

1 Erica Sanchez, Of Counsel  
2 Shefer Law Firm, P.A.  
3 800 SE 4th. Ave #803  
4 Hallandale Beach, Florida 33009  
5 Telephone: (480) 866-1111  
6 erica@shefer.legal  
7 Arizona Bar #027107  
8 Attorney for Petitioner

9  
10 **UNITED STATES DISTRICT COURT**  
11 **DISTRICT OF ARIZONA**

12 **Emanuel Sandoval Huitzil,**  
13 **Petitioner,**

14 v.

15 **Kristi Noem**, Secretary of the United States  
16 Department of Homeland Security, in her official  
17 capacity; **Todd Lyons**, Acting Director U.S.  
18 Immigration and Customs Enforcement, in his official  
19 capacity; **John Cantu**, Field Office Director for ICE's  
20 Enforcement and Removal Operation's ("ERO") Field  
21 Office, in his official capacity; **Sirce Owen**, Acting  
22 Director of Executive Office for Immigration Review,  
23 in her official capacity; **Luis Rosa, Jr.**, Warden of the  
24 Florence Service Processing Center, in his official  
25 capacity,  
26 **Respondents.**

Case No.

Agency No. 

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

27 **INTRODUCTION**

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

1 Appeals (BIA) issued a precedential decision on September 5, 2025, holding that all  
2 noncitizens present in the United States without admission – no matter how long they  
3 have resided here – are still “applicants for admission” under 8 U.S.C. § 1225(a) and  
4 not entitled to bond hearings because they are subject to mandatory detention under §  
5 1225(b)(2)(A). *See, Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025) filed  
6 herewith as Exhibit 2.  
7

8  
9 But this interpretation of the Immigration and Naturalization Act (INA) violates  
10 both procedural and substantive Fifth Amendment protections, ignores the plain  
11 statutory language of both § 1225 and § 1226, and is contrary to numerous recent Federal  
12 Court decisions in this District that have rejected these exact arguments. *See e.g.*  
13 10/3/2025 Order entered in *Francisco Echevarria v. Pam Bondi, et al.*, CV-25-03252-  
14 PHX-DWL (ESW), (D. Ariz. 10/3/2025), filed herewith as Exhibit 16.  
15

16  
17 Petitioner has resided in the United States for approximately twenty-two (22)  
18 years and seeks asylum as relief from removal. He is neither a flight risk nor a danger  
19 to the community. Although Petitioner has a single DUI conviction from October 2024,  
20 he accepted responsibility and is engaged in ongoing rehabilitative efforts. *See,*  
21 Petitioner’s Affidavit, filed herewith as Exhibit 4. Further, when Respondents issued a  
22 Notice to Appear, it identified Petitioner as an “alien present in the United States”  
23 despite “arriving alien” being an option. *See,* Petitioner’s Notice to Appear, filed  
24 herewith as Exhibit 5.  
25

26  
27 In addition to BIA decisions not being binding precedent upon this Court, the  
28 Supreme Court decision last year in *Loper Bright Enterprises v. Raimondo*, 603 U.S.

1 369, 400 (2024), made clear that federal courts must independently interpret statutes and  
2 no longer defer under so-called “Chevron deference.” This Court is therefore in the best  
3 position to determine whether the Respondents are misinterpreting the relevant federal  
4 statutes and improperly denying alien detainees bond hearings on the grounds that they  
5 are all subject to mandatory detention under § 1225(b)(2)(A). The petition for writ of  
6 habeas corpus should be granted.  
7  
8

### 9 JURISDICTION & CUSTODY

10 1. Petitioner Emanuel Sandoval Huitzil, is in the physical custody of  
11 Respondents and Immigration and Customs Enforcement (ICE), an agency within the  
12 Department of Homeland Security.  
13

14 2. Petitioner is currently detained at Florence Service Processing Center  
15 and is under the direct control of Respondents and their agents.  
16

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

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

24 5. Congress has preserved judicial review of challenges to immigration  
25 detention. *See Jennings v. Rodriguez*, 583 U.S. 122, 130-131 (2018) (holding that 8  
26 U.S.C. §§ 1226(e) and 1252(b)(9) do not bar review of challenges to prolonged  
27 immigration detention).  
28



1           12.       Respondent DHS is a federal executive agency responsible for, among  
2 other things, enforcing federal immigration laws and overseeing lawful immigration to  
3 the United States. Respondent DHS is a legal custodian of Petitioner.  
4

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

12           14.       Respondent ICE is a federal law enforcement agency within DHS.  
13 Respondent ICE is responsible for the enforcement of immigration laws, including the  
14 detention and removal of immigrants. Respondent ICE is a legal custodian of Petitioner.  
15


16           15.       Respondent John Cantu is Field Office Director for ICE’s Enforcement  
17 and Removal Operation’s (“ERO”) Field Office. Respondent Cantu is a legal custodian  
18 of Petitioner and is sued in his official capacity.  
19

20           16.       Respondent Luis Rosa, Jr. is the Warden of the Florence Service  
21 Processing Center. Respondent Rosa, Jr. is a legal custodian of Petitioner. Respondent  
22 Rosa, Jr. is sued in his official capacity.  
23

24           17.       Respondent Sirce Owen is the Acting Director of the Executive Office  
25 for Immigration Review (EOIR), a federal agency within the U.S. Department of Justice.  
26 Respondent EOIR is responsible for the administration of immigration courts, and  
27  
28

1 acceptance of forms and petitions related to adjudication of immigration claims, as well  
2 as motions for bond. Respondent Sirce Owen is sued in her official capacity.

3  
4 **STATEMENT OF FACTS**

5 18. Petitioner Emanuel Sandoval Huitzil was born on  in  
6 Mexico.

7 19. Petitioner Emanuel Sandoval Huitzil last entered the United States on  
8 December 5, 2007.

9 20. Respondents arrested Petitioner and served him with a Notice to  
10 Appear on November 2, 2025. *See*, Petitioner’s Notice to Appear, filed herewith as  
11 Exhibit 5.  
12

13 21. The Notice to Appear which identified him as an “alien present in the  
14 United States” even though “arriving alien” was an alternate option. *Id.*  
15

16 22. Petitioner is detained at the Florence Service Processing Center where  
17 he remains in custody. *See* ICE Online Detainee Locator Printout, filed herewith as  
18 Exhibit 3.  
19

20 23. Petitioner has been living in the United States for 22 years. *See*,  
21 Petitioner’s Affidavit, filed herewith as Exhibit 4.  
22

23 24. Petitioner filed an on . *See*, Petitioner’s .

24 25. Petitioner has a single DUI conviction from October 2024. He accepts  
25 responsibility and is engaged in ongoing rehabilitative efforts. *See*, Petitioner’s  
26 Affidavit, filed herewith as Exhibit 4.  
27

28 **LEGAL FRAMEWORK**

1  
2           26.           The length of time that a petitioner has been living in the United States  
3 is a constitutionally relevant consideration, because “once an alien enters the country,  
4 the legal circumstance changes, for the Due Process Clause applies to all ‘persons’  
5 within the United States, including aliens, whether their presence here is lawful,  
6 unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). It  
7 is therefore reasonable to read these statutes “against [that] backdrop.” *See Hewitt v.*  
8 *United States*, 605 U.S. —, 145 S. Ct. 2165, 2173 (2025).  
9

10  
11           27.           Due process thus requires “adequate procedural protections” to ensure  
12 that the government’s asserted justification for a noncitizen’s physical confinement  
13 “outweighs the individual’s constitutionally protected interest in avoiding physical  
14 restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).  
15

16           28.           In the immigration context, the Supreme Court has recognized only  
17 two valid purposes for civil detention: to mitigate the risks of danger to the community  
18 and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. The government may not detain a  
19 noncitizen based on any other justification.  
20

21           29.           Congress has granted the Attorney General discretion to decide  
22 whether to detain or release certain noncitizens pending a removal decision. *See* 8 U.S.C.  
23 § 1226(a). The Attorney General has delegated that authority to IJs. 8 C.F.R. §§ 1003.19,  
24 1236.1.  
25

26           30.           On July 8, 2025, DHS adopted a new policy on mandatory detention  
27 for noncitizens who have been residing in the United States. *See*, ICE Memo: Interim  
28

1 Guidance Regarding Detention Authority for Applications for Admission filed herewith  
2 as Exhibit 1.

3  
4 31. On September 5, 2025, the BIA entered the precedential decision  
5 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), filed herewith as Exhibit 2,  
6 which holds that all noncitizens who enter without inspection are “applicants for  
7 admission” under 8 U.S.C. § 1225(a) and therefore subject to mandatory detention under  
8 § 1225(b)(2), without regard for the length of time they have lived in the United States.

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

18  
19  
20 33. Almost every Federal District Court that has considered the issue has  
21 found that DHS’s interpretation defies the INA. In Arizona, the following decisions so  
22 find and collect the cases from other district courts around the country:

- 23  
24  
25 a. 12/12/2025 Order granting habeas in *Gonzalez-Gonzalez v. Noem*, et al.,  
26 Case No. 25-cv-04478-DWL (D. Ariz 12-12-25)(The court declined to  
27 revisit the conclusion it reached in *Echevarria*).
- 28 b. 11/26/2025 Order granting habeas in *Luna-Gonzalez v. Noem*, et al., Case  
No. 25-cv-03794-PHX (D. Ariz 11-26-25)(The court rejected the  
government’s argument that the petitioner is an “arriving alien” subject to

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

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

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

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

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

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

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

- 3
- 4            h. 11/03/25 Order granting habeas petition in *Lopez-Cruz v. Noem, et al*, No.  
5            2:25-cv-03566-DJH--ASB (D. Ariz. 11/3/2025)(“dozens of other district  
6            courts have concluded individuals like Petitioner are subject to § 1226 and  
7            not § 1225 and, therefore, are not subject to mandatory detention. This  
8            Court agrees with this conclusion.”), filed herewith as Exhibit 13.
- 9            i. 10/22/2025 Order granting habeas in *Garcia-Rosales v. Noem, et al.*, No.  
10            2:25-cv-03391-SHD-DMF at page 2 (D. Ariz. Oct. 22, 2025)(“while  
11            Respondents point to two district court opinions adopting their  
12            interpretation of § 1225(b)(2)(A), myriad other district courts have  
13            reached the same conclusion as *Echevarria* and held individuals like  
14            Petitioner are not subject to mandatory detention under 1225(b)(2)(A)”  
15            ), filed herewith as Exhibit 14.
- 16            j. 10/17/2025 Order granting habeas corpus in *Benitez-Cornejo v. Cantu, et*  
17            *al.*, No. 2:25-cv-03672 (D. Arizona Oct. 17, 2025)(“individuals like  
18            Petitioner are not “arriving aliens” subject to mandatory detention but,  
19            rather, are subject to the general removal statute, 8 U.S.C. § 1226(a)”  
20            ), filed herewith as Exhibit 15.
- 21            k. 10/09/2025 Order granting habeas entered in *Hector Lopez-Melo v. Bondi,*  
22            *et. al.*, Case No. Case 2:25-cv-03394-DJH--JZB (D. Ariz.  
23            10/9/2025)(“petitioner, who had been present in the United States for  
24            years, was not an applicant for admission under 1225(b)(2)(A) or subject  
25            to mandatory detention”), filed herewith as Exhibit 16.
- 26            l. 10/07/2025 Order granting habeas corpus in *Bo Li v. Cantu, et al.*, No.  
27            CV-25-02989-PHX-SPL (D Arizona 10/07/2025)(“Respondents maintain  
28            he is subject to mandatory detention under 1225(b)(2). Again,  
             Respondents are mistaken.”), filed herewith as Exhibit 17.
- m. 10/3/2025 Order granting habeas corpus in *Echevarria v. Bondi, et al.*, No.  
             2:25-cv-03252-PHX-DWL, 2025 WL 2821282 (D. Ariz. Oct. 3,  
             2025)(“Court agrees with the majority of courts that have concluded that

1 § 1226(a), rather than § 1225(b)(2)(A), applies in this circumstance.”),  
2 filed herewith as Exhibit 18.

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

12 34. Petitioner has located only 6 cases holding to the contrary. In *Vargas*  
13 *Lopez v. Trump*, --F. Supp. 3d--, 2025 WL 2780351 (D. Neb. Sept. 30, 2025), the court  
14 held that Vargas Lopez failed to meet his burden to show that he falls under § 1226(a),  
15 so “his Petition fails regardless of the parties’ arguments about the scope of § 1225(b)  
16 and § 1226(a).” *Vargas Lopez v. Trump*, 2025 WL 2780351 at \*7 (emphasis added). In  
17 *Chavez v. Noem*, -- F. Supp. 3d --, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025), the  
18 court denied a temporary restraining order on the grounds that the petitioners had “not  
19 demonstrated serious questions about the application of Section 1225 to aliens present  
20 in the United States.” *Chavez v. Noem*, 2025 WL 2730228 at \*4. However, the court  
21 spent less than 2 pages analyzing the statutory language and caselaw before concluding  
22 that “Petitioners have not shown either a likelihood of success or serious questions going  
23 to the merits [therefore] we do not address the remaining Winter factors.” *Chavez v.*  
24 *Noem*, 2025 WL 2730228 at \*5. *Mejia Olalde v. Noem*, 2025 U.S. Dist. LEXIS 221830  
25  
26  
27  
28

1 (E.D. Mo. Nov. 10, 2025) was concerned with whether the habeas petition had been  
2 properly filed in that court's jurisdiction and never reached the application of § 1225(b)  
3 to the petitioner. *Pipa-Aquise v. Bondi*, No. 25-1094, 2025 WL 2490657 (E.D. Va. Aug.  
4 5, 2025) and *Pena v. Hyde*, No. 25-11983, 2025 WL 2108913 (D. Mass. July 28, 2025)  
5 were each shorter than two pages long and neither contained any significant analysis.  
6 Lastly, in *Lauren-Ayala v. Noem*, No. 25-cv- 04425-KML--JFM (D. Ariz. 12/12/2025).  
7 the court did not reach the merits of the habeas claim or analyze the governing statute;  
8 instead, it dismissed the petition for lack of jurisdiction, concluding that, because  
9 petitioner failed to address the immigration court's alternative dangerousness finding, it  
10 could not order any effective relief. Thus, none of these cases are particularly instructive.

11  
12  
13  
14 35. In 1997, after Congress amended the INA through the Illegal  
15 Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), EOIR and  
16 the then-Immigration and Naturalization Service issued an interim rule to interpret and  
17 apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and  
18 Detention of Aliens," the agencies explained that:  
19

20  
21 Despite being applicants for admission, aliens who are  
22 present without having been admitted or paroled (formerly  
23 referred to as aliens who entered without inspection) ***will be***  
***eligible*** for bond and bond redetermination.

24 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that  
25 individuals who had entered without inspection ***were*** eligible for consideration for  
26 bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing  
27 regulations.  
28





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**WHEREFORE** Petitioner Emanuel Sandoval Huitzil respectfully requests that the Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Order Respondents not to transfer Petitioner out of this District during the pendency of these proceedings, to preserve jurisdiction;
3. Issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and order Respondents to immediately release Petitioner from custody or, in the alternative, order Respondents to provide Petitioner a bond hearing under 8 U.S.C. § 1226, and without regard to the holding of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), within three (3) business days;
4. Award Petitioner reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
5. Grant any further relief the Court deems just and proper.

Dated this 23rd day of December, 2025.

By: /s/ Erica Sanchez  
Erica Sanchez, Esq.  
Shefer Law Firm, P.A.  
800 SE 4<sup>th</sup>. Ave #803  
Hallandale Beach, Florida 33009  
(786) 295-9077  
erica@shefer.legal

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

I represent Petitioner Emanuel Sandoval Huitzil 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 23rd day of December, 2025.

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