UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

ADELSON VASQUEZ-VENTURA, Petitioner, v. **LADEON FRANCIS,** in his official capacity as Field Office Director, Atlanta Field Office, U.S. Immigration and Customs Enforcement; **KRISTI NOEM,** in her official capacity as Secretary of the U.S. Department of Homeland Security; **PAMELA BONDI,** in her official capacity as Attorney General of the United States; **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,** through its Director Attorney General Pamela Bondi; and **TONY NORMAND,** Warden, Folkston, *in their official capacities* Respondents.	CIVIL ACTION NO.: _____

PETITION FOR WRIT OF HABEAS CORPUS
(28 U.S.C. § 2241)

Petitioner Adelson Vasquez-Ventura, through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, declaratory relief under 28 U.S.C. § 2201 et seq., and other relief as detailed herein. Petitioner is unlawfully detained by Respondents at the Folkston ICE Processing Center in Folkston, Georgia, in violation of the Immigration and Nationality Act (INA), the Administrative Procedure Act (APA), the Due Process Clause of the Fifth Amendment, and principles of judicial estoppel. As set forth below, Petitioner's detention stems from an unlawful, pretextual arrest and Respondents' erroneous application of mandatory detention under 8 U.S.C. § 1225(b)(2)(A),

rather than discretionary detention under 8 U.S.C. § 1226(a), which entitles him to a bond hearing. This misapplication contravenes the plain text of the INA, decades of agency practice, and Respondents' prior successful litigation positions. Petitioner seeks immediate release or, alternatively, a prompt bond hearing, along with declaratory and injunctive relief to remedy these violations.

INTRODUCTION

1. Petitioner Adelson Vasquez-Ventura, a resident of North Carolina with deep community ties, including a U.S. citizen child, is currently in the physical custody of Respondents at the Folkston ICE Processing Center in Folkston, Georgia. He faces unlawful and indefinite detention because the Department of Homeland Security (DHS), in collaboration with the Executive Office for Immigration Review (EOIR), has deemed him subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) during his contested removal proceedings.

2. Petitioner is charged with, *inter alia*, having entered the United States without admission or inspection, in violation of 8 U.S.C. § 1182(a)(6)(A)(i) and (7)(A)(i)(I).

3. Relying on these charges, DHS and EOIR denied Petitioner release from custody, pursuant to a new DHS policy issued on July 8, 2025. This policy directs all Immigration and Customs Enforcement (ICE) employees to treat individuals inadmissible under § 1182(a)(6)(A)(i)—those who entered without admission or inspection—as subject to mandatory detention under § 1225(b)(2)(A), rendering them ineligible for bond.

4. Petitioner's detention originated from an unlawful, pretextual traffic stop on November 4, 2025, orchestrated by ICE agents without a warrant, probable cause for an

immigration violation, or any assessment of flight risk, in violation of 8 U.S.C. § 1357(a)(2), implementing regulations, and the binding *Castanon Nava* Settlement Agreement (Exhibit A). Agents surrounded Petitioner's vehicle while he was en route to drop off his U.S. citizen son at daycare, providing no explanation for the stop beyond vague assertions of a traffic infraction that lacked supporting evidence. This arrest was not based on articulable facts indicating an immigration violation or likelihood of escape, rendering the entire detention unlawful *ab initio.*

5. Compounding this arrest, on September 5, 2025, the Board of Immigration Appeals (BIA) issued a precedent decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), binding on all immigration judges. The BIA held that immigration judges lack authority to conduct bond hearings for individuals who entered without admission, classifying them under § 1225(b)(2)(A) and ineligible for release.

6. Petitioner's detention under this framework violates the plain language of the INA. Section 1225(b)(2)(A) applies only to "arriving aliens" seeking admission at ports of entry or those apprehended immediately upon entry—not to individuals like Petitioner, who entered without inspection and has since resided in the United States with established community ties. Instead, such individuals fall under § 1226(a), which permits release on bond or conditional parole pending removal proceedings. This section explicitly encompasses those charged as inadmissible for entry without inspection.

7. Respondents' novel interpretation contravenes the INA's statutory framework, decades of consistent agency practice applying § 1226(a) to similar individuals, and fundamental canons of statutory construction. It ignores the contextual distinctions between "arriving aliens" under § 1225(b) and those already present in the interior under § 1226(a).

8. Moreover, the Government is judicially estopped from advancing this position. As articulated in *New Hampshire v. Maine*, 532 U.S. 742, 749-51 (2001), judicial estoppel prevents a party from prevailing on one interpretation in prior litigation and then asserting a contradictory one to gain unfair advantage. Here, Respondents successfully argued in cases like *Jennings v. Rodriguez*, 583 U.S. 281 (2018), that individuals who entered without inspection and were not apprehended near the border fell under § 1226(a), not § 1225(b). Courts relied on this position, and Respondents' abrupt reversal undermines judicial integrity and prejudices detainees like Petitioner, who reasonably expected bond eligibility based on longstanding practice.

9. Critically, DHS's own Notice to Appear (NTA) (Exhibit B) alleges that Petitioner "entered the United States without inspection and without parole or lawful admission"—a factual concession that aligns with § 1226(a) applicability and directly contradicts Respondents' current stance, as adopted by the BIA. This internal inconsistency further invalidates the detention, invoking principles of issue preclusion under *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138 (2015).

10. Accordingly, Petitioner seeks a writ of habeas corpus directing his release unless Respondents provide a bond hearing under § 1226(a) within seven days, along with declaratory and injunctive relief to address the unlawful arrest and statutory misapplication.

JURISDICTION

11. Petitioner is in Respondents' physical custody at the Folkston ICE Processing Center in Folkston, Georgia, within this District's jurisdiction.

12. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241(c)(3) and (5) (habeas corpus for unlawful detention), 28 U.S.C. § 1331 (federal question jurisdiction over violations of federal statutes, regulations, and the Constitution), and Article I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause).

13. Relief is available under 28 U.S.C. § 2241, the Declaratory Judgment Act (28 U.S.C. §§ 2201-2202), the All Writs Act (28 U.S.C. § 1651), and the APA (5 U.S.C. § 704). Jurisdiction-stripping provisions like 8 U.S.C. § 1252 do not apply, as this is a collateral challenge to the legality of detention, not a review of a final removal order. *See INS v. St. Cyr,* 533 U.S. 289, 308-09 (2001); *Jennings v. Rodriguez,* 583 U.S. 281, 306 (2018).

VENUE

14. Venue is proper in this District under *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), as Petitioner is detained here.

15. Venue also lies under 28 U.S.C. § 1391(e), as Respondents are U.S. officers or agencies, and substantial events giving rise to the claims—Petitioner's arrest and detention—occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

16. Under 28 U.S.C. § 2243, the Court must grant the writ or issue an order to show cause "forthwith" why relief is unwarranted. If an order issues, Respondents must respond within three days, extendable to twenty for good cause.

17. Habeas corpus is the preeminent remedy for unlawful detention, demanding swift judicial action. *Fay v. Noia*, 372 U.S. 391, 400 (1963); *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000).

PARTIES

18. Respondent Ladeon Francis is the Director of ICE's Atlanta Field Office, Enforcement and Removal Operations, or his acting successor (as DHS rotates directors without public notice). He is Petitioner's immediate custodian, responsible for detention and removal, and is sued in his official capacity.

19. Respondent Kristi Noem is DHS Secretary, overseeing ICE and INA enforcement. She holds ultimate custodial authority over Petitioner and is sued in her official capacity.

20. Respondent Pamela Bondi is U.S. Attorney General, overseeing the Department of Justice and EOIR. She is sued in her official capacity.

21. Respondent EOIR, through Attorney General Bondi, administers INA enforcement in removal proceedings, including bond determinations.

22. Respondent Tony Normand is the Warden at Folkston, which is operated by GEO Group, Inc., a Florida-based private corporation. It manages daily operations, including supervision and care of detainees like Petitioner, acting as a federal agent. It is sued for its role in Petitioner's confinement.

LEGAL FRAMEWORK

A. Warrantless Arrests Under the INA

23. The INA permits warrantless arrests of noncitizens only if officers have probable cause to believe the individual violates immigration laws and is likely to escape before a warrant issues. 8 U.S.C. § 1357(a)(2).

24. Regulations require officers to identify themselves when safe, state the arrest reason, and document articulable facts supporting the violation and escape risk. 8 C.F.R. §§ 287.5(c)(1), 287.8(c)(2)(i)-(iii).

25. The *Castanon Nava* Settlement Agreement (Exhibit A), a binding policy from *Castanon Nava v. Dep't of Homeland Sec.*, No. 1:18-cv-03757 (N.D. Ill.), reinforces these mandates: Officers cannot rely solely on unlawful presence; must document flight risk based on factors like community ties, prior evasions, or specific circumstances; and must detail vehicle stops with reasonable suspicion facts. Mere immigration violations do not suffice for escape likelihood.

26. DHS voluntarily entered this agreement and is bound by it. Violations constitute unlawful agency action under the APA (5 U.S.C. § 706(2)(A)-(D)) and ultra vires conduct.

27. Courts routinely invalidate such enforcement actions. *See Judulang v. Holder,* 565 U.S. 42, 53 (2011); *Calderon v. Sessions*, 330 F. Supp. 3d 944, 955-59 (S.D.N.Y. 2018); *Ramirez v. ICE*, 338 F. Supp. 3d 1, 41-43 (D.D.C. 2018).

28. Section 1252's jurisdiction strips do not bar collateral challenges, reviewable under 28 U.S.C. §§ 1331 and 2241. *St. Cyr*, 533 U.S. at 308-09; *Jennings*, 583 U.S. at 306; *Canal A Media Holding v. USCIS,* 964 F.3d 1250, 1257 (11th Cir. 2020).

29. Under the APA, courts set aside arbitrary, capricious, or procedurally deficient actions. 5 U.S.C. § 706(2). Warrantless arrests without flight risk assessments violate this standard.

30. *Ultra vires* actions exceeding statutory authority are reviewable and enjoinable. *Leedom v. Kyne*, 358 U.S. 184, 188 (1958).

31. Declaratory relief is available even where injunctions are limited. *Nielsen v. Preap,* 139 S. Ct. 954, 962 (2019). In *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044-51 (1984), the Court noted suppression may apply for egregious or widespread violations.

B. Detention Provisions Under the INA

32. The INA outlines three primary detention regimes for noncitizens in removal proceedings: discretionary under § 1226(a) (with bond hearings, 8 C.F.R. §§ 1003.19, 1236.1(d)); mandatory for certain criminals under § 1226(c); expedited for arriving aliens under § 1225(b); and post-removal under § 1231.

33. This petition concerns §§ 1226(a) and 1225(b)(2). Enacted via the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, § 1226(a) was amended by the Laken Riley Act, Pub. L. No. 119-1 (2025).

34. Post-IIRIRA regulations clarified that entrants without inspection are detained under § 1226(a), eligible for bond. 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997). This aligned with pre-IIRIRA practice. H.R. Rep. No. 104-469, pt. 1, at 229 (1996).

35. Judicial estoppel bars inconsistent positions that undermine judicial integrity. *New Hampshire v. Maine*, 532 U.S. at 749-51; *Davis v. Wakelee*, 156 U.S. 680, 689 (1895).

36. In *Jennings v. Rodriguez*, No. 15-1204, Transcript of Oral Argument at 7-8 (U.S. Nov. 30, 2016), the Government affirmed that long-resident entrants without inspection fall under § 1226(a), not § 1225(b), unless apprehended near the border within 14 days.

37. On July 8, 2025, ICE's "Interim Guidance Regarding Detention Authority for Applicants for Admission" reversed this, applying § 1225(b)(2)(A) to all uninspected entrants, regardless of residence duration.

38. The BIA endorsed this in *Matter of Yajure Hurtado* on September 5, 2025.

39. Federal courts have overwhelmingly rejected this shift. E.g., *Rodriguez Vazquez v. Bostock,* 779 F. Supp. 3d 1239 (W.D. Wash. 2025) (applying § 1226(a) to interior residents); *Carcamo v. Noem*, No. 2:25-cv-00922-SPC-NPM (M.D. Fla. Nov. 7, 2025) (collecting over 30 cases); *J.A.M. v. Streeval,* No. 4:25-cv-342 (M.D. Ga. Nov. 1, 2025) (criticizing *Yajure Hurtado*'s statutory distortion). Over 180 district court decisions nationwide affirm that § 1226(a) governs such detentions.

40. These rulings emphasize § 1226(a)'s default application to those pending removal decisions under § 1229a, including inadmissibility charges. 8 U.S.C. § 1226(c)(1)(E).

41. Conversely, § 1225(b) targets "arriving aliens" seeking admission at borders. *Jennings*, 583 U.S. at 287. DHS's NTA alleging "entry without inspection" confirms Petitioner is not an "arriving alien," precluding relitigation under *B&B Hardware*.

FACTS

42. On November 4, 2025, while driving his U.S. citizen son to daycare in Charlotte, North Carolina, Petitioner was stopped by multiple ICE vehicles in a pretextual traffic stop. Agents provided no valid basis for the stop, failed to identify themselves promptly, and arrested him without a warrant or a flight risk assessment. No articulable facts supported an immigration violation or escape likelihood; agents ignored Petitioner's community ties, stable residence, and family obligations.

43. That day, ICE issued an NTA charging entry without inspection (Exhibit B) and transferred him to the Folkston ICE Processing Center.

44. On November 7, 2025, Petitioner requested a bond hearing (Exhibit C), scheduled for November 13, 2025.

45. At the hearing, the immigration judge declined jurisdiction, citing *Matter of Yajure Hurtado* (Exhibit D). Petitioner remains detained without bond consideration.

46. The *Castanon Nava* Settlement Agreement's Broadcast Statement of Policy (Exhibit A, dated Nov. 23, 2021) mandates compliance with warrantless arrest standards under § 1357(a)(2), requiring probable cause, flight risk documentation, and totality-of-circumstances analysis. Factors include identity, evasions, community ties; unlawful presence alone is insufficient. Vehicle stops demand reasonable suspicion, with documented facts. ICE lacks authority for state traffic enforcement.

47. In *Jennings*, the Solicitor General confirmed during oral argument that uninspected entrants not apprehended near the border within 14 days are detained under § 1226(a), eligible for bond hearings. Transcript at 8.

CLAIMS FOR RELIEF

COUNT I:
Violation of Bond Regulations (8 C.F.R. §§ 236.1, 1236.1, 1003.19)

48. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

49. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg.

at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

50. Applying § 1225(b)(2) via *Matter of Yajure Hurtado* violates these regulations, unlawfully mandating detention, and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT II

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

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

52. Petitioner has a fundamental interest in liberty and being free from official restraint.

53. Detention without a bond hearing deprives Petitioner of liberty without due process. *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001). Respondents must justify detention based on flight risk or danger, which they have not.

COUNT III

Judicial Estoppel

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

55. The Government is judicially estopped from asserting that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). In prior litigation, including *Jennings v. Rodriguez*, the Government prevailed, and in doing so argued that individuals who entered without inspection and were not apprehended near the border or within 14 days were subject

to discretionary detention under § 1226(a), not mandatory detention under § 1225(b)(2)(A). *See Jennings v. Rodriguez*, No. 15-1204, Tr. of Oral Arg. at 7–8 (Nov. 30, 2016).

56. Courts accepted that position. Now, the Government reverses course and asserts the opposite interpretation to deny bond hearings. Under *New Hampshire v. Maine*, 532 U.S. 742 (2001), judicial estoppel applies where a party assumes a position, prevails, and then adopts a contrary position to gain an unfair advantage. The Government's reversal undermines the integrity of the judicial process and prejudices Petitioners who relied on the prior interpretation.

COUNT IV

Violation of the INA (8 U.S.C. §§ 1225, 1226)

57. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

58. 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 are accused by DHS of having "entered" the United States. Those actions by DHS, followed by the Petitioner's concession to those charges before EOIR, represent a quasi-judicial determination by an agency which precludes further litigation of the issue unless new, material, and previously unavailable facts emerge. Such noncitizens continue to be detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

59. Section 1225(b)(2) does not apply to interior residents like Petitioner; § 1226(a) governs, entitling him to bond. DHS's NTA precludes contrary assertions.

COUNT V

Violation of the Administrative Procedure Act (5 U.S.C. § 706(2))

60. Petitioner incorporates by reference the allegations of fact and legal standards set forth in the preceding paragraphs.

61. Respondents' arrest and continued detention of Petitioner were unlawful under the APA. The arrest was executed without a warrant and without a contemporaneous or documented assessment of flight risk, in violation of 8 U.S.C. § 1357(a)(2), 8 C.F.R. § 287.8(c)(2), and the Nava Settlement Agreement. These requirements are mandatory and binding.

62. The arrest and continued detention of Petitioner, executed without a warrant and without any documented flight risk assessment, were unlawful ab initio and remain unlawful. The detention constitutes a continuing seizure of Petitioner's person and is a direct and uninterrupted extension of the original unlawful arrest.

63. Respondents' actions constitute final agency action under 5 U.S.C. § 704, as they reflect the consummation of the agency's decision-making process and determine Petitioner's legal rights and obligations.

64. Under 5 U.S.C. § 706(2)(A), (C), and (D), the APA requires courts to set aside agency action that is arbitrary, capricious, an abuse of discretion, not in accordance with law, in excess of statutory authority, or taken without observance of procedure required by law. Respondents' arrest and detention violate all of these provisions.

65. Petitioner's APA claim is not barred by 8 U.S.C. § 1252. The jurisdiction-stripping provisions of § 1252 do not apply because this claim does not challenge a final order of removal, does not arise from removal proceedings, and does not implicate a discretionary

decision. It is a collateral legal challenge to the legality of the arrest and detention, reviewable under 28 U.S.C. §§ 1331 and 2241.

66. Respondents' conduct also exceeds the scope of their statutory authority and is ultra vires. DHS officers are only authorized to arrest without a warrant when both statutory predicates—immigration violation and likelihood of escape—are satisfied. Where they are not, the agency acts beyond its delegated powers.

67. Petitioner therefore seeks declaratory relief under the APA declaring the arrest and detention unlawful, and injunctive relief enjoining Respondents from continuing or repeating detention based on the same unlawful arrest.

68. Petitioner further seeks a declaration that suppression is available in this case under the APA due to the egregious nature of the Fourth Amendment violation, or in the alternative, due to widespread violations of constitutional and statutory protections, as recognized in *INS v. Lopez-Mendoza,* 468 U.S. 1032, 1050–51 (1984).

COUNT VI

Violation of the Accardi Doctrine

69. Petitioner incorporates by reference the allegations of fact and legal standards set forth in the preceding paragraphs.

70. Respondents failed to follow binding rules on arrests and bond, requiring vacatur. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *Morton v. Ruiz*, 415 U.S. 199 (1974).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction;

2. Order no transfer of Petitioner outside this District pending resolution;

3. Issue an Order to Show Cause requiring Respondents to respond within three days;

4. Issue a Writ of Habeas Corpus directing release or a § 1226(a) bond hearing within seven days;

5. Declare the arrest unlawful under the APA for lacking warrant or flight risk assessment, violating § 1357(a)(2), regulations, and the Nava Agreement;

6. Declare the actions ultra vires and the detention an ongoing unlawful seizure;

7. Enjoin continued detention or future actions based on this arrest, or alternatively order a bond hearing;

8. Award attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412; and

9. Grant any other proper relief.

Respectfully submitted this 2nd day of December, 2025.

/s/ Matthew O. Boles
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Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

/s/ Matthew Boles Date: December 2, 2025