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7 **UNITED STATES DISTRICT COURT**  
8 **FOR THE DISTRICT OF ARIZONA**

9  
10 Inocente Quiju Ramos,  
11  
12 **Petitioner,**

13 **v.**

14 John E. Cantu, Field Office Director of  
Enforcement and Removal Operations,  
15 Phoenix Field Office, Immigration and  
Customs Enforcement;

16 Kristi Noem, Secretary, U.S. Department  
of Homeland Security;

17  
18 Pamela Bondi, U.S. Attorney General;

19 David R. Rivas, Warden of San Luis  
Regional Detention Center;

20  
21 Todd Lyons, Acting Director,  
Immigration and Customs Enforcement  
22 and Removal Operations.

23 **Respondents.**  
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Case No.

**VERIFIED PETITION FOR WRIT  
OF HABEAS CORPUS UNDER 28  
U.S.C. § 2241**

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## INTRODUCTION

1. Since at least the passage of the Immigration and Nationality Act (INA) of 1952, noncitizens who entered the country illegally could generally be released on bond while their removal proceedings were pending. Yet earlier this year, U.S. Immigration and Customs Enforcement (ICE) “revisited” its position and determined that all noncitizens who are present without admission are subject to mandatory detention while in removal proceedings. The Board of Immigration Appeals (BIA) recently reached the same conclusion in a precedential decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), holding for the first time that all noncitizens who entered the country without admission are categorically ineligible for bond regardless of how long they have lived in the United States.

2. Federal judges have issued over 280 decisions finding the government’s novel interpretation incompatible with the INA. *See infra* nn. i, ii. The provision on which the government relies states that noncitizens who are “seeking admission” are subject to mandatory detention while in removal proceedings. 8 U.S.C. § 1225(b)(2)(A). Congress defined “admission” as “the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A). Thus, by its plain terms, the provision only applies to noncitizens who present themselves at a port of entry. And in addition to disregarding the plain text of § 1225(b)(2)(A), the government’s contrary interpretation renders superfluous other provisions of the INA that require the mandatory detention of noncitizens who have engaged in criminal activity—including a provision, § 1226(c)(1)(E), enacted this year in the Laken Riley Act.



1           6.     This Court has subject matter jurisdiction under 28 U.S.C. § 2241(c)(5)  
2 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, Section 9, Clause 2 of  
3 the United States Constitution (the Suspension Clause).

4           7.     This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory  
5 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.  
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7           8.     The “zipper clause” at 8 U.S.C. § 1252(b)(9), which channels “[j]udicial  
8 review of all questions of law . . . including interpretation and application of constitutional  
9 and statutory provisions, arising from any action taken . . . to remove an alien from the  
10 United States” to the appropriate federal court of appeals, does not apply because that  
11 section applies only to review of removal orders, and Petitioner does not seek review of  
12 orders of removal but of custody. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-  
13 SSS-BFM, 2025 U.S. Dist. LEXIS 171364, at \*9-10 (C.D. Cal. July 28, 2025).  
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15           9.     The bar to review at 8 U.S.C. § 1252(g) strips all courts of jurisdiction to  
16 hear “any cause or claim by or on behalf of any alien arising from the decision or action by  
17 the Attorney General to commence proceedings, adjudicate cases, or execute removal  
18 orders against any alien under this chapter.” The Supreme Court previously characterized  
19 § 1252(g) as a narrow provision, applying “only to three discrete actions that the Attorney  
20 General may take: her ‘decision or action’ to ‘commence proceedings, *adjudicate* cases, or  
21 *execute* removal orders.” *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471,  
22 482 (1999) (emphasis in original). In doing so, the Supreme Court found it “implausible  
23 that the mention of *three discrete events* along the road to deportation was a shorthand way  
24 to referring to *all claims arising from* deportation proceedings.” *Id.* (emphasis added).  
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1 Petitioner's challenge to his detention does not fall within these discrete actions.  
2 *Maldonado Bautista*, 2025 U.S. Dist. LEXIS 171364 at \*11.

3 10. Subsection 2 of 8 U.S.C. § 1252(a), titled "Judicial Review of Orders of  
4 Removal," contains four subsections, which outline categories of claims that are not subject  
5 to judicial review. § 1252(a)(2)(A)–(D). None of these subsections precluding judicial  
6 review apply to this matter, as the specified statutory provisions do not cite § 1225(b)(2)(A)  
7 or § 1226(a), which are the two provisions Petitioner challenges. Thus, no part of § 1252  
8 deprives this Court of jurisdiction. *Maldonado Bautista*, 2025 U.S. Dist. LEXIS 171364 at  
9 \*12. As such, the Court has jurisdiction over Petitioner's challenge to his detention.

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12 **VENUE**

13 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484,  
14 493-500 (1973), venue lies in the United States District Court for Arizona, the judicial  
15 district in which Petitioner currently is detained.

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17 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because  
18 Respondents are employees, officers, and agencies of the United States, and because a  
19 substantial part of the events or omissions giving rise to the claims occurred in the District  
20 of Arizona.

21  
22 **REQUIREMENTS OF 28 U.S.C. § 2243**

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

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

10 **PARTIES**

11  
12 15. Petitioner Inocente Quiju Ramos is a 55-year-old resident of Tampa, Florida.  
13 He first entered the United States in 1999 at the age of 29 and has resided here continuously  
14 since that time. Exhibit D. ICE has charged Petitioner with removability under 8 U.S.C. §  
15 1182(a)(6)(A)(i) as an alien in the United States without being admitted or paroled, and  
16 under 8 U.S.C. § 1182(a)(7)(A)(i)(I) as an alien who, at the time of his application for  
17 admission, was not in possession of the requisite immigration document. Exhibit B. He is  
18 presently detained at the San Luis Regional Detention Center in San Luis, Arizona.  
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21 16. Respondent John Cantu is the Director of the Phoenix Field Office of ICE’s  
22 Enforcement and Removal Operations division, which oversees operations at the San Luis  
23 Regional Detention Center. As such, Mr. Cantú is Petitioner’s immediate custodian and is  
24 responsible for Petitioner’s detention and removal. He is named in his official capacity.  
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26 17. Respondent Kristi Noem is the Secretary of the Department of Homeland  
27 Security. He is responsible for the implementation and enforcement of the INA, and  
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1 oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate  
2 custodial authority over Petitioner and is sued in her official capacity.

3 18. Respondent Pamela Bondi is the United States Attorney General. He is  
4 responsible for the Executive Office for Immigration Review (EOIR), which is the  
5 component of the U.S. Department of Justice that is responsible for implementing and  
6 enforcing the INA in removal proceedings, including for custody redetermination in bond  
7 hearings.  
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9 19. Respondent David R. Rivas is employed as the Warden of the San Luis  
10 Regional Detention Center, where Petitioner is detained. He has immediate physical  
11 custody of Petitioner. He is sued in his official capacity.  
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13 20. Respondent Todd Lyons is the Acting Director of ICE and is named in his  
14 official capacity. Among other things, ICE is responsible for the administration and  
15 enforcement of the immigration laws, including the removal of noncitizens. In his official  
16 capacity as head of ICE, he is the legal custodian of Petitioner.  
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18 **LEGAL FRAMEWORK**

19 **Immigration and Nationality Act and Federal Regulations**

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21 21. The INA prescribes three basic forms of detention for the vast majority of  
22 noncitizens who are alleged or found to be removable from the United States.

23 22. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard  
24 removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention  
25 are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§  
26  
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1 1003.19(a), 1236.1(d), while noncitizens who have engaged in specified criminal and  
2 terrorist activity are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

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

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

11 25. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

12 26. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part  
13 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996,  
14 Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583,  
15 3009–585. Section 1225(b)(2)(A) states that if an “examining immigration  
16 officer determines that an alien seeking admission is not clearly and beyond a doubt  
17 entitled to be admitted, the alien shall be detained for [removal proceedings].” The IIRIRA  
18 also defined “admission” in 8 U.S.C. § 1101(a)(13)(A) as the “lawful entry of the alien into  
19 the United States after inspection and authorization by an immigration officer.” § 301, 110  
20 Stat. 3009-575.  
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23 27. Consistent with these statutory provisions, federal regulations preclude  
24 immigration judges from granting bond to “arriving aliens,” 8 C.F.R. §  
25 1003.19(h)(1)(B)(ii), a phrase defined in relevant part as “applicant[s] for admission  
26 coming or attempting to come into the United States at a port-of-entry.” 8 C.F.R. §  
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1 1001.1(q). The decision to preclude immigration judges from granting bond to arriving  
2 aliens—as distinct from all noncitizens who entered without admission—was the product  
3 of notice and comment rulemaking in early 1997 following the enactment of the IIRIRA.

4 28. As the regulations were initially proposed, all “[i]nadmissible aliens in  
5 removal proceedings” would have been ineligible for bond. *Inspection and Expedited*  
6 *Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal*, 62 Fed. Reg.  
7 444, 483 (Jan. 3, 1997). After receiving comments, however, the Attorney General deleted  
8 the proposed provision and replaced it with one that would apply only to “[a]rriving  
9 aliens.”<sup>1</sup> *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens;*  
10 *Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10361 (March  
11 6, 1997). As the Attorney General explained, “[t]he effect of this change [was] that  
12 inadmissible aliens, except for arriving aliens, have available to them bond redetermination  
13 hearings before an immigration judge, while arriving aliens do not.” *Id.* at 10323. In other  
14 words, “aliens who are present without having been admitted or paroled (formerly referred  
15 to as aliens who entered without inspection) will be eligible for bond and bond  
16 redetermination.” *Id.*

17 29. Thus, in the decades that followed, most people who entered without  
18 inspection and were placed in standard removal proceedings received bond hearings, unless  
19 their criminal history rendered them ineligible. That practice was consistent with many  
20 more decades of prior practice in which noncitizens who were not deemed “arriving” were

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<sup>1</sup> This provision was originally promulgated as 8 C.F.R. § 236.1(c)(5)(i) and was later transferred to 8 C.F.R. § 1003.19(h)(2)(i)(B).



1 32. The BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, renders  
2 prudential exhaustion futile in bond cases involving individuals who entered the United  
3 States without inspection. *Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at \*7 (C.D.  
4 Cal. Sept. 8, 2025). Although Petitioner has just received a denial of his bond request by  
5 an immigration judge, *Matter of Yajure Hurtado* "predetermine[s]" the outcome of that  
6 appeal. *McCarthy*, 503 U.S. at 148. Prudential exhaustion is therefore unnecessary, and the  
7 Court should take jurisdiction over Petitioner's case.  
8

9 33. A motion to reconsider has been filed in *Matter of Yajure Hurtado*. The  
10 motion challenges the Board's statutory analysis and asks it to withdraw its decision  
11 because (a) the underlying removal proceedings had concluded by the time the Board  
12 issued its decision, making the case moot, and (b) the decision conflicts with longstanding  
13 regulations issued by the Attorney General.<sup>2</sup>  
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15  
16 **Federal Court Decisions Regarding Detention of  
Individuals Who Are Present Without Admission**

17 34. To date, federal district judges have issued over 280 decisions either outright  
18 rejecting the government's novel interpretation of § 1225(b)(2)(A),<sup>i</sup> or finding that  
19 noncitizens challenging the government's interpretation were substantially likely to prevail  
20 on the merits.<sup>ii</sup> These judges have not been unsparing in their criticism of the government's  
21 newfound position. One called it a "nonstarter." *Doe v. Moniz*, No. 25-12094, 2025 WL  
22 2576819 at \*10 (D. Mass. Sept. 5, 2025). Another called it "willfully blind." *Leal-*  
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26 <sup>2</sup> The Board's Decision in *Matter of Yajure Hurtado* is also not entitled to deference  
27 because it contravenes the statutory language and legislative history, and it deviates from  
longstanding agency practice and regulations.

1 *Hernandez v. Noem*, No. 25-2428, 2025 WL 2430025 at \*25 (D. Md. Aug. 24, 2025).  
2 Another called it “a policy argument, projected onto Congress.” *Romero v. Hyde*, No. 25-  
3 11631, \_\_ F. Supp. 3d \_\_, 2025 WL 2403827 at \*28 (D. Mass. Aug. 19, 2025). And another  
4 noted that the government “could not identify any federal court that has adopted their novel  
5 reading of § 1225(b)(2)(A).” *Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425  
6 at \*20 (E.D. Mich Sept. 9, 2025).

8 35. The district court in *Maldonado Bautista v. Santacruz*, 5:25-cv-01873 (C.D.  
9 Cal. Nov. 20, 2025) (Sykes, J.), has granted nationwide class certification and summary  
10 judgment on this issue. Specifically, the court has declared illegal ICE’s policy, and the  
11 BIA’s decision in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), requiring  
12 detention without bond of all persons who entered without inspection or admission. Thus,  
13 class members nationwide now have a binding judgment declaring they are detained under  
14 8 U.S.C. § 1226(a), not § 1225(b)(2)(A), and are entitled to consideration for release on  
15 bond. *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, 2025 U.S. Dist. LEXIS 231977,  
16 at \*26 (C.D. Cal. Nov. 25, 2025) (extending the same declaratory relief granted to  
17 individual petitioners to the class as a whole).

20 36. The court there expressly extended the declaratory relief to the Bond Eligible  
21 Class, which is nationwide and encompasses:

23 All noncitizens in the United States without lawful status who (1) have  
24 entered or will enter the United States without inspection; (2) were not or  
25 will not be apprehended upon arrival; and (3) are not or will not be subject  
26 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.

27 *Id.* at \*4.

1 37. Petitioner in this case is thus a class member and covered by the declaratory  
2 relief granted in *Maldonado Bautista*. Still, Petitioner’s habeas action is necessary because  
3 the class-wide declaratory judgment in *Maldonado Bautista* does not provide coercive  
4 remedies like a writ of habeas corpus ordering release or a bond hearing. 28 U.S.C. §  
5 2201(a); *Steffel v. Thompson*, 415 U.S. 452, 471 (1974) (explaining that declaratory  
6 judgment “is not ultimately coercive; noncompliance with it may be inappropriate, but is  
7 not contempt.”) Notably the Immigration Judge’s order on December 2, 2025, denied bond  
8 to the Petitioner due to lack of jurisdiction under *Matter of Yajure-Hurtado*, even after class  
9 certification in *Maldonado Bautista* the week prior. Exhibit C.  
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12 38. It is not difficult to understand why federal district courts have rejected the  
13 government’s novel interpretation, as the plain text of the statutory provisions demonstrates  
14 that § 1226(a), not § 1225(b), applies to people like Petitioner.  
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16 39. By its terms, § 1225(b)(2)(A) only applies to noncitizens who are “seeking  
17 admission,” and Congress defined “admission” as the “lawful entry of the alien into the  
18 United States after inspection and authorization by an immigration officer.” §  
19 1101(a)(13)(A). Accordingly, “[c]onstruing section 1225(b)(2) to apply to noncitizens  
20 already residing in the country would read the word ‘entry’ out of the definitions of  
21 ‘admitted’ and ‘admission.’” *Chafila v. Scott*, No. 2:25-cv-00437-SDN, 2025 U.S. Dist.  
22 LEXIS 184909, at \*19 (D. Me. Sep. 21, 2025).  
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24 40. Accordingly, § 1225(b) applies to people arriving at U.S. ports of entry. The  
25 statute’s entire framework is premised on inspections at the border of people who are  
26 “seeking admission” to the United States, and individuals who entered without inspection  
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1 and have never affirmatively applied for admission or parole do not fit within that category.  
2 8 U.S.C. § 1225(b)(2)(A); *see Reyes v. Raycraft*, No. 25-cv-12546, 2025 U.S. Dist. LEXIS  
3 175767, at \*19 (E.D. Mich. Sep. 9, 2025) (specifically rejecting the Board’s analysis of the  
4 statute in *Matter of Yajure Hurtado* and concluding that it is “difficult to square a  
5 noncitizen’s continued presence with “seeking admission” when that noncitizen never  
6 attempted to obtain lawful status”); *Vasquez-Garcia v. Noem*, No. 25-cv-02180-DMS-  
7 MMP, 2025 U.S. Dist. LEXIS 171714, at \*18 (S.D. Cal. Sep. 3, 2025) (rejecting DHS’  
8 contention that an individual who entered the United States without inspection “is  
9 automatically understood to be ‘seeking admission’ within the meaning of § 1225(b)(2)(A),  
10 without need[ing] to affirmatively apply for admission or parole”); *see also Arrazola*  
11 *Gonzalez v. Noem*, No. 5:25-cv-01789, 2025 U.S. Dist. LEXIS 158808, at \*6-7 (C.D. Cal.  
12 Aug. 15, 2025) (concluding that habeas petitioner showed likelihood of success on the  
13 merits of argument that “[t]o ignore the ‘seeking admission’ language [in 8 U.S.C. §  
14 1225(b)(2)(A) . . . would render the language purposeless and violate a key rule of  
15 statutory construction”).

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19 41. Throughout its text, 8 U.S.C. § 1225 defines its scope by reference to  
20 “inspections”—a term not defined in the INA but which typically connotes an examination  
21 upon or soon after physical entry. *See* 8 U.S.C. § 1225 (titled “Inspection by immigration  
22 officers; expedited removal of inadmissible arriving [noncitizens]; referral for hearing”);  
23 §§ 1225(b)(1)–(2) (referring to “inspections” in their titles); § 1225(d)(1) (authorizing  
24 immigration officials to search certain conveyances to conduct “inspections” where  
25 noncitizens “are being brought into the United States”). Many statutory provisions, various  
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1 regulations and agency precedent discuss “inspection” in the context of admission  
2 processes at ports of entry, further supporting the conclusion that § 1225(b) has a limited  
3 temporal and geographic scope. *See, e.g.*, 8 U.S.C. §§ 1187(h)(2)(B)(i), 1225A; 8 U.S.C.  
4 § 1752a; 8 C.F.R. § 235.1; *Matter of Quilantan*, 25 I&N Dec. 285 (BIA 2010)).

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6 42. Indeed, the Supreme Court has explained that this mandatory detention  
7 scheme applies to noncitizens who are “arriving in the United States,” *Clark v. Martinez*,  
8 543 U.S. 371, 373 (2005), “at the Nation’s borders and ports of entry, where the  
9 Government must determine whether a[] [noncitizen] seeking to enter the country is  
10 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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12 43. As importantly, § 1226(c) subjects numerous categories of inadmissible  
13 noncitizens to mandatory detention. If “the [BIA was] correct that § 1225(b)’s mandatory  
14 detention provisions apply to all persons who have not been admitted into the United States,  
15 that would render superfluous those provisions of § 1226 that apply to certain categories  
16 of inadmissible aliens, such as § 1226(c)(1)(A), (D), and (E).” *Hasan v. Crawford*, \_\_ F.  
17 Supp. 3d \_\_, 2025 WL 268225 at \*22 (E.D. Va. Sept. 19, 2025) (Brinkema, J.). Indeed, the  
18 BIA’s interpretation would “render the Laken Riley Act a meaningless amendment, since  
19 it would have prescribed mandatory detention for noncitizens already subject to it.” *Aceros*  
20 *v. Kaiser*, 2025 WL 2637503 at \*28 (N.D. Cal. Sept. 12, 2025).

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23 44. Accordingly, the mandatory detention provision of § 1225(b)(2) does not  
24 apply to people like Petitioner, who have already entered and were residing in the United  
25 States at the time they were apprehended.  
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FACTS

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45. Petitioner is a 55-year-old resident of Tampa, Florida. Exhibit D. He first entered the United States at age 29 and has resided here continuously since that time. *Id.*

46. Petitioner is married and has two children who are United States citizens. Exhibits F, G. He intends to apply for cancellation of removal and is prima facie eligible for such relief. Exhibit D.

47. Prior to detention, Petitioner worked in construction. *Id.* Petitioner has no criminal convictions and was only arrested once in 2010 for a domestic dispute that was ultimately never prosecuted. Exhibit J.

48. Petitioner also has strong community ties and good moral character, as demonstrated by the various letters he submitted with his bond request. *See* Exhibits F-I.

49. Petitioner was detained on September 18, 2025, during a traffic stop as he traveled to work. Exhibit A. Petitioner has been detained since that time. He is currently detained at the San Luis Regional Detention Center.

50. Petitioner currently has a Master Calendar hearing scheduled on December 30, 2025, before the Immigration Court in Imperial, California. Exhibit E.

51. Petitioner is still detained at a federal detention center in Arizona. Absent this Court's intervention, he will remain detained for the duration of his removal proceedings, over 2,000 miles from his wife, children, and community.

52. Petitioner sought a custody redetermination under 8 C.F.R. § 1236. Exhibit D. On December 2, 2025, the immigration judge denied that bond request, citing *Matter of*

1 *Yajure Hurtado* and failed to give effect to the class-wide declaratory judgment in  
2 *Maldonado Bautista* or recognize Petitioner’s membership in the certified class. Exhibit C.

3 **CLAIMS FOR RELIEF**

4 **COUNT I**

5 **Violation of the INA**

6 53. Petitioner incorporates by reference the allegations of fact set forth in the  
7 preceding paragraphs.

8  
9 54. The mandatory detention provision at 8 U.S.C. § 1225(b)(2)(A) does not  
10 apply to all noncitizens residing in the United States who entered the country without being  
11 admitted. By its terms, § 1225(b)(2)(A) only applies to noncitizens who are “seeking  
12 admission.” The term “admission” is defined to require a “lawful entry” following  
13 “inspection and authorization by an immigration officer.” § 1101(a)(13)(A). Accordingly,  
14 § 1225(b)(2)(A) does not apply to noncitizens like Petitioner who were not inspected or  
15 admitted and are later apprehended outside a port of entry. Such noncitizens are instead  
16 detained under § 1226 while in removal proceedings, and are thus eligible for release on  
17 bond under § 1226(a) unless they are subject to mandatory detention under § 1226(c).  
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20 55. The application of § 1225(b)(2)(A) to Petitioner unlawfully mandates his  
21 continued detention without a bond hearing and violates the INA.

22 **COUNT II**

23 **Violation of Federal Regulations**

24 56. Petitioner incorporates by reference the allegations of fact set forth in the  
25 preceding paragraphs.  
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1 57. Under 8 C.F.R. § 1236.1(d)(1), immigration judges may grant bond to any  
2 noncitizen in removal proceedings who is not subject to a final order or to any of the  
3 exceptions in 8 C.F.R. § 1003.19. None of the exceptions in § 1003.19 preclude  
4 immigration judges from granting bond to noncitizens simply for being present without  
5 admission.  
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7 58. As relevant here, the regulations only preclude immigration judges from  
8 granting bond to noncitizens who qualify as “arriving aliens,” § 1003.19(h)(1)(B)(ii), *i.e.*,  
9 those who presented themselves for inspection at a port of entry. When these regulations  
10 were initially promulgated, the Justice Department explained that “inadmissible aliens,  
11 except for arriving aliens, have available to them bond redetermination hearings before an  
12 immigration judge.” 62 Fed. Reg. 10312, 10323 (March 6, 1997). The Justice Department  
13 thus made clear that individuals who had entered without inspection were eligible for  
14 consideration for bond and bond hearings before Immigration Judges (IJs) under 8 U.S.C.  
15 1226 and its implementing regulations.  
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18 59. Notwithstanding these regulations, the BIA held in *Matter of Yajure Hurtado*  
19 that all noncitizens who are present without admission are ineligible to receive a bond from  
20 IJs. Application of this decision to Petitioner unlawfully mandates his continued detention  
21 without a bond hearing in violation of §§ 1236.1 and 1003.19  
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24 **COUNT III**  
**Violation of Due Process**

25 60. Petitioner repeats, re-alleges, and incorporates by reference every allegation  
26 in the preceding paragraphs as if fully set forth herein.  
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1 61. The government may not deprive a person of life, liberty, or property without  
2 due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from  
3 government custody, detention, or other forms of physical restraint—lies at the heart of the  
4 liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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

8 63. The government’s detention of Petitioner and its issuance of a precedential  
9 decision precluding his release violates her right to due process.

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11 **PRAYER FOR RELIEF**

12 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 13 a. Assume jurisdiction over this matter;
- 14 b. Set this matter for expedited consideration;
- 15 c. Declare that no statute or regulation prohibits an immigration judge from  
16 holding a custody redetermination hearing for Petitioner, and that Petitioner  
17 is properly detained, if at all, under 8 U.S.C. 1226(a);
- 18 d. Issue a Writ of Habeas Corpus and conduct a bond hearing within 15 days,  
19 or order Petitioner’s release within 15 days unless Respondents provide him  
20 with a bond hearing before an immigration judge;
- 21 e. Award Petitioner attorney’s fees and costs under the Equal Access to Justice  
22 Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis  
23 justified under law; and
- 24 f. Grant any other and further relief that this Court deems just and proper.

1 DATED this 17<sup>th</sup> day of December, 2025.

2 s/Gregory P. Fay

3 Gregory P. Fay

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10 *Attorney for Petitioner*

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

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I am submitting this verification on behalf of the Petitioner because I am one of Petitioner’s attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 17th day of December, 2025 in Tempe, Arizona.

s/Gregory P. Fay

\_\_\_\_\_  
Gregory P. Fay  
Attorney for Petitioner

<sup>i</sup> See, e.g., *Perez Camacho v. Holinshead*, 25-593 (D. Id. Nov. 19, 2025) (Winmill, J.); *Macilla Ruiz v. Larose*, No. 25-379 (S.D. Cal. Nov. 18, 2025) (Bashant, J.); *Maravilla Amaya v. Noem*, 25-2892 (S.D. Cal. Nov. 13, 2025) (Moskowitz, J.); *Hernandez-Luna v. Noem*, 25-1818 (D. Nev. Nov. 6, 2025) (Navarro, J.); *Castellanos Lopez v. Warden*, No. 25-2527 (S.D. Cal. Oct. 27, 2025) (Huie, J.); *Esquivel-Ipina v. Larose*, No. 25-2672 (S.D. Cal. Oct. 24, 2025) (Sammartino, J.); *Benitez-Cornejo v. Cantu*, No. 25-3672 (D. Ariz. Oct. 17, 2025) (Tuchi, J.); *Torres v. Wamsley*, 2025 WL 2855379 (W.D. Wash. Oct. 8, 2025) (Menendez, J.); *BDVS v. Forestal*, No. 25-1968 (S.D. Ind. Oct. 8, 2025) (Evans Barker, J.); *Eliseo v. Olson*, No. 25-3381 (Oct. 8, 2025) (Blackwell, J.); *Buenrostro-Mendez v. Bondi*, No. 25-3726, (S.D. Tex. Oct. 7, 2025) (Rosenthal, J.); *Echevarria v. Bondi*, No. 25-3252, 2025 LX 492534 (D. Ariz. Oct. 3, 2025) (Joun, J.); *Belsai D.S. v. Bondi*, No. 25-3682 (D. Minn. Oct. 1, 2025) (Menendez, J.); *Santiago Santiago v. Noem*, No. 25-361 (W.D. Tex. Oct. 1, 2025) (Cardone, J.); *Quispe-Ardiles v. Noem*, No. 25-1382, 2025 WL 2783799 (E.D. Va. Sept. 30, 2025) (Nachmanoff, J.); *Rodriguez Vazquez v. Bostock*, No. 25-5240, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (Cartwright, J.); *Da Silva v. ICE*, No. 25-284, 2025 WL 2778083 (D.N.H. Sept. 29, 2025) (McCafferty, J.); *Quispe v. Crawford*, No. 25-1471, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025) (Trenga, J.); *Inlago Tocagon v. Moniz*, No. 25-12453, 2025 WL 2778023 (D. Mass. Sept. 29, 2025) (Joun, J.); *Barrios v. Shepley*, No. 25-406, 2025 WL 2772579 (D. Maine Sept. 29, 2025) (Woodcock, Jr.); *J.U. v. Maldonado*, No. 25-4836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025) (Merchant, J.); *Savane v. Francis*, No. 25-6666, 2025 WL 2774452 (S.D.N.Y. Sept. 28, 2025) (Woods, J.); *Zumba v. Bondi*, No. 25-14626, 2025 WL

1 2753496 (D.N.J. Sept. 26, 2025) (Hayden, J.); *Villanueva Herrera v. Tate*, No. 25-3364 (S.D. Tex.  
 2 Sept 26, 2025) (Hittner, J.); *Gamez Lira v. Noem*, No. 25-855 (D.N.M. 25-855) (Johnson, J.); *Singh*  
 3 *v. Lewis*, No. 25-96, 2025 LX 400065 (W.D. Ky. Sept. 22, 2025) (Jennings, J.); *Chafla v. Scott*,  
 4 No. 25-437, 2025 LX 422663 (D. Maine Sept. 21, 2025) (Neumann, J.); *Hasan v. Crawford*, No.  
 5 25-1408, 2025 LX 499354 (E.D. Va. Sept. 19, 2025) (Brinkema, J.); *Barrera v. Tindall*, No. 25-  
 6 451, 2025 LX 435572 (W.D. Ky. Sept. 19, 2025) (Jenning, J.); *Salazar v. Dedos*, No. 25-835,  
 7 2025 WL 2676729 (D.N.M. Sept. 17, 2025) (Urias, J.); *Garcia Cortes v. Noem*, No. 25-2677, 2025  
 8 WL 2652880 (D. Colo. Sept. 16, 2025) (Sweeney, J.); *Pizarro Reyes v. Raycraft*, No. 25-12546,  
 9 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025) (White, J.); *Sampiao v. Hyde*, No. 25-11981, 2025  
 10 WL 2607924 (D. Mass. Sept. 9, 2025) (Kobick, J.); *Jimenez v. FCI Berlin*, No. 25-326, 2025 LX  
 11 360066 (D.N.H. Sept. 8, 2025) (McCafferty, J.); *Doe v. Moniz*, No. 25-12094, 2025 WL 2576819  
 12 (D. Mass. Sept. 5, 2025) (Talwani, J.); *Lopez Benitez v. Francis*, No. 25-5937, 2025 WL 2267803  
 13 (S.D.N.Y. Aug. 8, 2025) (Ho, J.); *Lopez-Campos v. Raycraft*, No. 25-12486, 2025 WL 2496379  
 14 (E.D. Mich. Aug. 29, 2025) (McMillion, J.); *Diaz v. Mattivelo*, No. 25-12226, 2025 WL 2457610  
 15 (D. Mass. Aug. 27, 2025) (Kobick, J.); *Jose J.O.E. v. Bondi*, No. 25-3051, 2025 WL 2466670 (D.  
 16 Minn. Aug. 27, 2025) (Tostrud, J.); *Leal-Hernandez v. Noem*, No. 25-2428, 2025 WL 2430025 (D.  
 17 Md. Aug. 24, 2025) (Rubin, J.); *Romero v. Hyde*, No. 25-11631, \_\_ F.Supp.3d \_\_, 2025 WL  
 18 2403827 (D. Mass. Aug. 19, 2025) (Murphy, J.); *Samb v. Joyce*, No. 25-6373, 2025 WL 2398831  
 19 (S.D.N.Y. Aug. 19, 2025) (Ho, J.); *dos Santos v. Noem*, No. 25-12052, 2025 WL 2370988 (D.  
 20 Mass. Aug. 14, 2025) (Kobick, J.); *Diaz Martinez v. Hyde*, No. 25-11613, \_\_ F.Supp.3d \_\_, 2025  
 21 WL 2084238 (D. Mass. July 24, 2025) (Murphy, J.); *Gomes v. Hyde*, No. 25-11571, 2025 WL  
 22 1869299 (D. Mass. July 7, 2025) (Kobick, J.).

23 <sup>ii</sup> See, e.g., *Rueda Padilla v. Bowen*, 25-cv-10780 (C.D. Cal. Nov. 21, 2025) (Snyder, J.); *Sandigo*  
 24 *Manzanarez v. Bondi*, 25-1536 (E.D. Cal. Nov. 20, 2025) (Coggins, J.); *Orozco Acosta v. Bondi*,  
 25 25-9601 (N.D. Cal. Nov. 19, 2025) (Gillam, J.); *Diaz v. Albarran*, 25-cv-9601 (N.D. Cal. Nov. 18,  
 26 2025) (Corley, J.); *Estuardo Marin v. Andrews*, 25-cv-1422 (E.D. Cal. Nov. 13, 2025) (Boone, J.);  
 27 *Lopez v. Lyons*, 25-3174 (E.D. Cal. Nov 7, 2025) (Calabretta J.) *Castillo v. Wamsley*, 25-2054  
 28 (W.D. Wash. Nov 5, 2025) (Cartwright, J.); *Arce-Cervera v. Noem*, 25-1895 (D. Nev. Oct. 28,  
 29 2025); *Martinez Lopez v. Noem*, No. 3:25-2734 (S.D. Cal. Oct. 23, 2025) (Park, J.); *Sabi Polo v.*  
 30 *Chestnut*, No. 25-1342 (E.D. Cal. Oct. 17, 2025) (Thurston, J.); *Menjivar Sanchez v. Wofford*, No.  
 31 25-1187 (E.D. Cal. Oct. 17, 2025) (Oberto, J.); *E.C. v. Noem*, 2025 WL 2916264 (D. Nev. Oct. 14,  
 32 2025) (Boulware, J.); *Rico-Tapia v. Smith* No. 25-379 (D. Haw. Oct. 10, 2025) (Park, J.); *Alvarez*  
 33 *Chavez v. Kaiser*, 2025 WL 2909526 (N.D. Cal. Oct. 9, 2025) (Beeler, J.) *Flores v. Noem*, No. 25-  
 34 2490, 2025 LX 444718 (C.D. Cal. Sept. 29, 2025) (Birotte, J.); *Roa v. Albarran*, No. 25-7802,  
 35 2025 WL 2732923 (N.D. Cal. Sept. 25, 2025) (Seeborg, J.); *Lopez v. Hardin*, No. 25-830, 2025  
 36 WL 2732717 (M.D. Fla. Sept. 25, 2025) (Dudek, J.); *Guerrero Lepe v. Andrews*, No. 1:25-cv-  
 37 01163 (E.D. Cal. Sept. 23, 2025) (Sherriff, J.); *Aceros v. Kaiser*, No. 25-06924, 2025 LX 330524  
 38 (N.D. Cal. Sept. 12, 2025) (Chen, J.); *Guzman v. Andrews*, No. 25-01015, 2025 LX 354551 (E.D.  
 39 Cal. Sept. 9, 2025) (Sherriff, J.); *Mosqueda v. Noem*, No. 25-2304, 2025 WL 2591530 (C.D. Cal.  
 40 Sept. 8, 2025) (Snyder, J.); *Nieves v. Kaiser*, No. 25-6921, 2025 LX 320701 (N.D. Cal. Sept. 3,  
 41 2025) (Beeler, J.); *Garcia v. Noem*, No. 25-2180, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025)  
 42 (Sabraw, J.); *Garcia v. Kaiser*, No. 25-06916, 2025 LX 322337 (N.D. Cal. Aug. 29, 2025)  
 43 (Gonzalez Rogers, J.); *Kostak v. Trump*, No. 25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025)  
 44 (Edwards, J.); *Benitez v. Noem*, No. 25-02190, 2025 LX 322897 (C.D. Cal. Aug. 26, 2025)  
 45 (Klausner, J.); *Ramirez Clavijo v. Kaiser*, No. 25-06248, 2025 WL 2419263 (N.D. Cal. Aug. 21,  
 46 2025) (Freeman, J.); *Arrazola-Gonzalez v. Noem*, No. 25-01789, 2025 WL 2379285 (C.D. Cal.

1 Aug. 15, 2025) (Wright, J.); *Maldonado v. Olson*, No. 25-3142, 2025 WL 2374411 (D. Minn.  
2 Aug. 15, 2025) (Nelson, J.); *Maldonado Bautista v. Santacruz*, No. 25-01873, 2025 LX 341363  
3 (C.D. Cal. July 28, 2025); *Vazquez v. Bostock*, No. 25-05240, 779 F. Supp. 3d 1239 (W.D. Wash.  
4 April 24, 2025) (Cartwright, J.). *But see Sixtos Chavez v. Noem*, No. 25-2325 (S.D. Cal. Sep. 24,  
2025) (Bencivengo, J.) (denying temporary restraining order); *Villanueva v. Chestnut*, No. 25-2  
(E.D. Cal. Oct. 24, 2025) (Sheriff, J.) (same).

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