UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

GUSTAVO MARTINEZ MENDEZ	§	
Petitioner,	§	
	§	Civ. No. 4:25-cv-06062
vs.	§	
PAMELA BONDI, United States Attorney General;	§	DHS File Number: [redacted]
KRISTI NOEM, Secretary of the United States Department of Homeland Security;	§	**PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**
TODD M. LYONS, Director of United States Immigration and Customs Enforcement;	§	
BRET BRADFORD, Houston Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement;	§	
JOE SMITH, Warden, Joe Corley Processing Center (The GEO Group)	§	
Respondents.	§	

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I. INTRODUCTION AND BACKGROUND

1. This Petition challenges the unlawful detention of Petitioner Gustavo Martinez Mendez ("Mr. Martinez Mendez"), a 50-year-old native and citizen of Mexico who has lived in the United States since on or about 1990—more than 35 years. He is currently confined at the Joe Corley Processing Center in Conroe, Texas, following his arrest by Immigration and Customs Enforcement ("ICE") on November 15, 2025, after a traffic stop in Houston, Texas. *See* Exh. 1 (ICE Locator Results).
2. Mr. Martinez Mendez is a long-term resident with substantial equities. His mother, Elvira Mendez, is a lawful permanent resident of the United States. His brother, Jose Martinez Mendez, is a naturalized U.S. citizen. His wife, Roseliy Salvador, has Temporary Protected Status ("TPS") from El Salvador.
3. Petitioner is eligible to seek Cancellation of Removal for certain nonpermanent residents under INA § 240A(b) (commonly referred to as "42B") because he has resided in the United States for at least ten years, can establish good moral character during the relevant period, has no disqualifying criminal history, and can demonstrate that his mother, a lawful permanent resident, will suffer exceptional and extremely unusual hardship if he is removed to Mexico. *See* 8 U.S.C. § 1229b(b).
4. Despite his strong family ties, eligibility to pursue relief, and lack of criminal history, ICE has taken him into custody and is holding him at Joe Corley without providing a meaningful opportunity to seek release. His continued detention is causing immediate and ongoing harm to his family and undermining his ability to pursue the immigration process available to him.

5. Mr. Martinez Mendez therefore seeks habeas relief ordering Respondents to release him, or, in the alternative, to provide prompt custody process consistent with the governing detention statute and the Constitution, including a bond hearing before an immigration judge ("IJ").

6. Petitioner is currently scheduled for a master calendar hearing on January 27, 2026, at 10:00 a.m. *See* Exh. 2 (Automated Case Information System Results).

7. DHS contends that 8 U.S.C. § 1225(b) mandates Petitioner's detention. But Congress created a separate detention framework in 8 U.S.C. § 1226(a) to govern interior arrests and to provide for discretionary release, including review by an IJ. 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 violates Due Process. It collapses Congress's dual-track detention scheme and imposes categorical detention on long-term residents who present no danger or flight risk. This contention is especially untenable where DHS has agreed to dismiss Petitioner's removal proceedings under prosecutorial discretion, reflecting DHS's own determination that he should remain in the community while he pursues consular processing.

8. 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 unlawful DHS's practice of treating such individuals as arriving aliens subject to mandatory detention under § 1225(b). 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 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 have refused to apply *Maldonado Bautista*, asserting that no class-wide declaratory judgment or injunction is yet "in effect," leaving Petitioner without the § 1226(a) bond process the federal court has already recognized he is owed.

9. The human consequences are immediate and severe. Detention has destabilized the family's finances and caregiving. It has deprived the household of Petitioner's income, their only reliable transportation, and his daily support as a spouse and as the son of an ill lawful permanent resident. The Constitution, the INA, and basic principles of fairness do not permit detention under these circumstances.

10. Petitioner respectfully requests that this Court grant the Petition for a writ of habeas corpus under 28 U.S.C. § 2241 and order his release or, at a minimum, a bond hearing under § 1226(a). In the alternative, Petitioner respectfully requests that the Court order Respondents to show cause within three days why the Petition should not be granted. See 28 U.S.C. § 2243.

II. JURISDICTION AND VENUE

11. Petitioner is detained in civil immigration custody in Montgomery County at the Joe Corley Processing Center in Conroe, Texas. *See* Exh. 1 (ICE Locator Results). He has been detained since or about, November 15, 2025.

12. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq.

13. 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.

14. Venue is proper in the Southern 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

15. 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.

16. 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

17. Petitioner Gustavo Martinez Mendez is a 50-year-old citizen of Mexico. He last entered the United States on or about 1990 without inspection and has resided here continuously for over 35years.

18. 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.

19. 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.

20. 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.

21. Respondent Bret Bradford is named in his official capacity as Field Office Director of the Houston ICE Field Office. He is responsible for ICE enforcement in this District and is a legal custodian of Petitioner.

22. Respondent Joe Smith is named in his official capacity as Warden of the Joe Corley Processing Center in Conroe, Texas. He has immediate physical custody of Petitioner pursuant to an agreement with ICE to detain noncitizens.

23. Each Respondent is sued in his or her official capacity as a custodian and/or policymaker responsible for Petitioner's continued detention.

V. FACTUAL ALLEGATIONS

24. Petitioner Gustavo Martinez Mendez ("Mr. Martinez Mendez") is a 50-year-old native and citizen of Mexico who has lived in the United States since on or about 1990—more than 35 years.

25. Mr. Martinez Mendez is a long-term resident with substantial family ties in the United States. His mother, Elvira Mendez, is a lawful permanent resident. His brother, Jose Martinez Mendez, is a naturalized U.S. citizen. His wife, Roseliy Salvador, has Temporary Protected Status ("TPS") from El Salvador.

26. Mr. Martinez Mendez has no criminal history and no disqualifying criminal convictions.

27. On November 15, 2025, Mr. Martinez Mendez was arrested by Immigration and Customs Enforcement ("ICE") after a traffic stop in Houston, Texas.

28. Following that arrest, ICE took Mr. Martinez Mendez into immigration custody and confined him at the Joe Corley Processing Center in Conroe, Texas. *See* Exh. 1 (ICE Locator Results).

29. ICE continues to detain Mr. Martinez Mendez at Joe Corley without affording him a meaningful opportunity to seek release through the custody process applicable to long-resident noncitizens arrested in the interior.

30. 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 January 27, 2026, at 10:00 a.m. Exh. 2.

31. Petitioner intends to seek Cancellation of Removal for certain nonpermanent residents under INA § 240A(b) (commonly referred to as "42B"), based on his lengthy residence in the United States, his good moral character, the absence of disqualifying criminal history, and the exceptional and extremely unusual hardship his removal would cause his mother, a lawful permanent resident. *See* 8 U.S.C. § 1229b(b).

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 15, 2025, Petitioner has not 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,"[1] 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).

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

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. [2]

47. In this District, courts have repeatedly rejected Respondents' new reading of the detention statutes and held that § 1226(a), not § 1225(b)(2), governs custody for long-resident noncitizens arrested in the interior, including those charged with entry without inspection. *See Buenrostro-Mendez v. Bondi*, No. 4:25-cv-03726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025)) (holding § 1226(a) governs and granting habeas relief requiring prompt § 1226(a) custody process); *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112 (S.D. Tex. Oct. 8, 2025) (same; rejecting the Government's § 1225(b)(2) theory and ordering § 1226(a)

[2] *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 Lucero 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 § 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)).

process); *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (S.D. Tex. 2025); *Hernandez Lucero v. Noem*, No. 4:25-cv-03981 (S.D. Tex. 2025); *Granados Gonzalez v. Bondi*, No. 4:25-cv-04756 (S.D. Tex. 2025); *Barrera Martinez v. Noem*, No. 5:25-cv-00164 (S.D. Tex. 2025); *Lopez de Leon v. Harlingen Field Office of Immigration & Customs Enforcement and Removal Operations Div.*, No. 5:25-cv-00165 (S.D. Tex. 2025); *Gonzalez Garcia v. Bondi*, No. 5:25-cv-00226 (S.D. Tex. Nov. 26, 2025) (granting habeas relief in part and ordering release, no order to show cause issued); *Arreola Chavez v. Bondi*, No. 5:25-cv-00227 (S.D. Tex. Dec. 12, 2025) (granting habeas relief and ordering release, or in the alternative a bond hearing); *Espinoza Andres*, No. 4:25-cv-05128 (S.D. Tex. Dec. 02, 2025) (granting habeas in part, ordering a bond hearing under 8 U.S.C. § 1226(a) within seven days or immediate release); *Cruz Gutierrez v. Thompson*, No. 4:25-cv-04695 (S.D. Tex. Nov. 14, 2025) (granting habeas and ordering acceptance of bond payment within 24 hours). Those decisions uniformly recognize that applying § 1225(b)(2) to long-resident interior arrests would render § 1226 superfluous and violate due process, and they order either immediate release or a prompt bond hearing at which the Government bears the burden.

48. Courts elsewhere in the Fifth Circuit, particularly in the Western District of Texas, have reached the same conclusion and provided detailed reasoning that strongly supports Petitioner's position here. *See e.g. Gonzalez Guerrero v. Noem*, No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025) (preliminary injunction holding that § 1226, not § 1225(b)(2), governs custody for interior arrests because a broad reading of § 1225(b)(2) would render § 1226 superfluous); *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025) (TRO requiring § 1226 process 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) (TRO requiring a prompt § 1226 bond hearing with the Government bearing the burden, or release if no hearing is set); *Santiago-Santiago v. Noem*, No. 3:25-cv-361-KC, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025) (granting habeas relief for a DACA recipient misclassified under § 1225(b)); *Alvarez Martinez v. Noem*, No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025) (granting habeas and holding that the automatic stay of an IJ's bond order violates due process); *Lopez-Arevelo v. Ripa*, No. 3:25-cv-00337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025) (rejecting §§ 1252(g) and 1252(b)(9) as jurisdictional bars and ordering a bond hearing with a clear-and-convincing burden on the Government); *Martinez v. Noem*, No. 3:25-cv-00430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025) (holding that even assuming § 1225(b) applies, *Mathews* requires an individualized bond hearing); *Souza Vieira v. De-Anda Ybarra*, No. 3:25-cv-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025); *Erazo Rojas v. Noem*, No. 3:25-cv-00443-KC (W.D. Tex. Oct. 30, 2025); *Dominguez Vega v. Thompson*, No. 5:25-cv-01439-XR (W.D. Tex. Nov. 19 2025).

49. 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.[3] 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*.

50. 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).

51. These decisions reflect a clear judicial consensus that the government's reliance on § 1225(b)(2) is misplaced where § 1226(a) applies.

52. 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.

53. 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*

[3] 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.

Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co., 559 U.S. 393, 400 (2010); *Gomes*, 2025 WL 1869299, at *7.

54. Section 1226 therefore applies to people charged as inadmissible who are already in the interior, including those present without admission or parole.

55. 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.

56. 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.

57. 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.

58. 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.

59. 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).

60. 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.

61. Petitioner was arrested in the interior following over 20 decades of continuous residence in the United States and is in regular removal proceedings under 8 U.S.C. § 1229a. 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.

62. 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.

63. 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).

64. *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.

65. 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).

66. 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).

67. 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. Petitioner's Position On Maldonado-Bautista Class Action

68. Petitioner submits that he is a member of the *Maldonado Bautista* bond class. But class membership—and the binding effect of *Maldonado Bautista*—is not necessary to resolve this case. Even if the Court disagrees that Petitioner is a class member, or accepts Respondents' erroneous contention that *Maldonado Bautista* did not order nationwide declaratory relief, Petitioner nonetheless urges the Court to follow *Maldonado Bautista*'s reasoning (and the reasoning of numerous other courts) concerning the proper statutory authority for his detention.

69. *Maldonado Bautista v. Santacruz* is a class-action challenge brought under the bond statute and regulations and the Administrative Procedure Act, not the federal habeas statute. On November 20, 2025, the district court granted partial summary judgment for the named petitioners, and on November 25, 2025, it certified a nationwide class and extended declaratory relief to that class. 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); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class and extending the same declaratory relief to the class). The certified class is defined as: "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial

custody determination." *Maldonado Bautista*, 2025 WL 3288403, at *1. The declaratory judgment held that class members are detained under 8 U.S.C. § 1226(a) and therefore may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11. For class members, that declaration has the "force and effect of a final judgment." 28 U.S.C. § 2201(a).

70. Since that declaratory judgment issued, however, Respondents have reportedly instructed immigration judges not to apply *Maldonado Bautista* and not to find entrants without inspection eligible for bond—apparently on the view that the decision is non-final or otherwise not binding.

71. In any event, Petitioner does not believe *Maldonado Bautista* affects this Court's authority to grant the immediate relief he seeks—release from unlawful detention.

72. To the extent the Court concludes the class litigation is relevant, Petitioner asks the Court to find that he is a class member and to adopt the district court's statutory analysis. But *Maldonado Bautista* does not moot Petitioner's claims or require administrative exhaustion. Exhaustion remains futile: notwithstanding *Maldonado Bautista*, immigration judges continue to deny bond to individuals like Petitioner, including in the San Antonio area, because Respondents have instructed that the nationwide relief was "only declaratory" and should not be applied. Moreover, even if *Maldonado Bautista* were being implemented in practice, it would not resolve Petitioner's independent due-process claims or dictate the appropriate remedy here.

73. For these reasons, Petitioner respectfully requests that the Court order his immediate release, in the alternative, 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.

VI. CLAIMS FOR RELIEF

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

74. Petitioner incorporates all allegations above.

75. 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).

76. 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).

77. The Fifth Amendment protects "all persons" in the United States, including long-resident noncitizens. *Zadvydas,* 533 U.S. at 693. Continued detention since December 9, 2025 without the required process or justification violates that protection.

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

78. Petitioner incorporates all allegations above.

79. 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).

80. 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.

81. 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

82. Petitioner incorporates all allegations above.

83. 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).

84. This denial of meaningful process violates the Fifth Amendment.

FOURTH CAUSE OF ACTION
ADMINISTRATIVE PROCEDURE ACT

85. Petitioner re-alleges and incorporates by reference the paragraphs above.

86. Respondents' continued efforts to deny him bond violate the INA, Administrative Procedures Act (APA), and the U.S. Constitution.

87. 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.

88. 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.

89. 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 § 1226(a), not § 1225(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

90. Petitioner re-alleges and incorporates by reference the paragraphs above.

91. 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.

92. 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.

93. First, although Petitioner is not a U.S. citizen or resident, he has lived here for over 30 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 LPR mother will suffer exceptional and extremely unusual hardship if he were removed to Mexico. Petitioner has significant family connections in the United States, including his LPR mother, U.S. citizen brother, and wife who has TPS. All of which establishes a substantial legal relationship with the United States.

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

95. 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.

96. 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.

VII. RELIEF SOUGHT

WHEREFORE, Petitioner respectfully requests that this Court:

(1) Assume jurisdiction over this matter;

(2) Declare that ICE's November 15, 2025, apprehension and detention of Petitioner 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 Southern 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 on December 16, 2025,

/s/ Maria Nereida Jaimes
Maria Nereida Jaimes
Counsel for Petitioner
Tex. Bar No. 24124936
O'Connor & Associates PLLC
7703 N. Lamar Blvd, Ste. 300
Austin, Texas 78752
Tel: (512) 617-9600
maria@oconnorimmigration.com

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Gustavo Martinez Mendez, 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 16th day of December 2025.

/s/ Maria Nereida Jaimes
Maria Nereida Jaimes
Counsel for Petitioner
Tex. Bar No. 24124936
O'Connor & Associates PLLC
7703 N. Lamar Blvd, Ste. 300
Austin, Texas 78752
Tel: (512) 617-9600
maria@oconnorimmigration.com