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7  
8 **UNITED STATES DISTRICT COURT**  
9  
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11  
12 SALVADOR DIAZ RODRIGUEZ,  
13  
14 Petitioner,

15 v.

16 CHRISTOPHER J. LAROSE, Senior  
Warden, Otay Mesa Detention Center,  
San Diego, California; DANIEL A.  
17 BRIGHTMAN, Field Office Director,  
San Diego Office of Detention and  
Removal, U.S. Immigrations and  
18 Customs Enforcement; U.S.  
Department of Homeland Security;  
19 TODD M. LYONS, Acting Director,  
Immigration and Customs  
20 Enforcement, U.S. Department of  
Homeland Security; DAREN K.  
21 MARGOLIN, Acting Director for  
Executive Office for Immigration  
22 Review; KRISTI NOEM, Secretary,  
U.S. Department of Homeland  
23 Security; PAM BONDI, Attorney  
General of the United States;

24 Respondents.  
25  
26  
27  
28

CIVIL CASE NO.: '25CV3551 RBM SBC

AGENCY NO. 

**PETITION FOR WRIT OF  
HABEAS CORPUS AND ORDER  
TO SHOW CAUSE WITHIN  
THREE DAYS; COMPLAINT FOR  
INJUNCTIVE AND  
DECLARATORY RELIEF**

1  
2  
3 **INTRODUCTION**

4 1. Petitioner, Salvador Diaz Rodriguez (hereinafter “Mr. Diaz  
5 Rodriguez” or “Petitioner”), has been residing continuously in the United States  
6 since 2001, and was apprehended by immigration authorities on June 19, 2025 in  
7 Los Angeles, California in a widescale immigration enforcement action.

8 2. Mr. Diaz Rodriguez is in the physical custody of Respondents at the  
9 Otay Mesa Detention Center.

11 3. On August 29, 2025, an Immigration Judge granted Petitioner’s  
12 release on a \$1,500 bond, which DHS subsequently appealed.

14 4. On December 9, 2025, the Board of Immigration Appeals sustained  
15 DHS’s appeal and vacated the Immigration Judge’s bond decision pursuant to  
16 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

18 5. Petitioner is now unlawfully subject to the mandatory detention  
19 provision under 8 U.S.C. § 1225 and is detained in violation of 8 U.S.C. § 1226 and  
20 the Due Process Clause of the Fifth Amendment.

22 6. On November 20, 2025, the district court granted partial summary  
23 judgment on behalf of individual plaintiffs and on November 25, 2025, certified a  
24 nationwide class and extended declaratory judgment to the certified class.  
25 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d  
26 ---, 2025 WL 3289861, at \*11 (C.D. Cal. Nov. 20, 2025) (order granting partial  
27  
28

1 summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v.*  
2 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403,  
3  
4 at \*9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed  
5 nationwide Bond Eligible Class, incorporating and extending declaratory judgment  
6 from Order Granting Petitioners' Motion for Partial Summary Judgment).  
7

8 7. The declaratory judgment held that the Bond Denial Class members  
9 are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration  
10 for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL  
11 3289861, at \*11.  
12

13 8. Nonetheless, the Executive Office for Immigration Review and its  
14 subagency the Immigration Court and the Department of Homeland Security (DHS)  
15 have blatantly refused to abide by the declaratory relief and have unlawfully denied  
16 the opportunity for Petitioner to be released on bond.  
17

18 9. Mr. Diaz Rodriguez is a member of the Bond Eligible Class, as he:  
19  
20 (a) does not have lawful status in the United States and is currently  
21 detained at the Otay Mesa Detention Cener. He was apprehended by  
22 immigration authorities on June19, 2025;  
23  
24 (b) entered the United States without inspection over 24 years ago and  
25 was not apprehended upon arrival, *cf. id.*; and  
26  
27 (c) is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.  
28



1           15. Respondent Daniel A. Brightman is the San Diego ICE Field Office  
2 Director. In this capacity, he has responsibility for and authority over the detention  
3 and removal of noncitizens housed at Otay Mesa; is authorized to release Petitioner;  
4 and is a legal and immediate custodian of Petitioner. He has supervisory authority  
5 over ICE detention and deportation officers assigned to Otay Mesa. He is sued in  
6 his official capacity.  
7

9           16. Respondent Todd M. Lyons is the Acting Director of U.S.  
10 Immigration and Customs Enforcement. As the highest-ranking officer for ICE, he  
11 has authority over all of the policies challenged in this action. He is sued in his  
12 official capacity.  
13

14           17. Respondent Daren K. Margolin is the Acting Director for Executive  
15 Office for Immigration Review, which is a component agency of the Department  
16 of Justice responsible for conducting removal and bond hearings of noncitizens.  
17 EOIR is comprised of a lower adjudicatory body administered by immigration  
18 judges and an appellate body known as the Board of Immigration Appeal (BIA).  
19 Immigration judges issue bond redetermination hearing decisions, which are then  
20 subject to appeal to the BIA. He is sued in his official capacity.  
21  
22

23           18. Respondent Kristi Noem is the Secretary of the U.S. Department of  
24 Homeland Security (“DHS”), and is sued in her official capacity. The Secretary of  
25 Homeland Security is charged with the administration and enforcement of  
26 immigration laws. 8 U.S.C. § 1103(a).  
27  
28





1 administrative proceedings would be void.” *Hernandez v. Sessions*, 872 F.3d 976,  
2 988 (9th Cir. 2017) (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)).  
3

4 28. In this case, exhaustion would be futile because the Board of  
5 Immigration Appeals is obligated to apply the binding precedent of *Matter of*  
6 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) to find that detention is mandatory  
7  
8 under 8 U.S.C. § 1225(b)(2). *See, e.g., Garcia v. Noem*, No. 25-CV-2180-DMS-  
9 MMP, 2025 WL 2549431, at \*4-5 (S.D. Cal. Sept. 3, 2025); *Valdovinos v. Noem*,  
10 No. 25-CV-2439 TWR (KSC), slip op. at 9 (S.D. Cal. Sept. 25, 2025).  
11

12 29. In fact, on December 9, 2025, the Board of Immigration Appeals  
13 sustained DHS’s appeal and vacated the Immigration Judge’s bond decision  
14 pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). As such,  
15  
16 exhausting administrative remedies would be futile.

17 30. Therefore, a writ of habeas corpus is the sole avenue to vindicate Mr.  
18 Diaz Rodriguez’s constitutional, statutory, and regulatory rights and restore his  
19  
20 liberty.

## 21 LEGAL FRAMEWORK

22  
23 31. The Immigration and Nationality Act (INA) prescribes three basic  
24 forms of detention for noncitizens in removal proceedings.  
25

26 32. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in  
27 standard non-expedited removal proceedings before an immigration judge (IJ). *See*  
28 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing

1 at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while  
2 noncitizens who have been arrested, charged with, or convicted of certain crimes  
3 are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).  
4

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

9 34. Last, the Act also provides for detention of noncitizens who have been  
10 previously ordered removed, including individuals in withholding-only  
11 proceedings, *see* 8 U.S.C. § 1231(a)–(b).  
12

13 35. This case concerns the detention provisions at §§ 1226(a) and  
14 1225(b)(2).  
15

16 36. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted  
17 as part of the Illegal Immigration Reform and Immigrant Responsibility Act  
18 (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546,  
19 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended  
20 earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).  
21  
22

23 37. Following enactment of the IIRIRA, EOIR drafted new regulations  
24 explaining that, in general, people who entered the country without inspection were  
25 not considered detained under § 1225 and that they were instead detained under §  
26 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal  
27  
28

1 of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg.  
2 10312, 10323 (Mar. 6, 1997).

3  
4 38. Thus, in the decades that followed, most people who entered without  
5 inspection, unless they were subject to some other detention authority, received  
6 bond hearings. That practice was consistent with many more decades of prior  
7 practice, in which noncitizens who were not deemed “arriving” were entitled to a  
8 custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994);  
9 see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply  
10 “restates” the detention authority previously found at § 1252(a)).  
11

12  
13 39. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new  
14 policy that rejected well-established understanding of the statutory framework and  
15 reversed decades of practice.  
16

17 40. The new policy, entitled “Interim Guidance Regarding Detention  
18 Authority for Applicants for Admission,”<sup>1</sup> claims that all persons who entered the  
19 United States without inspection shall now be subject to mandatory detention  
20 provision under § 1225(b)(2)(A). The policy applies regardless of when a person is  
21 apprehended, and affects those who have resided in the United States for months,  
22 years, and even decades.  
23  
24

25 41. On September 5, 2025, the BIA adopted this same position in a  
26 published decision, *Matter of Yajure Hurtado*. There, the Board held that all  
27  
28

1 noncitizens who entered the United States without admission or parole are subject  
2 to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.  
3

4 42. Courts have uniformly rejected DHS’s and EOIR’s new interpretation  
5 because it defies the INA. As the *Rodriguez Vazquez* court and others have  
6 explained, the plain text of the statutory provisions demonstrates that § 1226(a), not  
7 § 1225(b), applies to people like Petitioner.  
8

9 43. The text of § 1226 also explicitly applies to people charged as being  
10 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §  
11 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by  
12 default, such people are afforded a bond hearing under subsection (a). As the  
13 *Rodriguez Vazquez* court explained, “[w]hen Congress creates ‘specific  
14 exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the  
15 statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing  
16 *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400  
17 (2010)); *see also Gomes*, 2025 WL 1869299, at \*7.  
18  
19  
20

21 44. Section 1226 therefore leaves no doubt that it applies to people who  
22 face charges of being inadmissible to the United States, including those who are  
23 present without admission or parole.  
24

25 45. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry  
26 or who recently entered the United States. The statute’s entire framework is  
27 premised on inspections at the border of people who are “seeking admission” to the  
28

1 United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained  
2 that this mandatory detention scheme applies “at the Nation’s borders and ports of  
3 entry, where the Government must determine whether a[] [noncitizen] seeking to  
4 enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).  
5

6 46. Accordingly, the mandatory detention provision of § 1225(b)(2)(A)  
7 does not apply to people like Petitioner, who have already entered and were residing  
8 in the United States at the time they were apprehended.  
9

10  
11 **STATEMENT OF FACTS**

12 47. Mr. Diaz Rodriguez has resided in the United States since 2001 and  
13 lived in Los Angeles, California., prior to being detained.  
14

15 48. On June 19, 2025, he was arrested by immigration authorities as part  
16 of a widescale immigration enforcement action at a gas station in Los Angeles,  
17 California.  
18

19 49. He was taken to Otay Mesa Detention Center, where he remains  
20 detained.  
21

22 50. Upon commencing removal proceedings against the Petitioner, ICE  
23 charged Petitioner with, inter alia, being inadmissible under 8 U.S.C. §  
24 1182(a)(6)(A)(i) as someone who entered the United States without inspection. *See*  
25 *Exh. B.*  
26

27 51. He was scheduled for a bond hearing before the Otay Mesa  
28 Immigration Court on August 29, 2025.



1 are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or  
2 § 1231.  
3

4 58. The application of § 1225(b)(2) to Petitioner unlawfully mandates his  
5 continued detention and violates the INA.  
6

7 59. Moreover, as a member of the Bond Eligible Class, Petitioner is  
8 entitled to consideration for release on bond under 8 U.S.C. § 1226(a).  
9

10 60. The order granting partial summary judgment in *Maldonado Bautista*  
11 holds that Respondents violate the INA in applying the mandatory detention statute  
12 at § 1225(b)(2) to class members.  
13

14 61. The order granting class certification in *Maldonado Bautista* further  
15 orders that “[w]hen considering this determination with the MSJ Order, the Court  
16 extends the same declaratory relief granted to Petitioners to the Bond Eligible Class  
17 as a whole.”  
18

19 62. Respondents are parties to *Maldonado Bautista* and bound by the  
20 Court’s declaratory judgment, which has the full “force and effect of a final  
21 judgment.” 28 U.S.C. § 2201(a).  
22

23 63. By denying Petitioner a bond hearing under § 1226(a) and asserting  
24 that he is subject to mandatory detention under § 1225(b)(2), Respondents violate  
25 Petitioner’s statutory rights under the INA and the Court’s judgment in *Maldonado*  
26 *Bautista*.  
27

28 //

1 **COUNT TWO**

2 **Violation of the Bond Regulations**

3  
4 64. Petitioner incorporates by reference the allegations of fact set forth in  
5 preceding paragraphs.

6 65. In 1997, after Congress amended the INA through IIRIRA, EOIR and  
7 the then-Immigration and Naturalization Service issued an interim rule to interpret  
8 and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and  
9 Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants  
10 for admission, [noncitizens] who are present without having been admitted or  
11 paroled (formerly referred to as [noncitizens] who entered without inspection) will  
12 be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis  
13 added). The agencies thus made clear that individuals who had entered without  
14 inspection were eligible for consideration for bond and bond hearings before IJs  
15 under 8 U.S.C. § 1226 and its implementing regulations.  
16  
17  
18  
19

20 66. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy  
21 and practice of applying § 1225(b)(2) to individual like Petitioner.

22 67. A week before *Matter of Yajure Hurtado* was published, an  
23 Immigration Judge had determined that Petitioner, who was not apprehended while  
24 arriving in the United States and has been physically present in the United States  
25 for over 20 years was not an applicant for admission and found she had jurisdiction  
26 to proceed under section 236(a) of the INA. As such, the Immigration Judge ordered  
27  
28

1 Petitioner's release on a \$1,500 bond subject to Alternatives to Detention at DHS  
2 discretion. Respondents have refused to release Petitioner, alleging he is subject to  
3 mandatory detention under § 1225(b)(2).  
4

5 68. The application of § 1225(b)(2) to Petitioner unlawfully mandates his  
6 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.  
7

8 **COUNT THREE**  
9 **Violation of Due Process**

10  
11 69. Petitioner repeats, re-alleges, and incorporates by reference each and  
12 every allegation in the preceding paragraphs as if fully set forth herein.

13  
14 70. The government may not deprive a person of life, liberty, or property  
15 without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—  
16 from government custody, detention, or other forms of physical restraint—lies at  
17 the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678,  
18 690 (2001).  
19

20 71. Petitioner has a fundamental interest in liberty and being free from  
21 official restraint.  
22

23 72. An Immigration Judge had already ordered Petitioner's release on  
24 bond, which was appealed and stayed by Respondents.  
25

26 73. Therefore, the government's continued detention of Petitioner, after  
27 an Immigration Judge already held a bond redetermination hearing and determined  
28

1 Petitioner was neither a flight risk nor danger to others, violates his right to due  
2 process.  
3

4 **PRAYER FOR RELIEF**

5  
6 WHEREFORE, Petitioner respectfully pray the Court to:

- 7 1) Assume jurisdiction over this matter;  
8  
9 2) Order that Petitioner shall not be transferred outside the Southern District  
10 of California while this habeas petition is pending;  
11  
12 3) Issue an Order to Show Cause ordering Respondents to show cause why  
13 this Petition should not be granted within three (3) days;  
14  
15 4) Issue a writ of habeas corpus requiring that within one day, Respondents  
16 release Petitioner;  
17  
18 5) Alternatively, issue a writ of habeas corpus requiring Respondents to  
19 release Petitioner on the same \$1,500 bond and conditions of release as  
20 ordered by the Immigration Judge on August 29, 2025, unless they  
21 provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;  
22  
23 6) Award Petitioner his costs and reasonable attorneys' fees in this action  
24 as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412,  
25 other statute; and  
26  
27 7) Grant any other and further relief this Court deems just and proper.

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1 DATED this 12th of December, 2025

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By: s/ Priscilla Merida \_\_\_\_\_  
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**28 U.S.C. § 2242 VERIFICATION STATEMENT**

I am submitting this verification on behalf of the petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Dated this 12th of December, 2025

By: s/ Priscilla Merida  
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