UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

RAMIRO RODRIGUEZ RIVERA	§	
	§	
Petitioner,	§	
	§	Civ. No. 1:25-cv-01979
vs.	§	
	§	
PAMELA BONDI, United States Attorney General;	§	DHS File Number: [redacted]
	§	
KRISTI NOEM, Secretary of the United States Department of Homeland Security;	§	**PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**
	§	
TODD M. LYONS, Director of United States Immigration and Customs Enforcement;	§	
	§	
SYLVESTER ORTEGA, Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement;	§	
	§	
CHARLOTTE COLLINS, Warden, T. Don Hutto Detention Center	§	
	§	
Respondents.	§	

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I. INTRODUCTION AND BACKGROUND

1. This petition challenges the unlawful detention of Petitioner Ramiro Rodriguez Rivera ("Mr. Rodriguez Rivera"), a 44-year-old husband of a U.S. citizen and father of their two U.S.-citizen children who has lived in the United States for more than twelve years. ICE arrested him after a routine traffic stop in Hutto, Texas. He is now confined at the T. Don Hutto Detention Center in Taylor, Texas. Exh. 1 (DHS ICE online portal printout). He has not received a bond hearing.
2. Mr. Rodriguez Rivera has no criminal arrests or convictions. He is employed as an irrigation and landscape contractor and he is the primary support for his household. He lives in Austin with his wife, Leah Rodriguez, a U.S. citizen, and their two U.S. citizen children, C[redacted] (4) and E[redacted] (3 months old).
3. ICE has refused to provide him a bond hearing based on its position that the immigration court lacks authority to consider a bond request under *Matter of Yajure Hurtado*, 29 I. &N. Dec. 216 (BIA 2025).
4. Today, December 3, 2025, Petitioner submitted a request for bond redetermination to the Pearsall Immigration Court. Petitioner anticipates a denial for lack of jurisdiction and will promptly update this Court regarding the outcome of that request.
5. Petitioner is currently scheduled for a master calendar removal hearing on January 6, 2026. Exh. 2 (EOIR Automated Case Information System Results).
6. DHS contends that 8 U.S.C. § 1225(b) mandates his detention. Congress created a separate detention framework in 8 U.S.C. § 1226(a) that governs interior arrests and provides for discretionary bond and immigration-judge review. That is the statute that applies here. DHS's novel position—recently endorsed in *Matter of Yajure-Hurtado*, 29 I. & N. Dec.

220 B.I.A. 2025)—contradicts the INA's text and structure and Due Process. It collapses Congress's dual-track detention scheme and imposes categorical detention on long-time residents who present no danger or flight risk. It represents a volte-face from DHS's prior position that such persons as Petitioner are bond eligible. *Santos M.C. v Olson, et al.*, 2025 WL 3281787, at *3 (D.Minn., 2025).

7. In a parallel nationwide challenge, the Central District of California has already held that long-resident noncitizens apprehended in the interior are entitled to custody determinations under 8 U.S.C. § 1226(a), not § 1225(b). In *Maldonado Bautista v. Santacruz*, the court granted partial summary judgment to the named plaintiffs, declaring that DHS's practice of treating such individuals as arriving aliens subject to mandatory detention under § 1225(b) is unlawful. See *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025). Days later, the court certified a nationwide "Bond Eligible Class" and extended that declaratory relief to all class members, confirming that they are entitled to bond hearings under § 1226(a). See *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). Petitioner falls squarely within this Bond Eligible Class, yet immigration judges in the Pearsall Immigration Court—including Petitioner's own IJ—have refused to apply *Maldonado Bautista*, asserting that no class-wide declaratory judgment or injunction is yet "in effect," and thus leaving Petitioner without the § 1226(a) bond process the federal court has already recognized he is owed.

8. The human consequences are immediate and severe. Detention has upended the family's finances and caregiving. It has deprived the household of Mr. Rodriguez Rivera's income,

transportation, and daily support. The Constitution, the INA, and basic principles of fairness do not permit detention under these circumstances.

9. Petitioner respectfully requests this Court grant the instant petition for a writ of habeas corpus under 28 U.S.C. § 2241, order release or at a minimum a bond hearing under § 1226, and enjoin Respondent's continued detention of Petitioner to ensure his due process. In the alternative, he respectfully requests the Court order Respondents to show cause why this Petition should not be granted within three days. *See* 28 U.S.C. § 2243.

I. JURISDICTION AND VENUE

10. Petitioner is detained in civil immigration custody in Williamson County at the T. Don Hutto Detention Center in Taylor, Texas. *See* Exh. 1. He has been detained since or about, December 1, 2025.

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

12. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and where applicable Article I § 9, cl. 2 of the United States Constitution (Suspension Clause). 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.

13. Venue is proper in the Western District of Texas under 28 U.S.C. § 1391 because at least one Respondent is located in this District, Petitioner is detained in this District, and a substantial part of the events giving rise to these claims occurred in this District. Venue is also proper under 28 U.S.C. § 2243 because Petitioner's immediate custodians are located in this District.

II. REQUIREMENTS OF 28 U.S.C. § 2243, WRIT OF HABEAS CORPUS ISSUANCE, RETURN, HEARING, AND DECISION

14. The Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response "within three days" unless this Court permits additional time for good cause, which is not to exceed twenty days. 28 U.S.C. § 2243.

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). The writ of habeas corpus, challenging illegality of detention, is reduced to a sham if the trial courts do not act within a reasonable time. *Rhueark v. Wade*, 540 F.2d 1282, 1283 (5th Cir. 1976); *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978). Due to the nature of this proceeding, Petitioner asks this Court to expedite proceedings in this case as necessary and practicable for justice.

III. PARTIES

16. Petitioner Ramiro Rodriguez Rivera is a 44-year-old citizen of Mexico. He entered the United States in or about February 16, 2013 without inspection and has resided here continuously for over 12 years.

17. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States. She is responsible for the administration of the Executive Office for Immigration Review ("EOIR"), including policies that bear on immigration judges' jurisdiction over custody.

18. Respondent Kristi Noem is named in her official capacity as Secretary of the U.S. Department of Homeland Security ("DHS"). DHS is the department charged with

administering and enforcing federal immigration laws. Secretary Noem is ultimately responsible for the actions of U.S. Immigration and Customs Enforcement ("ICE") and is a legal custodian of Petitioner.

19. Respondent Todd M. Lyons is named in his official capacity as Acting Director of ICE. He oversees ICE operations, including detention and removal, and is a legal custodian of Petitioner.

20. Respondent Sylvester Ortega is named in his official capacity as Field Office Director of the San Antonio ICE Field Office. He is responsible for ICE enforcement in this District and is a legal custodian of Petitioner.

21. Respondent Charlotte Collins is named in her official capacity as Warden of the T. Don Hutto Detention Center in Taylor, Texas. She has immediate physical custody of Petitioner pursuant to an agreement with ICE to detain noncitizens.

22. Each Respondent is sued in his or her official capacity as a custodian and/or policymaker responsible for Petitioner's continued detention.

IV. FACTS

23. Petitioner was detained after a routine traffic stop in Hutto, Texas, on December 1, 2025. He was turned over to ICE and transported to the T. Don Hutto Detention Center in Taylor, Texas, where he remains. Exh. 1.

24. ICE has held Petitioner without bond and claims he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

25. On December 3, 2025, Petitioner has requested a custody bond redetermination under § 236(a). However, he will show in the course of this litigation that his effort to have an immigration judge redetermine his bond at a bond hearing his futile, because the agency's

binding precedent is *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which provides that all persons who entered as Petitioner did without inspection are subject to mandatory detention under 8 U.S.C. § 1225(b).

26. Petitioner's next removal hearing is set for January 6, 2026. Exh. 2.

27. Petitioner has no arrests or convictions in over his 12 years in the United States.

28. Petitioner is a contractor and the primary financial support for his household. He lives with his wife, Leah Rodriguez, and their two U.S. citizen children, C[redacted] (4) and E[redacted] (3 months). E[redacted]. *See* Exh. 3. Petitioner works and helps support the household and assists Leah while they both juggle the household. Petitioner's detention has disrupted family finances, transportation, and daily care.

29. Petitioner's ongoing detention impedes his ability to defend against removal. It limits his ability to gather evidence, to coordinate with counsel and witnesses, and to maintain the documentation that supports his case for cancellation of removal under 8 U.S.C. §1229(b)(b), and his ability to actually assist his sick child, E[redacted]

30. Petitioner remains detained because DHS has misclassified his custody under § 1225(b) rather than § 1226(a). That misclassification deprives him of immigration-judge bond jurisdiction.

V. LEGAL FRAMEWORK

a. Due Process

31. The Fifth Amendment's Due Process Clause applies to "all persons" within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Freedom from

imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Id.* at 690. In the immigration context, detention is constitutionally justified only to prevent flight or protect the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

a. Statutory Scheme

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

33. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Noncitizens arrested, charged with, or convicted of certain crimes are subject to mandatory detention. See 8 U.S.C. § 1226(c).

34. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred under § 1225(b)(2).

35. Last, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

VI. ARGUMENT

A. Text, Practice, and Precedent Confirm § 1226(a) Applies to Interior Arrests

36. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2).

37. Congress enacted §§ 1226(a) and 1225(b)(2) in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Pub. L. No. 104–208, div. C, §§ 302–03, 110 Stat.

3009-546, 3009-582 to 3009-583, 3009-585. Congress most recently amended § 1226 in the Laken Riley Act. Pub. L. No. 119-1, 139 Stat. 3 (2025).

38. After IIRIRA, EOIR promulgated regulations clarifying that, in general, people who entered without inspection and were placed in § 240 proceedings are detained under § 1226(a), not § 1225. 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).

39. For decades thereafter, noncitizens who entered without inspection and were placed in standard removal proceedings received bond hearings unless covered by § 1226(c). That practice aligned with earlier law in which non-arriving noncitizens were entitled to a custody hearing before an immigration judge or other officer. *See* 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting § 1226(a) "restates" prior detention authority).

40. In *Jennings v. Rodriguez*, DHS acknowledged that individuals already in the United States who are not apprehended near the border or immediately after entry fall under § 1226(a), not § 1225(b). *See* Transcript of Oral Argument at 7–8, *Jennings v. Rodriguez*, 583 U.S. 281 (2018) (No. 15-1204) (Solicitor General confirming that those not detained within 100 miles or within 14 days are held under § 1226(a) and receive bond hearings). Having prevailed while advancing that position, DHS's new litigation stance to the contrary lacks persuasive force.

41. On July 8, 2025, ICE announced new "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] reversing longstanding understanding and practice.

[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

42. That guidance asserts that all persons who entered without inspection are subject to § 1225(b)(2)(A) mandatory detention regardless of when or where apprehended and even after years of residence. *See* Todd M. Lyons, Interim Guidance Regarding Detention Authority for Applicants for Admission (July 8, 2025).

43. On September 5, 2025, the BIA adopted the same position in *Matter of Yajure-Hurtado*, holding that noncitizens who entered without admission or parole fall under § 1225(b)(2)(A) and are ineligible for immigration-judge bond hearings. 29 I. & N. Dec. 216 (B.I.A. 2025).

44. A "tsunami" of federal courts have rejected this new interpretation and have declined to follow *Yajure-Hurtado* where it conflicts with the INA's text and structure. [2]

45. In this District, courts have repeatedly ordered relief. See, e.g., *Gonzalez Guerrero v. Noem*, No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025) (granting preliminary injunction, vacating the BIA's decision applying *Matter of Yajure Hurtado*, and reinstating the IJ's §

[2] *See, e.g.*, *Belsai v. Bondi, et al.*, No. 25-cv-3862 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, --- F.Supp.3d ---, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025); *Salazar v. Dedos*, No. 1:25- cv-00835-DHU-JMR, 2025 WL 2676729 (D. N.M. Sept. 17, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sept. 9, 2025); *Chanaguano Caiza v. Scott*, 25-cv-00500, 2025 WL 2806416, at *3 (D. Me. Oct. 2, 2025); *Luna Quispe v. Crawford, et al.*, No. 1:25-CV-1471-AJT-LRV, 2025 WL 2783799, at *6 (E.D. Va. Sept. 29, 2025); *Vazquez v. Bostock*, No. 25-cv-05240, 2025 WL 2782499, at *27 (W.D. Wash. Sept. 30, 2025); *J.U. v. Maldonado*, 25-CV-04836, 2025 WL 2772765, at *5 (E.D.N.Y. Sept. 29, 2025); *Rivera Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *7 (D.N.J. Sept. 26, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 WL 2732717, at *2 (M.D. Fla. Sept. 25, 2025); *Giron Reyes v. Lyons*, No. C25-4048, 2025 WL 2712427, at *5 (N.D. Iowa, Sept. 23, 2025); *Singh v. Lewis*, No. 25-cv-96, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 WL 2650637, at *7-8 (N.D. Cal. Sept. 16, 2025); *Alvarez-Chavez v. Kaiser*, 25-cv-06984-LB 2025 WL 2909526 (N.D. Cal., Oct. 9, 2025); *Cerritos-Echevarria v Bondi*, No. CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); *Padron-Covarrubias v. Vergara*, 5:25-cv-00112, (S.D. Tex. Oct. 8, 2025); *Santiago-Santiago v. Bondi*, EP-25-CV-361-KC, 2025 WL 2792588, (W.D. Tex. Oct. 2, 2025); *Cardin-Alvarez v. Rivas*, CV 25-02943 PHX GMS (CDB), 2025 WL 2898389 (D. Ariz. Oct. 7, 2025); *Buenrostro-Mendez v. Bondi, et al.*, No. CV H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025); *Rodriguez Lucero v. Bondi*, No. 4:25-cv-03981 (S.D. Tex Oct. 23, 2025); *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (W.D. Tex. Oct. 15, 2025). *But see Chavez v. Noem*, 3:25-cv-02325-CAB-SBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025 ("by the plain language of § 1225(a)(1) the petitioners are "applicants for admission" and thus subject to the mandatory detention provisions of "applicants for admission" under § 1225(b)(2)[.]"); *Vargas-Lopez v. Trump, et al.*, 8:25CV526 2025 WL 2780351 (D. Neb. Sept. 29, 2025) (the petitioner is an alien within the "catchall" scope of § 1225(b)(2) subject to detention without possibility of release on bond through a proceeding on removal under § 1229a, per 8 U.S.C. § 1225(b)(2)).

1226(a) bond order for a long-resident noncitizen arrested in the interior); *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025) (issuing a TRO requiring custody to be governed by § 1226(a) and enjoining re-detention without notice and a pre-deprivation hearing); *Hernandez-Ramiro v. Bondi*, No. 5:25-cv-01207-XR (W.D. Tex. Oct. 15, 2025) (granting a TRO and requiring a prompt § 1226(a) bond hearing with the Government bearing the burden of showing danger or flight risk, or release if no hearing is provided); *Santiago v. Noem*, No. 3:25-cv-00361-KC, 2025 WL 2606118 (W.D. Tex. Sept. 9, 2025) (granting TRO and habeas relief to a DACA recipient misclassified under § 1225(b) and directing that custody be governed by § 1226(a)); *Alvarez Martinez v. Noem*, No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025) (granting habeas, holding that the automatic stay of an IJ's bond order violates due process, and ordering compliance with the IJ's bond decision); *Lopez-Arevelo v. Ripa*, No. EP-25-cv-337-KC, 2025 WL 2691828 (W.D. Tex. Aug. 26, 2025) (granting a TRO under § 2243 and the All Writs Act, enjoining removal and transfer to preserve the court's jurisdiction over a habeas challenge to detention under § 1225(b)); *Martinez v. Noem*, No. 3:25-cv-00430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025) (even assuming § 1225(b) applies, holding under *Mathews v. Eldridge* that due process requires an individualized bond hearing with the Government bearing the burden); *Souza Vieira v. De-Anda Ybarra*, No. 3:25-cv-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025) (following *Lopez-Arevelo*'s jurisdictional analysis, rejecting §§ 1252(g) and 1252(b)(9) as bars, and granting habeas relief); *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025) (granting habeas relief and holding that custody of a long-resident interior arrestee must be governed by § 1226 rather than § 1225(b)); *Erazo Rojas v. Noem*,

No. 3:25-cv-00443-KC (W.D. Tex. Oct. 30, 2025) (granting habeas in part and requiring the Government to provide a prompt § 1226(a) bond hearing at which it bears a clear-and-convincing burden or else release Petitioner under reasonable supervision); *Dominguez Vega v. Thompson*, No. 5:25-cv-01439-XR (W.D. Tex. Nov. 19, 2025) (granting a TRO and directing a prompt individualized § 1226(a) bond hearing consistent with these precedents); *Hernandez-Hervert v. Bondi*, No. 1:25-cv-01763-RP (W.D. Tex. Nov. 14, 2025) (granting habeas relief, rejecting Respondents' reliance on *Matter of Yajure Hurtado*, and requiring § 1226(a) custody process); *Rojas Vargas v. Bondi*, No. 1:25-cv-01699-DAE, 2025 WL 3251728 (W.D. Tex. Nov. 5, 2025) (granting a TRO, holding that § 1226(a) governs detention of long-resident noncitizens, and requiring a prompt bond hearing with a clear-and-convincing Government burden or release); *Melendez Hernandez v. Bondi*, No. 1:25-cv-01811-DAE (W.D. Tex. Nov. 26, 2025) (granting a TRO and ordering a § 1226(a) bond hearing with the Government bearing the clear-and-convincing burden of flight risk or danger, or release if no timely hearing is provided); *Becerra Vargas v. Bondi,* No. 5:25-CV-01023-FB-HJB (W.D. Tex. Nov. 26, 2025) (granting habeas in part and ordering release of petition from custody) and *Navarrete Perdomo v. Bondi*, No. 5:25-cv-01398 (W.D. Tex. Nov. 25, 2025) (granting habeas relief on the papers and ordering § 1226(a) custody without requiring a response from Respondents).

46. The nationwide relief in *Maldonado Bautista* squarely confirms Petitioner's position that his custody must be governed by § 1226(a). In granting partial summary judgment, the court held that DHS violates the INA when it classifies long-resident noncitizens arrested in the interior as arriving aliens subject to § 1225(b) and mandatory detention, rather than as individuals entitled to discretionary bond process under § 1226(a). *Maldonado Bautista*

v. Santacruz, 2025 WL 3289861, at *11. The subsequent class-certification order incorporated that declaratory judgment and certified a nationwide "Bond Eligible Class," holding that all class members are presumptively entitled to § 1226(a) bond eligibility and individualized hearings. *Id.*; *Maldonado Bautista v. Santacruz*, 2025 WL 3288403, at *9. Petitioner is a member of that Bond Eligible Class, but immigration judges in the Pearsall Immigration Court have rejected *Maldonado Bautista*'s application—his IJ specifically stating that no class declaratory judgment or injunction is "in effect" and therefore refusing to provide § 1226(a) bond process.[3] This refusal to honor binding class-wide relief underscores the need for this Court's intervention: DHS's continued reliance on § 1225(b) to detain Petitioner is unlawful, and this Court should order that his custody be governed by § 1226(a) and require an individualized bond hearing consistent with *Maldonado Bautista*.

47. Even before the nationwide shift, the Tacoma immigration court had ceased providing bond hearings to long-resident noncitizens who had entered without inspection (EWI). The Western District of Washington found that reading likely unlawful and held that § 1226(a), not § 1225(b), applies to noncitizens not apprehended upon arrival. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

48. These decisions reflect a clear judicial consensus that the government's reliance on § 1225(b)(2) is misplaced where § 1226(a) applies.

[3] Undersigned counsel is informed and believes that, in a separate case heard on December 3, 2025, the same Immigration Judge again declined to apply the *Maldonado Bautista* class certification to a similarly situated noncitizen on the ground that no class-wide declaratory judgment or injunction is yet in effect, indicating that this is the IJ's current practice.

49. The plain text confirms that outcome. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed." Hearings to decide inadmissibility or deportability occur under § 1229a.

50. Section 1226 also expressly addresses persons charged as inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Specific mandatory carve-outs confirm that, absent those exceptions, § 1226(a) governs and bond is available. *See Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010); *Gomes*, 2025 WL 1869299, at *7.

51. Section 1226 therefore applies to people charged as inadmissible who are already in the interior, including those present without admission or parole.

52. By contrast, § 1225(b) addresses inspection at the border and recent arrivals who are "seeking admission." 8 U.S.C. § 1225(b)(2)(A). The Supreme Court has described that mandatory detention scheme as operating "at the Nation's borders and ports of entry." *Jennings v. Rodriguez*, 583 U.S. 281, 287, 846 (2018). That is not this case.

53. Section 1226(a) is the default custody authority "pending a decision on whether the alien is to be removed," which describes § 240 proceedings like Petitioner's. 8 U.S.C. § 1226(a). Section 1226(c) then carves out narrow mandatory categories, some tied to inadmissibility. 8 U.S.C. § 1226(c). Reading § 1225(b)(2) to control here would render § 1226(a)'s bond framework and § 1226(c)'s carve-outs superfluous.

54. Section 1225(b)(2)(A) uses present-tense inspection language. It applies when an officer determines a person "is seeking admission" and "is not clearly and beyond a doubt entitled to be admitted." 8 U.S.C. § 1225(b)(2)(A). *Jennings* confirms this scheme operates at the border. 583 U.S. at 287, 846.

55. Deference does not salvage Respondents' reading. After *Loper Bright*, courts do not defer to agency interpretations simply because a statute is complex. They apply the best reading. *Loper Bright Enters. v. Raimondo*, 144 S. Ct. 2244, 2262–63 (2024). *Yajure-Hurtado* is unpersuasive because it treats anyone never "admitted" as forever "seeking admission," contrary to § 1225's present-tense text and § 1226's structure. 29 I. & N. Dec. at 221.

56. The constitutional backdrop points the same direction. Civil immigration detention is constrained by the Fifth Amendment. Persons facing significant restraints on liberty retain a protected interest and are entitled to meaningful process. At minimum, detention under § 1226 requires a prompt, individualized bond hearing with the Government bearing a clear and convincing burden. *See Zadvydas v. Davis*, 533 U.S. 678, 690–96 (2001); *Demore v. Kim*, 538 U.S. 510, 528–31 (2003); *Mathews v. Eldridge*, 424 U.S. 319, 333–35, 343–49 (1976).

57. The Court should hold that § 1226(a) governs Petitioner's custody and order his immediate release, or at minimum require a prompt § 1226(a) bond hearing with the Government bearing the clear-and-convincing burden. *See* 8 U.S.C. § 1226(a); *Jennings*, 583 U.S. at 297, 302–03; *Zadvydas*, 533 U.S. at 690–96.

B. Section 1226(a) governs this interior arrest. DHS's § 1225(b) theory fails on the text and in practice.

58. Mr. Rodriguez Rivera was arrested in the interior and is in 8 U.S.C. § 1229a regular removal proceedings. Section 1226(a) controls and supplies bond jurisdiction. *Jennings*, 583 U.S. at 297, 302–03.

59. Federal courts confronting DHS's new theory have rejected it and ordered relief, concluding that § 1226(a) governs noncitizens already in the country. *See*, e.g., *Rodriguez*

v. Bostock, No. 3:25-cv-05240-TMC, 2025 WL 1193850, at *11–16 (W.D. Wash. Apr. 24, 2025); *Gomes*, 2025 WL 1869299, at *4–7; *Lopez Benitez*, 2025 WL 2267803, at *4–7.

60. The Laken Riley Act confirms that Congress preserved § 1226(a)'s discretionary bond regime for most inadmissible entrants arrested in the interior by adding a narrow new mandatory category under § 1226(c)(1)(E). If § 1225(b) already mandated detention for all inadmissible entrants, § 1226(c)(1)(E) would be redundant. *See Corley v. United States*, 556 U.S. 303, 314 (2009); *Van Buren v. United States*, 593 U.S. 374, 393 (2021). Congress legislated against decades of practice applying § 1226(a) to interior arrests, and courts presume amendments harmonize with that practice. *Monsalvo v. Bondi*, 604 U.S. ___, 145 S. Ct. 1232, 1242 (2025).

61. *Yajure-Hurtado* does not compel a different result. *Jennings* construed statutory text and left open constitutional claims. 583 U.S. at 303. Post-*Loper Bright*, courts interpret the INA de novo. *Loper Bright*, 144 S. Ct. at 2262–63.

62. Longstanding agency materials confirm that interior encounters without admission were treated under § 236(a) and were "eligible for bond and bond redetermination." 62 Fed. Reg. at 10,323. DHS historically limited "applicant for admission" to encounters within a short time and distance from the border. *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 121, 130 n.2 (2020) (describing the 14-day/100-mile policy).

63. Arrest authority reinforces the divide. Warrantless arrests are narrowly permitted under 8 U.S.C. § 1357(a). Otherwise, interior arrests proceed on warrant (Form I-200) and fall under § 236(a). *See Matter of Mariscal-Rodriguez*, 28 I. & N. Dec. 666, 668–71 (B.I.A. 2022). Mr. Rodriguez Rivera's interior arrest should have been, and on information and belief was, effectuated under an I-200 warrant, which places him within § 1226(a).

64. Statutes must be read in context and given effect to every clause and word. *Gundy v. United States*, 588 U.S. 128, 141 (2019). *United States ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023). Respondents' view collapses §§ 1225 and 1226, nullifies § 1226(c), and contradicts the statues structure.

C. Remedy

65. The Court should (1) declare that § 236(a), not § 235, governs custody; (2) order immediate release; or, in the alternative, (3) require a prompt, recorded § 236(a) bond hearing placing a clear-and-convincing burden on DHS.

VII. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION
Violation of the Due Process Clause (Fifth Amendment)

66. Petitioner incorporates all allegations above.

67. Civil immigration detention is permissible only to ensure appearance or protect the community, and due process requires meaningful procedures commensurate with the liberty at stake. *See Zadvydas v. Davis*, 533 U.S. 678, 690–96 (2001); *Demore v. Kim*, 538 U.S. 510, 528–31 (2003).

68. Detaining Petitioner without a prompt, individualized bond hearing where the Government bears a clear-and-convincing burden violates substantive and procedural due process. *See Zadvydas*, 533 U.S. at 690–96; *Mathews v. Eldridge*, 424 U.S. 319, 333–35, 343–49 (1976).

69. The Fifth Amendment protects "all persons" in the United States, including long-resident noncitizens. *Zadvydas,* 533 U.S. at 693. Continued detention since December 1, 2025 without the required process or justification violates that protection.

SECOND CAUSE OF ACTION
Violation of the Immigration and Nationality Act (INA)

70. Petitioner incorporates all allegations above.

71. Petitioner's interior arrest places his custody under 8 U.S.C. § 1226(a), not § 1225(b)(2). *See Jennings v. Rodriguez*, 583 U.S. 281, 297, 302–03 (2018) (distinguishing detention of persons "already in the country" under § 1226 from border inspection under § 1225).

72. Section 1226(a) authorizes discretionary detention with bond; Congress created narrow mandatory carve-outs in § 1226(c). Applying § 1225(b)(2) here would render § 1226(a) and § 1226(c) superfluous, which the Court must avoid. *See Jennings*, 583 U.S. at 297, 302–03.

73. DHS's application of § 1225(b)(2) to Petitioner contradicts the INA's text, structure, and long-standing practice reflected in post-IIRIRA regulations recognizing bond eligibility for interior EWI respondents. *See* Inspection & Expedited Removal of Aliens, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997).

THIRD CAUSE OF ACTION
Procedural Due Process — Denial of Opportunity to Contest Misclassification

74. Petitioner incorporates all allegations above.

75. By foreclosing IJ bond jurisdiction through a blanket § 1225(b)(2) designation, Respondents denied Petitioner a meaningful opportunity to contest mandatory detention and to receive the individualized bond process Congress preserved in § 1226(a). *See Mathews*, 424 U.S. at 333–35; *Jennings*, 583 U.S. at 303 (constitutional challenges preserved).

76. This denial of meaningful process violates the Fifth Amendment.

FOURTH CAUSE OF ACTION
Administrative Procedure Act (5 U.S.C. § 706)

77. Petitioner incorporates all allegations above.

78. Petitioner challenges the following actions: (1) DHS's July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission" (the Lyons memo) and EOIR/DHS reliance on *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), which together reinterpret 8 U.S.C. §§ 1225(b)(2) and 1226; and (2) DHS's as-applied decision to detain Petitioner—despite his BFD with unrevoked deferred action and employment authorization—without first revoking deferred action or considering required factors.

A. Policy-Level APA Challenge (5 U.S.C. § 706(2)(A), (C); in the alternative § 706(2)(D))

79. The Lyons memo and reliance on *Yajure-Hurtado* are "not in accordance with law" and "in excess of statutory jurisdiction" because they collapse the INA's dual-track scheme by extending § 1225(b)(2) to long-resident, interior arrests, rendering § 1226(a) and § 1226(c) superfluous. *See Jennings*, 583 U.S. at 297, 302–03; *Corley v. United States*, 556 U.S. 303, 314 (2009).

80. The policy is arbitrary and capricious because it disregards decades of consistent practice and post-IIRIRA regulations recognizing bond eligibility for interior EWI respondents. *See* 62 Fed. Reg. at 10,323; *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009); *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–24 (2016).

81. Post–*Loper Bright*, the reinterpretation is entitled to no Chevron deference and carries limited *Skidmore* weight given its inconsistency with prior positions. *See Loper Bright Enters. v. Raimondo*, 144 S. Ct. 2244, 2262–63 (2024).

82. In the alternative, to the extent the Lyons memo operates as a substantive rule foreclosing IJ bond jurisdiction, it was adopted without required notice-and-comment. 5 U.S.C. §§ 553, 706(2)(D).

B. As-Applied APA Challenge (5 U.S.C. § 706(2)(A), (C))

83. DHS failed to consider important aspects of the problem—Petitioner's reliance and equities, and the mismatch between continued civil detention and the INA's nonpunitive aims—rendering the detention unlawful. *See* 8 U.S.C. §§ 1101(a)(15)(U), 1184(p); *Zadvydas,* 533 U.S. at 690; *Demore*, 538 U.S. at 528.

84. Under 5 U.S.C. § 706, the Court should (1) set aside the Lyons memo interpretation and any reliance on *Yajure-Hurtado* as contrary to law and arbitrary and capricious; (2) declare that Petitioner's custody is governed by 8 U.S.C. § 1226(a); (3) order immediate release or, at minimum, a prompt § 1226(a) bond hearing with a clear-and-convincing burden on the Government; and (4) enjoin removal or re-detention absent notice and lawful revocation of deferred action.

FIFTH CAUSE OF ACTION
Suspension Clause

85. Petitioner incorporates all allegations above.

86. If 8 U.S.C. § 1252 were construed to bar review of these detention claims, it would be unconstitutional as applied because it would eliminate a meaningful opportunity to challenge unlawful executive detention. *See Boumediene v. Bush*, 553 U.S. 723, 771 (2008).

87. Petitioner satisfies Boumediene's factors: status and long-standing ties, domestic detention, and the lack of practical obstacles all support habeas review. *Id.* at 766.

SIXTH CAUSE OF ACTION
Stay of Removal

88. Petitioner incorporates all allegations above.

89. Absent a stay, Petitioner faces irreparable harm from removal while the Court adjudicates his statutory and constitutional claims, including misclassification under the INA and disregard of his deferred-action posture. *See Nken v. Holder*, 556 U.S. 418, 434–35 (2009).

90. The balance of equities and public interest favor preserving the status quo and the Court's jurisdiction.

SEVENTH CAUSE OF ACTION
Injunctive Relief

91. Petitioner incorporates all allegations above.

92. Petitioner meets the standards for temporary and preliminary injunctive relief: likelihood of success on the merits, irreparable harm, balance of equities, and alignment with the public interest. *See Tex. Med. Providers Performing Abortion Servs. v. Lakey*, 667 F.3d 570, 574 (5th Cir. 2012).

93. The Court should (a) declare § 1226(a) governs custody; (b) order immediate release, or alternatively a prompt § 1226(a) bond hearing with the Government's clear-and-convincing burden; and (c) enjoin removal and any re-detention absent notice and a pre-deprivation hearing.

VIII. RELIEF SOUGHT

WHEREFORE, Petitioner respectfully requests that this Court:

(1) Assume jurisdiction over this matter;

(2) Declare that ICE's December 1, 2025, apprehension and detention of Mr. Rodriguez Rivera was an unlawful exercise of authority because the ICE officer provided no reason that he presents a danger to the community or is flight risk;

(3) Issue an order directing Respondents to show cause why the writ should not be granted;

(4) Order Respondents to file with the Court a complete copy of the administrative file from the Department of Justice and the Department of Homeland Security;

(5) Retain jurisdiction over this Petition notwithstanding any change in Petitioner's place of detention or immediate custodian and, pending final resolution of this case, direct Respondents to refrain from transferring Petitioner outside the Western District of Texas without prior leave of Court and to ensure that the Court can effectuate any relief ultimately granted, including by returning Petitioner to this District if necessary;

(6) Grant the writ and order Petitioner's immediate release on recognizance, parole, or reasonable supervision; or, in the alternative, order a prompt custody redetermination under § 1226(a) before an Immigration Judge within three days, with the Government bearing a clear-and-convincing burden of flight risk or danger on the record and with findings consistent with *Matter of Guerra* and *Matter of Siniauskas*; and, if Respondents continue to assert mandatory detention, order a Joseph-type hearing to test the legal and factual predicates, with release if such hearing is not held by the deadline;

(7) Award costs and, if permissible, attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, preserving Petitioner's position that EAJA may apply in habeas notwithstanding *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023), and noting contrary authority, including *Vacchio v. Ashcroft*, 404 F.3d 663, 670–72 (2d Cir. 2005); *In re Petition of Hill*, 775 F.2d 1037, 1040–41 (9th Cir. 1985); *Daley v. Ceja*, No. 24-1191, — F.4th —, 2025

WL 3058588 (10th Cir. Nov. 3, 2025) (holding that habeas actions challenging immigration detention are unambiguously "civil actions" within EAJA's "any civil action" language and affirming an EAJA award where the habeas petition materially altered the parties' legal relationship by securing a bond hearing and release); *Abioye v. Oddo*, 2024 U.S. Dist. LEXIS 174205 (W.D. Pa. 2024); and *Arias v. Choate*, 2023 U.S. Dist. LEXIS 119907 (D. Colo. 2023);

(8) Grant such other and further relief as the Court deems just and proper.

PRAYER FOR EXPEDITED CONSIDERATION

Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests expedited consideration. Each day of unlawful detention inflicts irreparable harm on Petitioner and his U.S. citizen wife and children, depriving them of a husband and a father's care, stability, and support. Prompt judicial intervention is necessary to protect Petitioner's constitutional rights and his family's well-being.

Respectfully submitted,

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Ramiro Rodriguez Rivera, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 3rd day of December 2025.

/s/ Stephen J. O'Connor
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