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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

**Adonis Carretero-Cenovio,
Petitioner,**

v.

Kristi Noem, Secretary of the United States
Department of Homeland Security, in her official
capacity; **Todd Lyons**, Acting Director U.S.
Immigration and Customs Enforcement, in his official
capacity; **John Cantu**, Field Office Director for ICE’s
Enforcement and Removal Operation’s (“ERO”) Field
Office, in his official capacity; **Sirce Owen**, Acting
Director of Executive Office for Immigration Review,
in her official capacity; **Fred Figueroa**, Warden of the
Eloy Detention Center, in his official capacity,
Respondents.

Case No.

Agency No.



**PETITION FOR WRIT
OF HABEAS CORPUS
PURSUANT TO 28 U.S.C.
§2241**

INTRODUCTION

The Respondents are unlawfully detaining Petitioner Adonis Carretero-Cenovio, at the Eloy Detention Center, due to the Department of Homeland Security (DHS) recently changed its long-standing position with regard to the status of mandatory detention. See, ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission filed herewith as Exhibit 1. The Bureau of Immigration

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Appeals (BIA) issued a precedential decision on September 5, 2025, holding that all noncitizens present in the United States without admission – no matter how long they have resided here – are still “applicants for admission” under 8 U.S.C. § 1225(a) and not entitled to bond hearings because they are subject to mandatory detention under § 1225(b)(2)(A). *See, Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025) filed herewith as Exhibit 2.

But this interpretation of the Immigration and Naturalization Act (INA) violates both procedural and substantive Fifth Amendment protections, ignores the plain statutory language of both § 1225 and § 1226, and is contrary to numerous recent Federal Court decisions in this District that have rejected these exact arguments. *See e.g.* 10/3/2025 Order entered in *Francisco Echevarria v. Pam Bondi, et al.*, CV-25-03252-PHX-DWL (ESW), (D. Ariz. 10/3/2025), filed herewith as Exhibit 16.

Petitioner has resided in the United States for approximately eighteen years. *See*, Petitioner’s Affidavit, filed herewith as Exhibit 4. He is married to a U.S. citizen and is the father of a U.S. citizen child who is under one year old. *Id.* As such, he is statutorily eligible to apply for non-LPR cancellation of removal. Petitioner filed an Application for Cancellation of Removal for Certain Nonpermanent Residents on October 6, 2025. *See* Petitioner’s Application for Cancellation of Removal, filed herewith as Exhibit 6. Further, when Respondents issued a Notice to Appear, it identified Petitioner as an “alien present in the United States” despite “arriving alien” being an option. *See*, Petitioner’s Notice to Appear, filed herewith as Exhibit 5.

1 In addition to BIA decisions not being binding precedent upon this Court, the
2 Supreme Court decision last year in *Loper Bright Enterprises v. Raimondo*, 603 U.S.
3 369, 400 (2024), made clear that federal courts must independently interpret statutes and
4 no longer defer under so-called “Chevron deference.” This Court is therefore in the best
5 position to determine whether the Respondents are misinterpreting the relevant federal
6 statutes and improperly denying alien detainees bond hearings on the grounds that they
7 are all subject to mandatory detention under § 1225(b)(2)(A). The petition for writ of
8 habeas corpus should be granted.
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10

11 **JURISDICTION & CUSTODY**
12

13 1. Petitioner Adonis Carretero-Cenovio, is in the physical custody of
14 Respondents and Immigration and Customs Enforcement (ICE), an agency within the
15 Department of Homeland Security.
16

17 2. Petitioner is currently detained at Eloy Detention Center and is under
18 the direct control of Respondents and their agents.

19 3. This action arises under the Constitution of the United States and 8
20 U.S.C. § 1101 et seq.
21

22 4. This Court has jurisdiction under 28 U.S.C. § 2241, Art. I § 9, cl. 2 of
23 the United States Constitution, 28 U.S.C. § 1331, and the common law. This Court may
24 grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. §
25 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.
26

27 5. Congress has preserved judicial review of challenges to immigration
28 detention. See *Jennings v. Rodriguez*, 583 U.S. 122, 130-131 (2018) (holding that 8

1 U.S.C. §§ 1226(e) and 1252(b)(9) do not bar review of challenges to prolonged
2 immigration detention).

3
4 6. The Court must grant the petition for writ of habeas corpus or order
5 Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28
6 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return
7 “within three days unless for good cause additional time, not exceeding twenty days, is
8 allowed.” *Id.*


9
10 7. The Court has inherent power to release the petitioner pending review
11 of his petition. *See Martin v. Solem*, 801 F.2d 324, 329 (8th Cir. 1986).

12
13 **VENUE**

14 8. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410
15 U.S. 484, 493- 500 (1973), venue lies in this Court, the federal judicial district in which
16 Petitioner is currently is in custody.

17
18 9. Venue is also properly in this Court pursuant to 18 U.S.C. § 1391(e)
19 because Respondents are employees, officers, and agencies of the United States.

20
21 **PARTIES**

22 10. Petitioner Adonis Carretero-Cenovio was born on  in
23 Mexico City, Mexico. *See*, Petitioner’s Affidavit, filed herewith as Exhibit 6. Petitioner
24 is currently detained by ICE at Eloy Detention Center. *See*, DHS Record of Deportable
25 Alien, filed herewith as Exhibit 3.

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1 11. Respondent Kristi Noem is the Secretary of the U.S. Department of
2 Homeland Security (“DHS”). In this capacity, Respondent Noem is a legal custodian of
3 Petitioner. Respondent Noem is sued in her official capacity.
4

5 12. Respondent DHS is a federal executive agency responsible for, among
6 other things, enforcing federal immigration laws and overseeing lawful immigration to
7 the United States. Respondent DHS is a legal custodian of Petitioner.
8

9 13. Respondent Todd M. Lyons is Acting Director and Senior Official
10 Performing the Duties of the Director of U.S. Immigration and Customs Enforcement
11 (“ICE”). Respondent Lyons is responsible for ICE’s policies, practices, and procedures,
12 including those relating to the detention of immigrants during their removal procedures.
13 Respondent Lyons is a legal custodian of Petitioner. Respondent Lyons is sued in his
14 official capacity.
15

16 14. Respondent ICE is a federal law enforcement agency within DHS.
17 Respondent ICE is responsible for the enforcement of immigration laws, including the
18 detention and removal of immigrants. Respondent ICE is a legal custodian of Petitioner.
19

20 15. Respondent John Cantu is Field Office Director for ICE’s Enforcement
21 and Removal Operation’s (“ERO”) Field Office. Respondent Cantu is a legal custodian
22 of Petitioner and is sued in his official capacity.
23

24 16. Respondent Fred Figueroa is the Warden of the Eloy Detention Center.
25 Respondent Figueroa is a legal custodian of Petitioner. Respondent Figueroa is sued in
26 his official capacity.
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1 . 30. On July 8, 2025, DHS adopted a new policy on mandatory detention
2 for noncitizens who have been residing in the United States. *See*, ICE Memo: Interim
3 Guidance Regarding Detention Authority for Applications for Admission filed herewith
4 as Exhibit 1.

6 31. On September 5, 2025, the BIA entered the precedential decision
7 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), filed herewith as Exhibit 2,
8 which holds that all noncitizens who enter without inspection are “applicants for
9 admission” under 8 U.S.C. § 1225(a) and therefore subject to mandatory detention under
10 § 1225(b)(2), without regard for the length of time they have lived in the United States.

13 32. The Ninth Circuit has held that § 1226(a) is the “default” detention
14 statute for aliens in removal proceedings “[8 U.S.C. §1226(a) ("Subsection A")] is the
15 default detention statute for noncitizens in removal proceedings and applies to
16 noncitizens "[e]xcept as provided in [Subsection C]." 8 U.S.C. § 1226(a).” *Avilez v.*
17 *Garland*, 69 F. 4th 525, 529-530 (9th Cir. 2022). *Accord, Rodriguez Diaz v. Garland*,
18 83 F. 4th 1177, 1179 (9th Cir. 2023); *Sarr v. Scott*, 765 F. Supp. 3d 1091, 1095 (WD
19 Wash. 2025); *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008). *Casas-*
20 *Castrillon v. DHS*, 535 F.3d 942 (9th Cir. 2008).

23 33. Almost every Federal District Court that has considered the issue has
24 found that DHS’s interpretation defies the INA. In Arizona, the following decisions so
25 find and collect the cases from other district courts around the country:
26

- 27 a. 11/26/2025 Order granting habeas in *Luna-Gonzalez v. Noem*, et al., Case
28 No. 25-cv-03794-PHX (D. Ariz 11-26-25)(The court rejected the government’s argument that the petitioner is an “arriving alien” subject to

1 mandatory detention under § 1225 and agrees instead with the growing
2 majority of courts that people like the petitioner—who were arrested
3 inside the United States long after entering—are detained under § 1226(a),
4 not § 1225.), gathering cases, filed with the Habeas Petition as Exhibit 7;

5 b. 11/24/25 Order granting habeas in *Padron-Carreron v. Noem*, et al., Case
6 No. 25-cv-04204-PHX (D. Ariz. 11-25-25)(“Respondents correctly
7 acknowledge that their view still represents the minority position—in the
8 weeks since the Court considered the issue in *Echevarria*, dozens of other
9 courts have reached the same conclusion... [that] § 1226(a)’s application
10 for the past three decades supports its application to noncitizens in
11 petitioner’s position”), gathering cases, filed with the Habeas Petition as
12 Exhibit 8;

13 c. 11/18/2025 Order granting habeas in *Rodrigues da Silva v. Figueroa*, et
14 al., Case No. 25-cv-04015-PHX (D. Ariz. 11-18-25)(“dozens of other
15 district courts have concluded individuals like Petitioner are subject to §
16 1226 and not § 1225 and, therefore, are not subject to mandatory
17 detention”), gathering cases, filed with the Habeas Petition as Exhibit 9;

18 d. 11/13/2025 Order granting habeas in *Perez Rodriguez v. Noem*, et al., Case
19 No. 25-cv-03921-PHX (D. Ariz. 11/13/2025)(“the vast majority of courts
20 concluded individuals like Petitioner are subject to § 1226 and not § 1225
21 and, therefore, are not subject to mandatory detention”), gathering cases,
22 filed with the Habeas Petition as Exhibit 10

23 e. 11/6/25 Order granting habeas in *Gonzalez Rodriguez v. Bondi*, et al., Case
24 No. 25-cv-03917-PHX (D. Ariz. 11-6-25)(“dozens of other district courts
25 have concluded individuals like Petitioner are subject to § 1226 and not §
26 1225 and, therefore, are not subject to mandatory detention”), gathering
27 cases, filed with the Habeas Petition as Exhibit 11

28 f. 11/6/2025 Order Granting Habeas in *Abrego-Zarate v. Noem*, et al., Case
No. 25-cv-03564-KML (D. Ariz. 11-6-25)(“the great weigh of authority
is that individuals like petitioner are not subject to mandatory detention.
This court agrees with the majority view. For these reasons, the petition is
granted, and petitioner must receive a bond hearing without application of

1 *Matter of Yajure Hurtado*, 29 I&N 216 (B.I.A. 2025.”), filed herewith as
2 Exhibit 12.

3 g. 11/03/25 Order granting habeas petition in *Lopez-Cruz v. Noem, et al*, No.
4 2:25-cv-03566-DJH--ASB (D. Ariz. 11/3/2025)(“dozens of other district
5 courts have concluded individuals like Petitioner are subject to § 1226 and
6 not § 1225 and, therefore, are not subject to mandatory detention. This
7 Court agrees with this conclusion.”), filed herewith as Exhibit 13.

8 h. 10/22/2025 Order granting habeas in *Garcia-Rosales v. Noem, et al.*, No.
9 2:25-cv-03391-SHD-DMF at page 2 (D. Ariz. Oct. 22, 2025)(“while
10 Respondents point to two district court opinions adopting their
11 interpretation of § 1225(b)(2)(A), myriad other district courts have
12 reached the same conclusion as *Echevarria* and held individuals like
13 Petitioner are not subject to mandatory detention under 1225(b)(2)(A)”),
14 filed herewith as Exhibit 14.

15 i. 10/17/2025 Order granting habeas corpus in *Benitez-Cornejo v. Cantu, et*
16 *al.*, No. 2:25-cv-03672 (D. Arizona Oct. 17, 2025)(“individuals like
17 Petitioner are not “arriving aliens” subject to mandatory detention but,
18 rather, are subject to the general removal statute, 8 U.S.C. § 1226(a)”),
19 filed herewith as Exhibit 15.

20 j. 10/09/2025 Order granting habeas entered in *Hector Lopez-Melo v. Bondi,*
21 *et. al.*, Case No. Case 2:25-cv-03394-DJH--JZB (D. Ariz.
22 10/9/2025)(“petitioner, who had been present in the United States for
23 years, was not an applicant for admission under 1225(b)(2)(A) or subject
24 to mandatory detention”), filed herewith as Exhibit 16.

25 k. 10/07/2025 Order granting habeas corpus in *Bo Li v. Cantu, et al.*, No.
26 CV-25-02989-PHX-SPL (D Arizona 10/07/2025)(“Respondents maintain
27 he is subject to mandatory detention under 1225(b)(2). Again,
28 Respondents are mistaken.”), filed herewith as Exhibit 17.

 l. 10/3/2025 Order granting habeas corpus in *Echevarria v. Bondi, et al.*, No.
 2:25-cv-03252-PHX-DWL, 2025 WL 2821282 (D. Ariz. Oct. 3,
 2025)(“Court agrees with the majority of courts that have concluded that

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§ 1226(a), rather than § 1225(b)(2)(A), applies in this circumstance.”), filed herewith as Exhibit 18.

m. 08/11/2025 Magistrate’s Report and Recommendation in *Rocha Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR 2025 WL 2349133 at *10 (D. Ariz. Aug. 13, 2025)(Magistrate’s Report and Recommendation Adopted at 2025 WL 2349133)([t]he text of § 1226, the canons of statutory interpretation, this section’s legislative history, and longstanding agency practice indicate that Rosado is subject to § 1226(a)’s ‘default’ rule for discretionary detention rather than § 1225’s mandatory detention requirement, and that the IJ erred by finding they did not have jurisdiction to consider Rosado’s detention.”) *report and recommendation adopted sub nom.* 2025 WL 2349133 (D. Ariz. Aug. 13, 2025), filed herewith as Exhibit 19.

34. Petitioner has located only 5 cases holding to the contrary. In *Vargas Lopez v. Trump*, --F. Supp. 3d--, 2025 WL 2780351 (D. Neb. Sept. 30, 2025), the court held that Vargas Lopez failed to meet his burden to show that he falls under § 1226(a), so “his Petition fails regardless of the parties’ arguments about the scope of § 1225(b) and § 1226(a).” *Vargas Lopez v. Trump*, 2025 WL 2780351 at *7 (emphasis added). In *Chavez v. Noem*, -- F. Supp. 3d --, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025), the court denied a temporary restraining order on the grounds that the petitioners had “not demonstrated serious questions about the application of Section 1225 to aliens present in the United States.” *Chavez v. Noem*, 2025 WL 2730228 at *4. However, the court spent less than 2 pages analyzing the statutory language and caselaw before concluding that “Petitioners have not shown either a likelihood of success or serious questions going to the merits [therefore] we do not address the remaining Winter factors.” *Chavez v. Noem*, 2025 WL 2730228 at *5. *Mejia Olalde v. Noem*, 2025 U.S. Dist. LEXIS 221830

1 (E.D. Mo. Nov. 10, 2025) was concerned with whether the habeas petition had been
2 properly filed in that court’s jurisdiction and never reached the application of § 1225(b)
3 to the petitioner. *Pipa-Aquise v. Bondi*, No. 25-1094, 2025 WL 2490657 (E.D. Va. Aug.
4 5, 2025) and *Pena v. Hyde*, No. 25-11983, 2025 WL 2108913 (D. Mass. July 28, 2025)
5 were each shorter than two pages long and neither contained any significant analysis.
6

7 Thus, none of these cases are particularly instructive.
8

9 35. In 1997, after Congress amended the INA through the Illegal
10 Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), EOIR and
11 the then-Immigration and Naturalization Service issued an interim rule to interpret and
12 apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and
13 Detention of Aliens,” the agencies explained that:
14

15 Despite being applicants for admission, aliens who are
16 present without having been admitted or paroled (formerly
17 referred to as aliens who entered without inspection) ***will be***
18 ***eligible*** for bond and bond redetermination.

19 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that
20 individuals who had entered without inspection *were* eligible for consideration for
21 bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing
22 regulations.
23

24 36. Thus, for almost 30 years, all participants in the immigration system
25 have understood that people arrested inside the United States generally fall within §
26 1226 for detention purposes and are therefore required to receive a bond hearing upon
27 request—even if they initially entered the country without permission. *See Martinez v.*
28

1 *Hyde*, No. 25-11613, 2025 WL 2084238, at *4 n.9 (D. Mass. July 24, 2025) (citing the
2 United States Solicitor General’s representation to the Supreme Court at oral argument
3 that “DHS’s long-standing interpretation has been that 1226(a) applies to those who
4 have crossed the border between ports of entry and are shortly thereafter apprehended”).

5
6 37. Despite the overwhelming number of federal cases that have ruled
7 against the government’s position, DHS and DOJ are continuing to systemically
8 misclassify people and unlawfully deny them access to bond hearings and release on
9 bond during the pendency of their immigration proceedings.

10
11 **CLAIMS FOR RELIEF**
12 **FIRST CLAIM FOR RELIEF**
13 **Violation of Fifth Amendment – Substantive Due Process**

14
15 38. Petitioner realleges and incorporates herein the allegations contained
16 in the preceding paragraphs of the petition as if fully set forth herein.

17 39. The Due Process Clause of the Fifth Amendment forbids the
18 government from depriving any “person” of liberty “without due process of law,”
19 including noncitizens. U.S. Const. amend. V.

20
21 40. Substantive due process asks whether a person’s life, liberty, or
22 property is deprived without sufficient purpose. There is no question that Petitioner has
23 been deprived of his liberty in this case.

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25 41. The government’s continued detention of Petitioner is not supported
26 by any special interest or compelling justification that outweighs his liberty interest.
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Respondents to immediately release Petitioner from custody or, in the alternative, order Respondents to provide Petitioner a bond hearing under 8 U.S.C. § 1226, and without regard to the holding of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), within three (3) business days;

4. Award Petitioner reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
5. Grant any further relief the Court deems just and proper.

Dated this 11th day of December, 2025.

By: /s/ *Erica Sanchez*
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner Adonis Carretero-Cenovio 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 11th day of December, 2025.

By: */s/ Erica Sanchez*
Erica Sanchez, Esq.

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LIST OF EXHIBITS	
Exhibit 1	<u>ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission</u> (last visited September 8, 2025).
Exhibit 2	<i>Matter of Yajure Hurtado</i> , 29 I&N Dec. 216 (B.I.A. 2025).
Exhibit 3	ICE Online Detainee Locator Printout
Exhibit 4	Petitioner's Affidavit
Exhibit 5	Notice to Appear
Exhibit 6	Cover Page: Petitioner's Application for Cancellation of Removal for Certain Nonpermanent Residents
Exhibit 7	Order granting habeas in <i>Luna-Gonzalez v. Noem, et al.</i> , Case No. 25-cv-03794-PHX (D. Ariz. 11-26-25)
Exhibit 8	Order granting habeas in <i>Padron-Carreron v. Noem, et al.</i> , Case No. 25-cv-04204-PHX (D. Ariz. 11-24-25)
Exhibit 9	Order granting habeas in <i>Rodrigues da Silva v. Figueroa, et al.</i> , Case No. 25-cv-04015-PHX (D. Ariz. 11-18-25)
Exhibit 10	Order entered <i>Perez Rodriguez v. Noem, et al.</i> , Case No. 25-cv-03921-PHX (D. Ariz. 11/13/2025)
Exhibit 11	Order entered <i>Gonzalez Rodriguez v. Bondi, et al.</i> , Case No. 25-cv-03917-PHX (D. Ariz. 11-6-25)
Exhibit 12	Order entered in <i>Abrego-Zarate v. Noem, et al.</i> , Case No. 25-cv-03564-KML (D. Ariz. 11-6-25)
Exhibit 13	Order entered in <i>Lopez-Cruz v. Noem, et al.</i> , No. 2:25-cv-03566-DJH--ASB (D. Ariz. 11/3/2025)
Exhibit 14	Order entered in <i>Garcia-Rosales v. Noem, et al.</i> , No. 2:25-cv-03391-SHD—DMF (D. Ariz. Oct. 22, 2025)
Exhibit 15	Order granting habeas corpus in <i>Benitez-Cornejo v. Cantu, et al.</i> , No. 2:25-cv-03672 (D. Arizona Oct. 17, 2025)
Exhibit 16	Order entered in <i>Hector Lopez-Melo v. Bondi, et al.</i> , Case No. Case 2:25-cv-03394-DJH--JZB [docket no. 11] (D.C. Ariz. 10/9/2025)
Exhibit 17	Order granting habeas corpus in <i>Bo Li v. Cantu, et al.</i> , No. CV-25-02989-PHX-SPL (D Arizona 10/07/2025)
Exhibit 18	Order entered in <i>Francisco Echevarria v. Pam Bondi, et al.</i> , CV-25-03252-PHX-DWL (ESW), (D. Ariz. 10/3/2025)

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Exhibit 19	Magistrate's Report and Recommendation in <i>Rocha Rosado v. Figueroa</i> , No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025)
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