UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

Candelario Rincon Chavero, **A[redacted]** **Petitioner,** **v.**	**Civil Action No. 3:25-cv-00638**
Pamela Jo Bondi, Attorney General of the United States of America,	**PETITION FOR WRIT OF HABEAS CORPUS**
Kristi Noem, Secretary of the Department of Homeland Security, (DHS),	
Todd Lyons, Acting Director, United States Immigration and Customs Enforcement (ICE),	
Mary De Anda-Ybarra, Field Office Director, El Paso Field Office, United States Immigration and Customs Enforcement (ICE) and,	
Warden of the El Paso Processing Center **Respondents.**	

INTRODUCTION

1. Petitioner, Mr. Rincon Chavero, is in the physical custody of Respondents at the El Paso Processing Center. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention, refusing to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

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

3. Based on this allegation in Petitioner's removal proceedings, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The BIA determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

6. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

7. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *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) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgement).

8. The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautistia*, 2025 WL 3289861, at *11.

9. Nonetheless, the Executive Office for Immigration Review and its subagency, the Office of the Chief Immigration Judge, and the Department of Homeland Security, have blatantly refused to abide by the declaratory relief and have unlawfully denied Petitioner the opportunity to be released on bond. Immigration Judges have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead Immigration Judges remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

10. Petitioner is a member of the Bond Eligible Class, as he: (a) does not have lawful status in the United States and is currently detained at the El Paso Processing Center after apprehension by immigration authorities on September 10, 2025; (b) entered the United States

without inspection three years ago and was not apprehended upon arrival; and (c) is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

11. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

JURISDICTION

12. Petitioner is in the physical custody of Respondents. Petitioner is detained at El Paso Processing Center in El Paso, Texas.

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

14. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and 28 U.S.C. § 1261, the All Writs Act.

VENUE

15. Venue lies in the United States District Court for the Western District of Texas, the judicial district in which Petitioner is currently detained. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973). (finding proper venue lies in the judicial district in which Petitioner is currently detained).

16. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Texas. Respondent Warden of the El Paso Processing Center has their principal place of business in El Paso, Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

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

18. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. Immigr. Nationalities Svc.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

REQUIREMENTS OF 28 U.S.C. § 2243

19. Petitioner, Rincon Chavero, is alleged to be a citizen of Mexico who has been in immigration detention since September 10, 2025. After arresting Petitioner in Las Cruces, New Mexico, ICE did not set bond and Petitioner is unable to obtain review of his custody by an Immigration Judge (IJ), pursuant to the BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

20. Respondent Pamela Jo Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review (EOIR)—and the immigration court system it operates—is a component agency.

21. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act

(INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

22. Respondent Todd Lyons is the Acting Director of the United States Immigration and Customs Enforcement, which is the agency responsible for Petitioner's detention. Mr. Lyons has custodial authority over Petitioner and is sued in his official capacity.

23. Respondent Mary De Anda-Ybarra is the Director of the El Paso Field Office of ICE's Enforcement and Removal Operations division and is the federal official with supervisory authority over the Farmville Detention Center, a contract facility. As such, Ms. De Anda-Ybarra is Petitioner's immediate legal custodian and is responsible for Petitioner's detention and removal. She is named in her official capacity.

24. Respondent Warden of the El Paso Processing Center is the warden of a detention facility owned and operated by DHS and is the Petitioner's immediate physical custodian. Respondent Warden is sued in their official capacity.

LEGAL FRAMEWORK

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

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

27. 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 to under § 1225(b)(2).

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

29. This case concerns the detention provides at §§ 1226(a)(and 1225(b)(2).

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

31. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention of Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

32. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

33. On May 15, 2025, the BIA issued *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) finding that mandatory detention under § 1225(b)(2)(A) applies to individuals who are arrested upon entry, paroled from detention and charged as inadmissible to the United States as noncitizens present without being admitted or paroled and placed in § 1229a removal proceedings, and subsequently rearrested by ICE.

34. On July 8, 2025, ICE, "in coordination with" DOJ, expanded this novel interpretation with a new policy, therein rejecting well-established understanding of the statutory framework and reversed decades of practice.

35. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention pursuant to § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

36. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the BIA held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

37. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado* and *Matter of Q. Li*, which adopt the same reading of the statutes as ICE.

38. Even before ICE or the BIA introduced these nationwide policies, IJs at the Tacoma, Washington Immigration Court stopped providing bond hearings for persons who entered the

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

United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 1239 (W.D. Wash. 2025).

39. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546,

2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g.*, *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

40. Most recently, on November 20, 2025, the District Court for the Central District of California granted declaratory relief to the petitioners of *Maldonado Bautista* by declaring "unlawful" the DHS's new detention policy and the BIA's matching conclusion in *Matter of Yajure Hurtado*. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3289861 (Nov. 20, 2025). The *Maldonado Bautista* court granted the Petitioners' motion for partial summary judgment and found "the statutory provisions to be unambiguous and consistent with only Petitioners' interpretation," therein rejecting the new attempt to apply INA § 235(b)(2)(A) to noncitizens like the Respondent. *Id.*

41. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Maldonado Bautista* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

42. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." 8 U.S.C. § 1226(a). These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[noncitizen]."

43. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing

under subsection (a). *Id.* As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 770 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. V. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

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

45. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who are otherwise actively seeking admission to the United States. 8 U.S.C. § 1225(b). The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

46. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing within the United States at the time they were apprehended.

FACTS

47. Petitioner is a fifty-three-year-old father of four U.S. citizen children, grandfather of six U.S. citizen grandchildren, and husband of a Legal Permanent Resident.

48. Petitioner first came to the United States in 1991 and has been domiciled in the United States for almost thirty-five years. He left the United States in 2022 to attend a consular interview for his application for permanent residence based on an approved application for a

provisional unlawful presence waiver. His application for permanent residence was ultimately denied.

49. Petitioner reentered the United States in May of 2022 and has lived in Las Cruces, New Mexico with his ailing wife since his last entry.

50. On September 10, 2025, ICE officers came to Petitioner's home in Las Cruces, New Mexico to arrest him, declining to produce a warrant for his arrest. Petitioner is now detained at the El Paso Processing Center following transfer from other facilities.

51. On September 11, 2025, DHS served him with a Notice to Appear (*see* Ex. A), placed him in removal proceedings, before the El Paso Immigration Court, and charged him as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without being admitted or paroled.

52. During his detention, Petitioner has suffered high blood pressure, high cholesterol, and diabetes for which he receives medication. He struggles to access a nutritious diet in detention, which is crucial for proper maintenance of his health conditions. Consequently, his health has suffered in detention.

53. Petitioner is neither a flight risk nor a danger to the community. He lives in the United States with his Legal Permanent Resident wife, Gricelda, who is struggling to manage her high blood pressure and diabetes while suffering emotional and financial difficulties without her husband. His four U.S. citizen children and six U.S. citizen grandchildren all live nearby either in Las Cruces, New Mexico or in Phoenix, Arizona. He owns his own business as a carpenter and uses his income to support his wife and youngest child. He is an involved member of Santa Rosa de Lima Catholic Church. He has no criminal history in the United States.

54. Following Petitioner's arrest and transfer to El Paso Processing Center, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

55. Pursuant to *Matter of Yajure Hurtado [and Matter of Q. Li.]*, the IJ is unable to consider Petitioner's bond request.

56. As a result, Petitioner remains in detention. Without relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

CLAIMS FOR RELIEF

COUNT 1

Violation of the INA

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

58. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

59. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

CLAIMS FOR RELIEF

COUNT 2

Violation of Due Process

60. Petitioner repeats, realleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

61. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraining—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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

63. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Western District of Texas while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

e. Declare that Petitioner's detention is unlawful;

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

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

Dated: November 10, 2025

/s/ Ruby Powers
Ruby L. Powers, Esq.
Powers Law Group, P.C.
1311 Enid St.
Houston, TX 77009
Phone: 713-589-2085
ruby@rubypowerslaw.com
Texas Bar ID: 24057581
Local Counsel for Petitioner

/s/ Rebecca Swaintek-Green
Rebecca Swaintek-Green, Esq.
Swaintek-Green Law, LLC
841 E Fort Ave #242
Baltimore, MD 21230
Phone: 443-402-8080
becca@swaintek-green.com
Pennsylvania Bar ID: 329749
Attorney for Petitioner