risk or a danger to the community, reducing the risk that Petitioner will suffer an erroneous deprivation of his rights.") (internal quote marks omitted).

c. Government Interest

93. As to the third *Mathews* factor, the government's interest in maintaining the current procedure is minimal here. The new interpretation of § 1225(b)(2) – that people like Petitioners who have resided in the United States for years are now subject to mandatory detention – flies in the face of the statutory text, statutory framework, congressional intent, almost three decades of prior practice, and the decisions of federal courts across the nation. Any government interest in public safety or ensuring that Petitioners attend future immigration proceedings would be satisfied through proper application of § 1226(a), which requires a bond redetermination hearing where an immigration judge will consider Petitioners' individualized facts and circumstances to determine whether they are a danger to the community or a flight risk. *See, e.g., Sanchez Alvarez*, 2025 WL 2942648, at *8 ("Respondents have not established a significant interest in potentially detaining someone who could convince a neutral adjudicator … that his ongoing detention is not warranted") (cleaned up); *Ochoa*, 2025 WL 2938779, at *7

("the government's interest is slight insofar as Ochoa Ochoa has been redetained without an individualized custody determination evaluating dangerousness and flight risk.").

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

94. Petitioners incorporate by reference the allegations of fact set forth in the preceding paragraphs.

95. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being detained and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231. But Respondents' actions here violate § 1226(a) too because, to date, Respondents have failed to conduct a bond hearing for Petitioners.

96. The application of § 1225(b)(2) to Petitioners unlawfully mandates their continued detention and violates the INA.

COUNT II

Violation of the INA: Request for Relief Pursuant to *Rodriguez* and *Maldonado Bautista* Class Actions

97. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

98. As members of the Bond Denial Class in *Rodriguez* and *Maldonado Bautista*, Petitioners are entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

99. The judgments in *Rodriguez* and *Maldonado Bautista* make clear that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

100. Respondents are parties to *Rodriguez* and *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

101. By denying Petitioners release on bond and asserting that they are subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioners' rights under the INA and the court's judgments in *Rodriguez* and *Maldonado Bautista*.

COUNT III

Violation of the Due Process Clause (U.S. Const. amend. V)

102. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

103. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas*, 533 U.S. at 690.

104. Petitioners have a fundamental interest in liberty and being free from official restraint.

105. Petitioners entered the country without inspection and lived in the United States for years or decades before being detained. Such individuals may only be subject to discretionary detention under 8 U.S.C. § 1226(a), which provides for release on bond. Respondents now erroneously detain Petitioners under the mandatory provision in § 1225(b)(2).

106. Respondents' detention of Petitioners without any neutral decisionmaker having determined that their continued detention is warranted because of danger or flight risk violates their due process rights.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue an Order to Show Cause ordering Respondents to show cause within three days as to why this Petition should not be granted as required by 28 U.S.C. § 2243;

c. Issue a writ of habeas corpus requiring Petitioners' immediate release unless Respondents provide Petitioners with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 7 days, at which Respondents bear the burden of justifying Petitioners' continued detention by clear and convincing evidence;

d. In the alternative, issue a writ of habeas corpus ordering Respondents to comply with Petitioner Aldana's alternative bond order;

e. Enjoin Respondents from denying bond on the basis of § 1225(b) or *Yajure Hurtado*;

f. Declare that Petitioners' continued detention violates the INA and the Due Process Clause of the Fifth Amendment;

g. Award Petitioners their reasonable attorneys' fees and costs under the Equal Access to Justice Act or other applicable law;

h. Grant any other and further relief that this Court deems just and proper.

Dated: December 1, 2025

Respectfully submitted,

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**TO BE ADMITTED PRO HAC VICE*

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioners because I am Petitioners' attorney. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: December 1, 2025

Respectfully submitted,

/s/ James D. Jenkins
James D. Jenkins