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INTRODUCTION

1. Petitioner, Rufino Salazar Cardenas, moves this Court to issue a Writ of Habeas Corpus to compel the Respondents to appear and show cause why the Petitioner should not be released from the custody of the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), and to order declaratory and injunctive relief to remedy his unlawful detention, and to enjoin the Respondents from continuing to deny his release from immigration custody.

SUMMARY OF THE ARGUMENT

2. Mr. Salazar Cardenas is detained in the custody of the Department of Homeland Security (“DHS”), in the Eloy Detention Center at 1705 E Hanna Rd, Eloy, Arizona 85131 under 8 U.S.C. § 1226 and 8 C.F.R. § 1236. Respondents have claimed that the legal basis for his detention is 8 U.S.C. § 1225. He has been detained for roughly six weeks while removal proceedings remain pending.

3. On November 10, 2025, Mr. Salazar Cardenas requested a custody redetermination (“bond”) hearing before an Immigration Judge. At a hearing on November 14, 2025, the Immigration Judge took no action. the Immigration Judge found that he lacked jurisdiction to grant Mr. Salazar Cardenas release on bond, finding that he was subject to detention pursuant to 8 U.S.C. § 1225. In so doing, the Immigration Judge relied on the Board of Immigration Appeals’ (“BIA”) recent decision in *Matter of Yajure Hurtado*, 29 I&N 216 (BIA 2025). Mr. Salazar Cardenas has timely appealed and his case is pending before the BIA. Exhibit B, Order Denying Bond; Exhibit C, Appeal to the BIA.

1 4. As of today's date, December 12, 2025 Mr. Salazar Cardenas remains in immigration
2 detention and has been there for roughly six weeks.

3 5. Petitioner respectfully requests this Court to find that he is not detained pursuant to
4 INA § 1225, but rather 8 U.S.C. § 1226, and as such is entitled to either release or a
5 custody redetermination hearing in accordance with applicable law. Petitioner
6 requests that the Court find that Respondents' refusal to provide him with a bond here
7 is arbitrary and capricious and violates applicable regulatory, statutory, and
8 constitutional requirements.

9
10 **PARTIES**

11 6. Petitioner Rufino Salazar Cardenas is a native and citizen of Mexico. See Exhibit A,
12 Notice to Appear in Removal Proceedings. After roughly twenty-four years of
13 peacefully living and working in the United States, Mr. Salazar Cardenas was
14 detained and placed in immigration proceedings by Immigration and Customs
15 Enforcement ("ICE"). See Exhibit E, I-213.

16 7. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of
17 the United States. She has authority over the Executive Office for Immigration
18 Review ("EOIR"), and she has authority to issue appropriate directions to the Director
19 of the EOIR for the reasonable management of the immigration courts and their
20 dockets.

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22 8. Respondent Kristi Noem is sued in her official capacity as the Secretary of the
23 Department of Homeland Security (DHS). She is the executive officer who has been
24 given authority to manage and control the Immigration and Customs Enforcement.
25 As such, she is the ultimate legal custodian of the Petitioner.
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1 9. Respondent Daren K. Margolin is sued in his official capacity as Acting Director of
2 the Executive Office for Immigration Review. He is responsible for the supervision of
3 the Chief Immigration Judge and all agency personnel—including the Immigration
4 Judges in the various local Immigration Courts throughout the country—in the
5 execution of their duties in accordance with 8 C.F.R. Part 3. He represents the
6 position and policies of EOIR to the Attorney General, Members of Congress, and
7 other governmental bodies.

8
9 10. Respondent Christopher McGregor is sued in his official capacity as the Phoenix
10 Field Office Director of Immigration and Customs Enforcement (ICE). In his official
11 capacity, he is a legal custodian over Petitioner because he is responsible for
12 providing a detailed worksheet, including a recommendation on continued detention
13 or release, so that the Headquarters Custody Determination Unit can make the final
14 decision on continued detention.

15 **JURISDICTION**

16 11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3); Article I § 9, Clause 2 of
17 the United States Constitution (“Suspension Clause”), and 28 U.S.C. § 1331, as the
18 Petitioner is presently in custody under color of the authority of the United States, and
19 such custody is in violation of the Constitution, laws, regulations, and, or treaties of
20 the United States, specifically the Immigration and Nationality Act (“INA”), 8 U.S.C. §
21 1101 *et seq.*

22
23 12. This Court may also exercise jurisdiction under 28 U.S.C. § 1361 (“Mandamus
24 Clause”). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
25 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651 to
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1 protect Petitioners' rights under the Due Process Clause of the Fifth Amendment to
2 the United States Constitution and under applicable Federal law, and to issue a writ
3 of habeas corpus for his immediate release. See generally *INS v. St. Cyr*, 533 U.S.
4 289 (2001); *Zadvydas v. Davis*, 533 U.S. 678 (2001).

5 **VENUE**


6 **13.** Venue is proper in the Arizona District Court because Mr. Salazar Cardenas is
7 detained at the Eloy Detention Center, in Eloy, Arizona, and the records and
8 witnesses pertinent to his claim are likely to be found there. Eloy, Arizona is within
9 the geographical jurisdiction of this Court. Several of the Respondents reside and
10 work in their official capacity in this District. 28 U.S.C. 1391(e). Furthermore, it is a
11 convenient forum for both the Respondents and the Petitioner. *Branden v. 30th*
12 *Judicial Circuit Court*, 410 U.S. 484, 493-94 (1973).

14 **STATEMENT OF FACTS**

15 **14.** Petitioner, Rufino Salazar Cardenas, is a native and citizen of Mexico. He entered
16 the United States without inspection in 2001 and aside from a few brief absences has
17 resided in the United States ever. See Exhibit E, I-213; Exhibit D, Bond Packet.

18 **15.** Mr. Salazar Cardenas came into contact with and was arrested by ICE on October
19 29, 2025 after an arrest at a gas station. See *id.* He has no criminal record and his
20 arrest had no connection to any criminal activity. See *id.* Unfortunately for Mr. Salazar
21 Cardenas, he was living and working in Maricopa County at a time of draconian
22 immigration enforcement by DHS and EOIR.
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1 **16.** When Mr. Salazar Cardenas was placed in immigration proceedings, DHS and ICE
2 relied solely on his entry without inspection to assert he was subject to deportation.
3 See Exhibit A, Notice to Appear.

4 **17.** Mr. Salazar Cardenas again requested a bond hearing on November 10, 2025. Mr.
5 Salazar Cardenas submitted evidence that he is responsible for maintaining the
6 health and wellbeing of his US citizen, minor son , who suffers from kidney
7 issues. See Exhibit D, Bond Packet. He submitted evidence that he has other strong
8 family ties in the form of his DACA recipient daughter and an adult US citizen son,
9 who would have served as his sponsor. See *id.* He submitted evidence that in the
10 roughly twenty-four years that he has lived in the United States, he has been a
11 hardworking and devoted member of his community. See *id.* DHS submitted no
12 evidence that Respondent was subject to mandatory detention.
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14 **18.** At his bond hearing on November 14, 2025, the Immigration Judge ruled that he
15 lacked jurisdiction to grant Mr. Salazar Cardenas bond, finding that he was not
16 detained under 8 U.S.C. § 1226, but rather under 8 U.S.C. § 1225, and as a result
17 was subject to mandatory detention. In doing so, the Immigration Judge relied on the
18 BIA's recent decision in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). Exh.
19 B, Order Denying Bond.
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21 **19.** Mr. Salazar Cardenas has timely appealed that decision and his appeal remains
22 pending before the BIA. Exhibit C, Appeal to the BIA.

23 **20.** Mr. Salazar Cardenas remains in immigration custody, as he has been for
24 approximately the past six weeks.
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LEGAL ARGUMENT

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21. Mr. Salazar Cardenas is detained under 8 U.S.C. § 1226 and 8 C.F.R. § 1236. The statute expressly authorizes the Attorney General to release detained aliens on “bond...or conditional parole” subject to the limitations in found at 8 U.S.C. § 1226(c). 8 U.S.C. § 1226(a)(2), (c). If they are not detained pursuant to 8 U.S.C. § 1226(c), a detained alien may apply for release on bond and an Immigration Judge, exercising the authority delegated from the Attorney General, must determine whether the alien would “pose a danger to persons or to property” and “that the alien is likely to appear for any scheduled proceeding or interview.” 8 C.F.R. § 1003.19(h)(3).

22. Respondents contend that Mr. Salazar Cardenas is detained pursuant to 8 U.S.C. § 1225. See Exhibit B, Order Denying Bond. Respondents contend that because Mr. Salazar Cardenas entered the United States without admission, inspection, or parole by an immigration officer, he is subject to mandatory detention under 8 U.S.C. § 1225(b) as an “applicant for admission.” See *id.* (citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025)). At present, no party contends that Mr. Salazar Cardenas is detained pursuant to 8 U.S.C. § 1226(c). See *id.*

23. To the extent that the government relies on *Yajure Hurtado* in refusing to consider Mr. Salazar Cardenas’ request for a bond hearing, the government has violated the statute and applicable regulations and deprived Mr. Salazar Cardenas of due process.

24. The Due Process clause of the constitution applies to all persons in the United States, “whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Procedural due process contains government decisions that deprive individuals of property or liberty interests within the meaning of

1 the Due Process Clause of the Fifth Amendment. See *Matthews v. Eldrige*, 424 U.S.
2 319, 332 (1976); see also *Perry v. Sindermann*, 408 U.S. 593, 601-03 (1972)
3 (reliance on informal policies and practices may establish a legitimate claim of
4 entitlement to a constitutionally protected interest). Infringing on a protected interest
5 triggers a right to a hearing before that right is deprived. See *Board of Regents of State*
6 *Colleges v. Roth*, 408 U.S. 564, 569-70 (1972).

7 **25.** Mr. Salazar Cardenas has a legitimate liberty interest in his potential release from
8 detention under INA § 1226. His detention is arbitrary, capricious, and contrary to law
9 as it misclassifies him as an “applicant for admission” and deprives him of that interest
10 without a meaningful opportunity to challenge the basis of his detention.
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12 **26.** Respondents’ misclassification of Mr. Salazar Cardenas is contrary to law because it
13 violates long-established canons of statutory construction by rendering the text of the
14 INA, congressional action, and recent Board precedent unnecessary and superfluous.

15 **27.** First, Respondents’ reading of 8 USC § 1225 cannot be squared with the fact that
16 that under “one of the most basic interpretive canons . . . [a] statute should be
17 construed so that effect is given to all its provisions, so that no part will be inoperative
18 or superfluous, void or insignificant[.]” *Corley v. United States*, 556 U.S. 303, 314
19 (2009) (cleaned up); *Shulman v. Kaplan*, 58 F.4th 404, 410–11 (9th Cir. 2023) (“a
20 court must interpret the statute as a whole, giving effect to each word and making
21 every effort not to interpret a provision in a manner that renders other provisions of
22 the same statute inconsistent, meaningless or superfluous.”) (cleaned up). “This
23 principle . . . applies to interpreting any two provisions in the U.S. Code, even when
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1 Congress enacted the provisions at different times.” *Bilski v. Kappos*, 561 U.S. 593,
2 607–08 (2010).

3 **28.** In order to detain Mr. Salazar Cardenas under 8 U.S.C. § 1225(b), an immigration
4 officer must determine that the noncitizen “is an applicant for admission . . . seeking
5 admission . . . and not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C.
6 § 1225(b)(2)(A). Determining the plain meaning of the statute requires consideration
7 of the tense of the verb “is” and the present participle “seeking.” Here, section
8 1225(b)(2) applies to aliens who are presently applicants for admission and who are
9 presently seeking admission at the time of their detention. To be seeking admission
10 means to be seeking entry, which “by its own force implies a coming from outside.”
11 *United States ex rel. Claussen v. Day*, 279 U.S. 398, 401 (1929).
12


13 **29.** Mr. Salazar Cardenas has been in the United States for roughly twenty-four years.
14 He is not currently “seeking admission” within the plain meaning of that term as he
15 has resided in the United States for decades. The longstanding interpretation of the
16 INA has been that an alien in his position is detained under section 1226 and entitled
17 to a bond hearing, as Respondents themselves have acknowledged. *See Yajure*
18 *Hurtado*, 29 I&N Dec. at 225, n. 6 (“We acknowledge that for years Immigration
19 Judges have conducted bond hearings for aliens who entered the United States
20 without inspection”). Consistent with Supreme Court precedent, this was the basis of
21 BIA decisions finding that aliens detained *shortly after an unlawful entry* were
22 applicants for admission because they “cannot be said to have ‘effected an entry.’”
23 *Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025) (quoting *DHS vs. Thuraissigiam*, 591
24 U.S. 103, 140 (2020) (internal quotations omitted)).
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1 **30.** Respondents' interpretation of section 1225 fails to account for other sections of the
2 INA as well. If all inadmissible aliens present without admission or inspection were
3 subject to mandatory detention under section 1225, there would be no reason for §
4 1226(c)(1)(A) and (D) to subject inadmissible aliens to mandatory detention for
5 committing certain criminal offenses. See 8 U.S.C. § 1226(c)(1)(A), (D).

6 **31.** This is especially true in light of Congress's recent decision to pass the Laken Riley Act.
7 See Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2005). "When Congress acts to
8 amend a statute, we presume it intends its amendment to have real and substantial
9 effect." *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995) (citations omitted) (giving effect to
10 a congressional amendment of the INA). The new additions to section 1226(c)
11 subject an additional class of inadmissible aliens to its mandatory detention scheme
12 if they find themselves so much as arrested for certain crimes. See 8 U.S.C. §
13 1226(c)(1)(E). The Laken Riley Act is even more specific than the older provisions
14 of section 1226(c), as it specifically refers to aliens like Respondent "inadmissible
15 under paragraph (6)(A), (6)(C), or (7) of section 1182(a) of this title." 8 U.S.C. §
16 1226(c)(E)(i). The Supreme Court has recognized that when Congress creates
17 "specific exceptions" to a statute's applicability, it proves that the statute would
18 generally apply absent those exceptions. See *Shady Grove Orthopedic Assocs., P.A.*
19 *v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010). Congress clearly acted with the
20 understanding that inadmissible aliens are generally detained under section 1226
21 and eligible to request bond, because if they were not, there would have been no
22 reason to amend the INA to require mandatory detention for inadmissible aliens
23 accused of certain criminal activities.
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32. Congress's amendments to the INA demonstrate a consistent understanding of section 1226 dating back to the legislative history of the Illegal Immigration Reform and Immigration Responsibility Act ("IIRIRA"). Prior to IIRIRA's passage, section 1226's predecessor governed the detention of all aliens arrested and detained in the United States and allowed for release on bond. See INA § 1252(a)(1) (1994). Congress stated that IIRIRA section 1226(a) merely "restates the current provisions in [the predecessor statute] regarding the authority of the Attorney General to arrest, detain, and release on bond a[] [noncitizen] who is not lawfully in the United States." H.R. Rep. No. 104-469, pt. 1, at 229; see also H.R. Rep. No. 104-828, at 210 (same). If Mr. Salazar Cardenas would have been eligible to request a bond before the passage of IIRIRA, and Congress did not alter the Attorney General's power to grant a bond by passing IIRIRA, it follows that he is eligible to request a bond now.

33. The documents in the bond record do not show that Respondent is either a danger or a flight risk. He has resided in the United States without incident for roughly twenty-four years and has no criminal record. He has been a wonderful and supportive father to his son  who has serious medical issues. See Exh. D, Bond Packet. Mr. Salazar Cardenas is involved in his community. Under a proper interpretation of the law, he would be allowed to litigate his case outside of detention or at least be entitled to ask for the opportunity to do so.

CLAIMS FOR RELIEF

34. Mr. Salazar Cardenas re-alleges and incorporates by reference each and every allegation contained in paragraphs 1-33, as if set forth herein.

1 **35.** Respondents' interpretation of 8 U.S.C. § 1225(b) violates Mr. Salazar Cardenas'
2 substantive due process right to liberty because it allows the government to infringe
3 on his fundamental liberty interests through a process that is not narrowly tailored to
4 meet the compelling government interest of protecting public safety.

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6 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

7 **36.** Exhaustion is not mandated in this case since neither INA § 236, 8 U.S.C. § 1226,
8 nor the federal review provisions of INA § 242, 8 U.S.C. § 1252, require the Petitioner
9 to exhaust administrative remedies for purposes of challenging the constitutionality of
10 regulations allegedly implemented under bond proceedings under INA § 236(c), 8
11 U.S.C. § 1226(c).

12 **37.** The exhaustion requirements under INA § 242(d)(1), 8 U.S.C. § 1252(d)(1), are
13 inapplicable to bond challenges. *National Center for Immigrants Rights, Inc. v. INS*, 791
14 F.2d 1351 (9th Cir. 1986), vacated on other grounds, 481 U.S. 1009 (1987), reaffirmed,
15 913 F.2d 1350 (9th Cir. 1990), vacated on other grounds, 502 U.S. 183 (1991).

16 **38.** Exhaustion of administrative remedies before the filing of this writ is not necessary,
17 since the Petitioner has raised constitutional issues concerning his detention. The
18 administrative forum "...provide[s] no real opportunity to present...constitutional issues
19 requiring exhaustion." *Legalization Assistance Project v. INS*, 976 F.2d 1198, 1203 (9th
20 Cir. 1992).

21 **39.** Exhaustion is not necessary where raising the issues presented in this writ to the
22 immigration court would be futile and moot. *American-Arab Anti-Discrimination*
23 *Committee v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) rev'd on other grounds, 119
24 S.Ct. 936 (1999).
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1 **40.** The exhaustion requirement is not a jurisdictional prerequisite but a matter committed
2 to the “sound discretion of the trial court.” See *NLRB v. Industrial Union of Marine*
3 *and Shipbuilding Workers*, 391 U.S. 418, 426 n.8 (1968). Respondents have issued
4 a published decision interpreting 8 U.S.C. § 1225 which they intend to apply nationwide
5 and in all cases with similar facts to Petitioner’s. See *Yajure Hurtado*, 29 I&N Dec. at
6 216.

7 **41.** Such a decision is plainly contrary to Mr. Salazar Cardenas’ statutory, regulatory, and
8 constitutional rights to due process, which this Honorable Court should review without
9 delay; and thus, this is a matter ripe for the “sound discretion of the trial court.” See
10 *NLRB v. Industrial Union of Marine and Shipbuilding Workers*, 391 U.S. 418, 426 n.
11 8 (1968).
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13 **42.** Finally, a record of administrative appeal is not germane to the purely legal issue of
14 whether Respondents’ interpretation of 8 U.S.C. § 1225 is arbitrary, capricious,
15 contrary to law, or violates Mr. Salazar Cardenas’ statutory, regulatory, and due
16 process rights.
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18 **REQUEST FOR RELIEF**

19 **43.** The Petitioner herein respectfully requests that this Court enter the following findings
20 and order the following relief:

- 21 1) Issue an order restraining the Respondents from attempting to move Mr. Salazar
22 Cardenas from the State of Arizona while this petition is pending;
23 2) Issue an order requiring the Respondents to provide seventy-two hours’ notice of
24 their intent to move him;
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- 3) Grant a writ of Habeas Corpus, directed to the Respondents, requiring them to either release Mr. Salazar Cardenas immediately or hold a bond hearing pursuant to 8 U.S.C. § 1226;
- 4) Declare that Mr. Salazar Cardenas' continued detention is arbitrary and capricious and violates the INA, its implementing regulations, and Due Process Clause of the Fifth Amendment to the United States Constitution;
- 5) Award Mr. Salazar Cardenas and his counsel reasonable costs and attorney's fees incurred as a result of bringing this action, pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- 6) Grant any further relief that this Court may deem fit, just, and proper.

Dated: December 12, 2025

Respectfully submitted,

/s/Zachary William Rivera Weiss
Zachary William Rivera Weiss
Attorney for Petitioner
Rufino Salazar Cardenas

VERIFICATION

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I, Zachary Weiss, hereby declare under penalty of perjury of the laws of the State of Arizona and the United States that the facts alleged in the foregoing Verified Petition for a Writ of Habeas Corpus are to the best of my knowledge true and correct.

Executed on this 12th day of December, 2025 in Phoenix, Arizona.

/s/Zachary William Rivera Weiss
Zachary William Rivera Weiss
Attorney for Petitioner
Rufino Salazar Cardenas