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**I. INTRODUCTION AND BACKGROUND**

1. Petitioner Anthony Escobar Palacios (“Mr. Escobar Palacios”) is a 34-year-old native and citizen of El Salvador who has lived in the United States—primarily in the Houston, Texas area—since on or about 2013. He has deep family and community ties, a minimal criminal record consisting of a single misdemeanor conviction from 2015, and strong claims to relief from removal, including cancellation of removal, withholding of removal, protection under the Convention Against Torture (CAT), and a potential U-visa based on his victimization in a robbery.
2. The Department of Homeland Security (“DHS”) is currently detaining Mr. Escobar Palacios at the Montgomery Processing Center in Conroe, Texas. He has been in DHS custody since November 17, 2025, following an interior enforcement stop while he was driving his insured personal vehicle. Despite his long-term residence, family ties, and eligibility for relief, DHS is treating him as subject to mandatory-style detention and has not afforded him a meaningful bond hearing under the discretionary custody framework of 8 U.S.C. § 1226(a).
3. 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).

4. 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 is a member of this Bond Eligible Class, which includes "all noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination." Petitioner satisfies each criterion: he entered without inspection, was not apprehended at or near the time of entry, and DHS did not classify or detain him under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 when it first made his custody determination.
5. Notwithstanding his class membership and long-established residence in the interior, DHS and the immigration court are treating him as if he were subject to mandatory detention

under 8 U.S.C. § 1225(b), relying on the Board of Immigration Appeals' (BIA) recent decision in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 685 (BIA 2025). As applied to Petitioner, that interpretation conflicts with the plain text and structure of the Immigration and Nationality Act ("INA"), the nationwide class relief ordered in *Maldonado Bautista*, and the Due Process Clause.

6. Today, concurrently with this Petition, Mr. Escobar Palacios is filing a motion for bond (custody redetermination) before the Conroe Immigration Court under 8 U.S.C. § 1226(a). In light of DHS's position and the immigration court's current reliance on *Matter of Yajure-Hurtado* to deny bond jurisdiction for similarly situated long-resident noncitizens, he reasonably anticipates that his bond request will be denied. Petitioner will promptly notify this Court of the outcome of his bond proceedings.
7. Petitioner is currently scheduled for a master calendar removal hearing on December 18, 2025. Exh. 2 (EOIR Automated Case Information System Results).
8. The human consequences are immediate and severe. Detention has upended the family's finances and caregiving, depriving the household of his income, transportation, and daily support—particularly for his mother, who has ongoing medical needs. The Constitution, the INA, and basic principles of fairness do not permit continued 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 Montgomery County at the Montgomery o Detention Center in Conroe, Texas. *See* Exh. 1 (ICE Locator Results). He has been detained since or about, November 17, 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 Southern 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 Anthony Escobar Palacios is a 34-year-old citizen of El Salvador. He entered the United States in or about 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 Bret Bradford is named in his official capacity as Field Office Director of the Houston ICE Field Office. He is responsible for ICE enforcement in this District and is a legal custodian of Petitioner.
21. Respondent Randall Tate is named in his official capacity as Warden of the Montgomery Processing Center in Conroe, Texas. He 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**

##### **A. Petitioner's Residence and Family Ties**

23. Mr. Escobar Palacios is a 34-year-old native and citizen of El Salvador. He entered the United States without inspection on or about 2013 and has resided continuously since that time in the Houston, Texas area.
24. Since his arrival, Petitioner has lived with his in, Houston, Texas. His parents own this property, and he intends to return to and reside at that address if released from custody.
25. Petitioner's step-father, Jose Rodriguez, has been a lawful permanent resident (LPR) of the United States since August 1, 2001. Mr. Rodriguez married Petitioner's mother, Deisy Palacios, on February 7, 2006, when Petitioner was approximately fifteen years old, making Mr. Rodriguez a qualifying relative for purposes of cancellation of removal.
26. Petitioner's mother, Deisy Palacios, is originally from El Salvador and currently holds Temporary Protected Status (TPS). She was paroled into the United States upon her most recent entry. Ms. Palacios suffers from serious chronic autoimmune disease, including lupus and rheumatoid arthritis, which cause significant pain, fatigue, and functional

limitations. She relies heavily on Petitioner for daily assistance, transportation, and support with her medical care.

27. Petitioner's younger brothers, [REDACTED] (age 17) and [REDACTED] (age 16), are both United States citizens. They have grown up in Houston and depend on their older brother for daily assistance, emotional support, and stability within the family household.

28. Petitioner has no children of his own and is not married. His life in the United States is centered on supporting his parents and younger siblings and contributing to the household. Before his detention, he worked at Carmona's Painting in the Houston area, where he had been employed since approximately 2019.

#### **B. Criminal History and Good Moral Character**

29. Petitioner has a minimal criminal history consisting of a single Class B misdemeanor arrest and conviction from nearly a decade ago. On March 10, 2015, he was arrested in Harris County, Texas for failure to stop and give information where the property damage was alleged to be equal to or greater than \$200. He pled guilty on May 28, 2015. He has no other arrests or convictions.

30. Since that isolated incident, Petitioner has complied with the law and focused on work and family responsibilities. He has no history of violence, no gang affiliation, and no record of evading law enforcement or immigration authorities. To the best of undersigned counsel's knowledge and information, he has never failed to appear at any required proceeding.

#### **C. Immigration History and Eligibility for Relief**

31. Petitioner entered the United States without inspection and has lived in this country for more than twelve continuous years. He has built a life in the Houston area with his U.S.-based family and has strong ties to his community.

32. Because of his more than ten years of continuous physical presence, his long-term employment and family support, his minimal criminal record, and the severe hardship his removal would impose on his lawful permanent resident step-father and his ill mother with TPS, Mr. Escobar Palacios is prima facie eligible for cancellation of removal under INA § 240A(b), 8 U.S.C. § 1229b(b), via Form EOIR-42B.
33. Petitioner also has potential protection-based claims. In 2024, in Harris County, Texas, he was the victim of a robbery, a qualifying crime under the U-visa statute. He is therefore potentially eligible for a Form I-918, Petition for U Nonimmigrant Status, as a crime victim. In addition, based on the conditions he would face if returned to El Salvador, Petitioner is eligible to seek withholding of removal and CAT protection via Form I-589.
34. These avenues of relief underscore that Petitioner's removal is far from inevitable and that he has every incentive to continue appearing in his immigration proceedings to pursue the relief for which he is eligible.

**D. Current Detention at Montgomery Processing Center**

35. On November 17, 2025, Petitioner came into DHS custody following a traffic stop by immigration officers while he was driving his personal vehicle, in the Houston area. The vehicle was insured at the time of the stop, and Petitioner was listed as the registered owner. He was not cited for any traffic infraction.
36. During the stop, officers asked Petitioner to identify himself, and he provided his Salvadoran identification. Immigration authorities then arrested him on suspicion of lacking lawful immigration status and transferred him to the Montgomery Processing Center in Conroe, Texas, where he remains detained.

37. On information and belief, DHS has initiated removal proceedings against Petitioner under INA § 240. Rather than treating him as a long-resident noncitizen arrested in the interior who is presumptively subject to discretionary custody under 8 U.S.C. § 1226(a), DHS has asserted or effectively treated him as if he were subject to mandatory detention as an “applicant for admission” under 8 U.S.C. § 1225(b), relying on *Matter of Yajure-Hurtado*.

38. Petitioner is currently scheduled for a master calendar removal hearing on December 18, 2025. Exh. 2 (EOIR Automated Case Information System Results).

**E. Class Membership Under Maldonado Bautista, Bond Efforts, and Lack of a Meaningful Bond Hearing**

39. As set forth above, Petitioner meets each element of the Bond Eligible Class certified in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*: he is a noncitizen in the United States without lawful status; he entered without inspection; he was not apprehended upon arrival; and at the time of DHS’s initial custody determination on November 17, 2025, he was not detained or classified under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

40. Under the class certification and accompanying declaratory relief in *Maldonado Bautista*, Petitioner must be treated as detained under 8 U.S.C. § 1226(a) and must be afforded a genuine opportunity for release on bond under that provision, rather than being subjected to mandatory detention as if he were an “arriving” or “applicant for admission” noncitizen.

41. Today, concurrently with this Petition, Mr. Escobar Palacios is filing a motion for bond (custody redetermination) before the Conroe Immigration Court under 8 U.S.C. § 1226(a). In light of DHS’s position and the immigration court’s current reliance on *Matter of Yajure-Hurtado* to deny bond jurisdiction for similarly situated long-resident noncitizens, he reasonably anticipates that his bond request will be denied. Petitioner will promptly notify this Court of the outcome of his bond proceedings.

42. At present, DHS continues to detain Petitioner at Montgomery Processing Center without providing him with a bond hearing consistent with § 1226(a), his class-member status, and constitutional due process. On information and belief, and in light of recent agency practice following *Matter of Yajure-Hurtado*, the immigration court has either declined or will decline to recognize bond jurisdiction, treating him instead as mandatorily detained.
43. Petitioner's ongoing detention thus rests on (1) an unlawful statutory interpretation that conflicts with the plain text and structure of the INA and with the class relief in *Maldonado Bautista*; and (2) the denial of a meaningful, individualized bond hearing at which the Government must justify continued detention based on flight risk or danger by clear and convincing evidence.
44. Given Petitioner's long residence in the United States, his U.S.-based family, including a lawful permanent resident step-father and two U.S. citizen minor brothers, his mother's serious medical conditions while on TPS, his stable residence and work history, his sole, minor misdemeanor conviction from 2015, and his substantial eligibility for immigration relief, his continued detention without proper statutory authority or process is unlawful. Habeas relief is necessary to restore the statutory protections of 8 U.S.C. § 1226(a) and to vindicate the Due Process Clause.
45. 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, .

46. 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

47. 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).

### B. Statutory Scheme

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 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).

50. 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).

51. 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

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

53. 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).

54. 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).

55. 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).

56. 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.

57. On July 8, 2025, ICE announced new "Interim Guidance Regarding Detention Authority for Applicants for Admission,"<sup>1</sup> reversing longstanding understanding and practice.
58. 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).
59. 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).
60. 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.<sup>2</sup>

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<sup>1</sup> Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

<sup>2</sup> *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.

61. In this District, courts have repeatedly rejected Respondents' new reading of the detention statutes and held that § 1226(a), not § 1225(b)(2), governs custody for long-resident noncitizens arrested in the interior, including those charged with entry without inspection. *See Buenrostro-Mendez v. Bondi*, No. 4:25-cv-03726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112 (S.D. Tex. Oct. 8, 2025); *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (S.D. Tex. 2025); *Hernandez Lucero v. Noem*, No. 4:25-cv-03981 (S.D. Tex. 2025); *Granados Gonzalez v. Bondi*, No. 4:25-cv-04756 (S.D. Tex. 2025); *Barrera Martinez v. Noem*, No. 5:25-cv-00164 (S.D. Tex. 2025); *Lopez de Leon v. Harlingen Field Office of Immigration & Customs Enforcement and Removal Operations Div.*, No. 5:25-cv-00165 (S.D. Tex. 2025); *Gonzalez-Garcia v. Bondi*, No. 5:25-cv-00226 (S.D. Tex. Nov. 26, 2025) (granting habeas relief on the papers and ordering § 1226(a) custody without requiring a response from Respondents).
62. Those decisions uniformly recognize that applying § 1225(b)(2) to long-resident interior arrests would render § 1226 superfluous and violate due process, and they order either immediate release or a prompt bond hearing at which the Government bears the burden.
63. Courts elsewhere in the Fifth Circuit, particularly in the Western District of Texas, have reached the same conclusion and provided detailed reasoning that strongly supports Petitioner's position here. *See e.g. Gonzalez Guerrero v. Noem*, No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025) (preliminary injunction holding that § 1226, not § 1225(b)(2),

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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)).

governs custody for interior arrests because a broad reading of § 1225(b)(2) would render § 1226 superfluous); *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025) (TRO requiring § 1226 process 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) (TRO requiring a prompt § 1226 bond hearing with the Government bearing the burden, or release if no hearing is set); *Santiago-Santiago v. Noem*, No. 3:25-cv-361-KC, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025) (granting habeas relief for a DACA recipient misclassified under § 1225(b)); *Alvarez Martinez v. Noem*, No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025) (granting habeas and holding that the automatic stay of an IJ's bond order violates due process); *Lopez-Arevelo v. Ripa*, No. 3:25-cv-00337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025) (rejecting §§ 1252(g) and 1252(b)(9) as jurisdictional bars and ordering a bond hearing with a clear-and-convincing burden on the Government); *Martinez v. Noem*, No. 3:25-cv-00430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025) (holding that even assuming § 1225(b) applies, *Mathews* requires an individualized bond hearing); *Souza Vieira v. De-Anda Ybarra*, No. 3:25-cv-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025); *Erazo Rojas v. Noem*, No. 3:25-cv-00443-KC (W.D. Tex. Oct. 30, 2025); *Dominguez Vega v. Thompson*, No. 5:25-cv-01439-XR (W.D. Tex. Nov. 19 2025); *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 and ordering immediate release); *Reyes-Perez v. Bondi*, No. 5:25-cv-01302-XR (W.D. Tex. Nov. 26, 2025)(granting habeas and ordering release).

64. 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.
65. 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.

66. 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.
67. Section 1226 therefore applies to people charged as inadmissible who are already in the interior, including those present without admission or parole.
68. 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.
69. 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.
70. 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.
71. 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.

72. 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).

73. 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.**

74. Petitioner 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.

75. 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 v. Francis*, 2025 WL 2267803, at \*4–7.

76. The Laken Riley Act (LRA) 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).
77. *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.
78. 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).
79. 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).
80. 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**

81. 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)**

82. Petitioner incorporates all allegations above.

83. 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).

84. 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).

85. The Fifth Amendment protects “all persons” in the United States, including long-resident noncitizens. *Zadvydas*, 533 U.S. at 693. Continued detention since November 17, 2025 without the required process or justification violates that protection.

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

86. Petitioner incorporates all allegations above.

87. 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).
88. 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.
89. 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 EWV 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**

90. Petitioner incorporates all allegations above.
91. 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).
92. This denial of meaningful process violates the Fifth Amendment.

### **FOURTH CAUSE OF ACTION**

#### **ADMINISTRATIVE PROCEDURE ACT**

93. Petitioner re-alleges and incorporates by reference the paragraphs above.

94. Respondents' continued efforts to deny him bond violate the INA, Administrative Procedures Act (APA), and the U.S. Constitution.
95. As set forth in Count Two and Three, federal regulations and case law provide the procedure for a respondent in removal proceedings like him to seek a bond redetermination by an immigration judge and be given a meaningful opportunity to present his claim.
96. In being denied the opportunity to return to his family, and pursue Cancellation of Removal in a non-detained court setting where he is free to gather the necessary hardship and good moral character evidence, Petitioner would be deprived of the right to freedom to lawfully pursue his rights in this civil matter. The Government's "no-review" provisions are a violation of his procedural and substantive due process and without any statutory authority. There is no time-frame or procedure for requesting DHS to itself review its custody decision, and removal proceedings in this case will proceed during that time while Petitioner remains in custody.
97. The actions by Respondents would improperly alter the substantive rules concerning mandatory custody status without the required notice-and-comment period and would be in violation of the INA and its regulations. These actions by Respondents violate the APA. Under the APA, this Court may hold unlawful and set aside an agency action which is "contrary to constitutional right, power, privilege or immunity." 5 U.S.C. § 706(2)(B). The regulations at 8 C.F.R. §§ 1003.19(h)(1)(B) and 1003.19(h)(2)(B) providing no review of DHS custody decision for arriving aliens in removal proceedings are in violation of substantive and procedural due process as guaranteed by the Fifth Amendment to the United States Constitution. It is ultra vires because it exceeds the authority granted ICE by Congress at 8 U.S.C. § 1226(a). For these reasons, this Honorable Court should hold that

Petitioner is detained under § 236(a), not § 235(b), and order his immediate release or, in the alternative, direct the Immigration Court to conduct a custody redetermination hearing under § 236(a) in which Petitioner has a meaningful opportunity to show that he is not a danger or flight risk. Any contrary reliance on *Matter of Yajure-Hurtado* would unlawfully misapply the statute and deprive Petitioner of his rights under the INA, the APA, and the Due Process Clause.

**SIXTH CAUSE OF ACTION  
SUSPENSION CLAUSE CLAIM**

98. Petitioner re-alleges and incorporates by reference the paragraphs above.
99. If 8 U.S.C. § 1252 stripped the Court jurisdiction from this matter, it would be unconstitutional as applied because it would deny Petitioner the opportunity for meaningful review of the unlawfulness of his detention and removal.
100. To invoke the Suspension Clause, a petitioner must satisfy a three-factor test: “(1) the citizenship and status of the detainee and the adequacy of the process through which that status determination was made; (2) the nature of the sites where apprehension and then detention took place; and (3) the practical obstacles inherent in resolving the prisoner’s entitlement to the writ.” *Boumediene v. Bush*, 553 U.S. 723, 766 (2008). Petitioner satisfies these three requirements and may invoke the Suspension Clause.
101. First, although Petitioner is not a U.S. citizen or resident, he has lived here for over 12 years, and he qualifies under the INA to seek Cancellation of Removal, because he has no disqualifying criminal history, because he has lived here longer than ten continuous years, because he can show ten years’ good moral character, and because he can show his lawful permanent resident father will suffer exceptional and extremely unusual hardship if he were removed to El Salvador. Petitioner has significant family connections in the United

States, including his LPR father and mother who has TPS. All of which establishes a substantial legal relationship with the United States.

102. Petitioner satisfies the second factor because he was apprehended by DHS and remains detained in the United States.

103. Finally, there are no serious, practical obstacles to resolving this present matter. This Court is equipped to deciding whether Petitioner is entitled to the writ.

104. There is no adequate alternative to a habeas petition. The refusal of the immigration court to grant Petitioner the right to show he is mis-classified and that he is not subject to mandatory detention, such that he may return to his family and pursue cancellation, without proper notice or due process, deprives him of his constitutional rights. The BIA cannot adequately and expeditiously review these issues.

#### **VIII. RELIEF SOUGHT**

WHEREFORE, Petitioner respectfully requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Declare that ICE's November 17, 2025, apprehension and detention of Mr. Escobar Palacios 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 Southern 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 family, depriving them of his care, stability, and support. Prompt judicial intervention is necessary to protect Petitioner's constitutional rights and his family's well-being.

Respectfully submitted,

*/s/ Stephen J. O'Connor*  
Stephen O'Connor  
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**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner, Anthony Escobar Palacios, 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 5th day of December 2025.

**/s/ Stephen J. O'Connor**  
Stephen O'Connor  
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