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## I. INTRODUCTION AND BACKGROUND

1. This petition challenges the unlawful detention of Petitioner Jose Fabian Trejo-Enriquez (“Mr. Trejo-Enriquez”), a father of five U.S.-citizen children. Mr. Trejo-Enriquez last entered the United States without inspection near Eagle Pass, Texas, on or about May 1, 2006, and has lived in this country ever since. He is a derivative beneficiary of his wife’s T-visa<sup>1</sup>, and U.S. Citizenship and Immigration Services (“USCIS”) granted him a T-visa bona fide determination (“BFD”) and deferred action on January 14, 2025, based on his pending application for derivative T nonimmigrant status. Exh. 3 (USCIS T-visa BFD and notices); Exh. 4 (USCIS Bonafide Determination Process). He is now confined at the T. Don Hutto Detention Center in Taylor, Texas, and has not received a bond hearing.
2. Petitioner was arrested in Burnet County, Texas, for driving while intoxicated (“DWI”). After he was released from the Burnet County Jail on a \$1,500 personal bond, ICE arrested him pursuant to an I-200 administrative warrant of arrest, as reflected in the Form I-213, and transferred him to immigration custody at the T. Don Hutto Detention Center. Exh 2. He has no criminal convictions. The DWI is only an arrest.
3. Petitioner works as an independent contractor and is the primary financial support for his household. His immediate family is in the United States, including his wife, Enedina Hernandez Rosas, the principal T-visa applicant with T-visa deferred action, and their five U.S.-citizen children—S█████ (age 4), C█████ (age 12), F█████ (age 14), F█████ (age 16), and M█████ (age 17).

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<sup>1</sup> A T-visa is a form of humanitarian nonimmigrant status for noncitizens who are victims of “severe forms of trafficking in persons” and are present in the United States on account of that trafficking, and who assist law enforcement in investigating or prosecuting the traffickers. *See* 8 U.S.C. § 1101(a)(15)(T); 8 C.F.R. § 214.11. Certain qualifying family members, including a spouse, may obtain derivative T status and related protection through the principal victim’s application. *See* 8 U.S.C. § 1101(a)(15)(T)(ii). A “bona fide determination” means USCIS has preliminarily reviewed the application, found it facially sufficient, and granted deferred action (and eligibility for work authorization) while the agency completes full adjudication.

4. ICE arrested Petitioner on November 2, 2025, pursuant to the I-200 warrant of arrest noted in the I-213, following his release from the Burnet County Jail on the DWI case, and he has remained detained at the T. Don Hutto Detention Center since that date.
5. Petitioner is currently scheduled for a master calendar removal hearing on December 19, 2025, at 8:30 a.m. Exh. 1 (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 (IJ) review. That is the statute that applies here. DHS's novel position—recently endorsed in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 2020 (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. This contention is especially untenable where USCIS has already granted Petitioner a T-visa BFD and deferred action, reflecting DHS's own determination that he should be allowed to remain in the community while his application is adjudicated.
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 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 Petitioner’s income as an independent contractor, their only steady transportation, and his daily support as a spouse and father of five U.S.-citizen children. This remains true despite USCIS’s grant of a T-visa bona fide determination. 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 his release or, at a minimum, a bond hearing under § 1226. 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.

## II. 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 (Automated Case Information). He has been detained since or about, November 2, 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 in this District, Petitioner is detained in this District, and a substantial part of the events giving rise to the claims in this action took place in this District. Venue is also proper under 28 U.S.C. § 2243 because the immediate custodians of Petitioner reside in this District.

**III. 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.

#### **IV. PARTIES**

16. Petitioner Jose Fabian Trejo Enriquez is a 42-year-old citizen of Mexico. He last entered the United States in or about 2006 without inspection and has resided here continuously for over 19 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.

## V. FACTS

23. Petitioner Jose Fabian Trejo-Enriquez is a noncitizen father of five U.S.-citizen children: [REDACTED] (age 4), [REDACTED] (age 12), [REDACTED] (age 14), [REDACTED] (age 16), and [REDACTED] (age 17). He last entered the United States without inspection near Eagle Pass, Texas, on or about May 1, 2006, and has resided in the United States continuously since that time.
24. Petitioner is a derivative beneficiary of his wife Enedina Hernandez Rosas's T-visa case. *See* Exh. 3. On January 14, 2025, U.S. Citizenship and Immigration Services ("USCIS") granted him a T-visa bona fide determination ("BFD") in connection with his pending application for derivative T nonimmigrant status. *See* Exh. 3 (USCIS T-visa BFD and notices); and Exh. 4 (USCIS BFD Determination Process).
25. Petitioner works as an independent contractor and is the primary financial provider for his household. His wife and all five U.S.-citizen children reside in the United States and depend on his income to meet basic living expenses.
26. Petitioner has deep ties to his community. He has been a parishioner at [REDACTED] [REDACTED] since approximately 2013, he files and pays his taxes, and he owns property in the United States.
27. Petitioner is eligible for Cancellation of Removal (42B) before the immigration court, because he has been in the United States for at least 10 years, he has good moral character

for that period, he has no disqualifying criminal history and her can show that his five U.S. citizen children will suffer exceptional and extremely unusual hardship if he is removed to Mexico. *See* 8 U.S.C. § 1229b.

28. In 2025, Petitioner was arrested in Burnet County, Texas, for suspected driving while intoxicated (“DWI”) and booked into the Burnet County Jail. He was later released from the county jail on a \$1,500 personal bond.
29. On November 2, 2025, immediately following his release from the Burnet County Jail, officers of U.S. Immigration and Customs Enforcement (“ICE”) arrested Mr. Trejo-Enriquez pursuant to an I-200 administrative warrant of arrest, as reflected in the Form I-213<sup>2</sup>, and transferred him to the T. Don Hutto Detention Center in Taylor, Texas. *See* Exh. 2. He has remained detained at that facility since November 2, 2025.
30. Petitioner has no criminal convictions. The Burnet County DWI remains only an arrest and has not resulted in any conviction.
31. Following his arrest by ICE, the Department of Homeland Security (“DHS”) initiated removal proceedings against Petitioner by issuing a Notice to Appear, and his case is now pending before the immigration court. EOIR’s Automated Case Information System reflects that he is scheduled for a master calendar removal hearing on December 19, 2025, at 8:30 a.m. Exh. 1 (Automated Case Information System results); Exh. 5 (Notice to Appear).
32. DHS has classified Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b) and, on that basis, has declined to provide him a custody hearing before an IJ under 8 U.S.C. § 1226(a). As a result, since his arrest on November 2, 2025, Petitioner has not

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<sup>2</sup> The ICE form I-213 reflects inconsistencies, such as his marital status, children, claims of relief, and others. Removal counsel for Petitioner has filed objections to these inconsistencies in immigration court.

received any bond hearing or other individualized determination of whether his continued detention is necessary to prevent flight or danger.

## VI. LEGAL FRAMEWORK

### A. Due Process

33. 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

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

35. 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).

36. 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).

37. 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).

## VII. ARGUMENT

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

38. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2).
39. 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).
40. 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).
41. 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).
42. 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.

43. On July 8, 2025, ICE announced new "Interim Guidance Regarding Detention Authority for Applicants for Admission,"<sup>3</sup> reversing longstanding understanding and practice.

44. 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).

45. 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).

46. 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>4</sup>

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<sup>3</sup> Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

<sup>4</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. 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 Luceo 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

47. 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 § 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*,

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§ 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)).

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 petitioner from custody) and *Navarrete Perdomo v. Bondi*, No. 5:25-cv-01398 (W.D. Tex. Nov. 25, 2025) (granting habeas relief for Petitioner with SIJ status and ordering release).

48. 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.<sup>5</sup> 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*.
49. 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).

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<sup>5</sup> Undersigned counsel is informed and believes that IJs in Pearsall, Texas have 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.

50. These decisions reflect a clear judicial consensus that the government’s reliance on § 1225(b)(2) is misplaced where § 1226(a) applies.
51. 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.
52. 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.
53. Section 1226 therefore applies to people charged as inadmissible who are already in the interior, including those present without admission or parole.
54. 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.
55. 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.
56. 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.

57. 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.

58. 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).

59. 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.**

51. Mr. Trejo-Enriquez was arrested in the interior and is in regular removal proceedings under 8 U.S.C. § 1229a. He was taken into ICE custody in Burnet County, Texas, pursuant to a Form I-200 administrative warrant of arrest after his release from local custody, following nearly two decades of continuous residence in the United States. He was not apprehended

at or near the border, and he was not processed under expedited removal. Section 1226(a) therefore controls and supplies bond jurisdiction. *See Jennings*, 583 U.S. at 297, 302–03.

52. USCIS’s grant of a T-visa Bona Fide Determination (“BFD”) in Petitioner’s derivative T case further underscores why mandatory detention under § 1225(b) is unlawful here. By issuing a BFD, DHS’s own benefits agency has already conducted a threshold review of his application, found it credible and complete on its face, and formally recognized him as the derivative of a trafficking victim within the class Congress intended to protect. This is not a speculative or last-minute claim to relief—it is an active, preliminarily vetted case that gives Petitioner a concrete path to lawful status and powerful incentives to appear. Treating him as categorically subject to no-bond detention under § 1225(b) despite his T-visa BFD, long residence, U.S.-citizen children, church membership, tax history, and property ownership is irrational, collapses the careful balance Congress struck between §§ 1225 and 1226, and violates due process by denying him any individualized assessment of flight risk or danger.

53. 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.

54. 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).

55. *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.

56. Longstanding agency materials confirm that interior encounters without admission were treated under § 1226(a)'s predecessor, INA § 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).

57. 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 § 1226(a). *See Matter of Mariscal-Rodriguez*, 28 I. & N. Dec. 666, 668–71 (B.I.A. 2022). Petitioner’s interior arrest was effectuated under an I-200 warrant, which places him within § 1226(a).

58. 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 statute’s structure.

### C. Remedy

59. For the reasons set out above, the Court should: (1) declare that 8 U.S.C. § 1226(a) (INA § 236(a)), not 8 U.S.C. § 1225(b)(2) (INA § 235(b)(2)), governs Petitioner's custody; (2) order Respondents to immediately release Petitioner from civil immigration detention in light of his long residence, lack of criminal convictions, T-visa Bona Fide Determination, and substantial community and family ties; or, in the alternative, (3) require Respondents to provide Petitioner with a prompt, recorded bond hearing under § 1226(a) before an immigration judge by a date certain, at which DHS bears the burden of proving by clear and convincing evidence that continued detention is necessary to prevent flight or danger.

#### **VIII. CLAIMS FOR RELIEF**

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

60. Petitioner incorporates all allegations above.
61. 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).
62. 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).
63. The Fifth Amendment protects “all persons” in the United States, including long-resident noncitizens. *Zadvydas*, 533 U.S. at 693. Continued detention since November 2, 2025 without the required process or justification violates that protection.

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

64. Petitioner incorporates all allegations above.
65. 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).
66. 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.
67. 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**

68. Petitioner incorporates all allegations above.
69. 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).
70. This denial of meaningful process violates the Fifth Amendment.

**FOURTH CAUSE OF ACTION**  
**ADMINISTRATIVE PROCEDURE ACT**

71. Petitioner re-alleges and incorporates by reference the paragraphs above.
72. Respondents' continued efforts to deny him bond violate the INA, Administrative Procedures Act (APA), and the U.S. Constitution.
73. 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.
74. 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.
75. 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.

**FIFTH CAUSE OF ACTION  
SUSPENSION CLAUSE CLAIM**

76. Petitioner re-alleges and incorporates by reference the paragraphs above.
77. 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.
78. 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.
79. First, although Petitioner is not a U.S. citizen or resident, he has lived here for over 19 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 U.S. citizen children will suffer exceptional and extremely unusual hardship if he were removed

to Mexico. Petitioner has significant family connections in the United States, including his U.S. citizen children and wife, who has T-visa bonafide determination and deferred action. All of which establishes a substantial legal relationship with the United States.

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

81. 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.

82. 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.

#### **IX. RELIEF SOUGHT**

WHEREFORE, Petitioner respectfully requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Declare that ICE's November 2, 2025, apprehension and detention of Ms. Trejo Enriquez 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 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/ Maria Nereida Jaimes**  
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**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner, Jose Fabian Trejo Enriquez, 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 8th day of December 2025.

**/s/ Maria Nereida Jaimes**  
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