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## I. INTRODUCTION AND BACKGROUND

1. This Petition challenges the unlawful detention of Petitioner Carlos Alexander Montoya Flores (“Mr. Montoya Flores”), a 42-year-old native and citizen of Honduras who entered the United States without inspection approximately eighteen years ago and has lived here ever since. ICE arrested Mr. Montoya Flores in Texas following a minor traffic stop for alleged failure to stop at a stop sign. He was booked into the Brazos County Jail and then, on September 5, 2025, transferred into ICE custody and detained at the Houston Contract Detention Facility, where he remains detained without a meaningful opportunity to seek release. Exh. 1 (ICE Locator Results).
2. Petitioner is a long-term resident with substantial equities, deep community ties, and every incentive to appear for immigration proceedings. For the last six years, he has worked continuously as a landscaper and has provided steady financial and practical support for his household.
3. Petitioner is the father of four U.S. citizen children and the stepfather of two U.S. citizen stepchildren from a prior marriage to a U.S. citizen. One of those stepchildren, X [REDACTED] lives with profound disabilities and requires constant, hands-on care.
4. X [REDACTED] has been diagnosed with a hypoxic brain injury after being deprived of oxygen for an extended period. She is 100% disabled and dependent on a caregiver twenty-four hours a day. She cannot communicate in full sentences and requires assistance with all activities of daily living, including bathing, feeding, and transfers using a lift and sling. She receives nutrition and medications through a feeding tube and relies on a pump for fluids.

5. The circumstances underlying  catastrophic injury are traumatic and ongoing:  
  
current condition. Because she cannot reliably communicate, the related criminal investigation has been extraordinarily difficult and remains deeply impactful for the family’s safety, stability, and wellbeing.
6. If released, Petitioner has a stable residence and clear release plan. He will live in Bryan, Texas, and will immediately resume employment and caregiving responsibilities, including essential support for X  and the children.
7. Notwithstanding these compelling humanitarian equities and the absence of any basis for categorical detention, DHS continues to confine Petitioner without providing the custody process required by the Immigration and Nationality Act (“INA”) and the Fifth Amendment. Petitioner therefore seeks habeas relief ordering Respondents to release him.
8. DHS contends that 8 U.S.C. § 1225(b) mandates his detention. Congress created a separate detention framework in 8 U.S.C. § 1226(a) that governs interior arrests and provides for discretionary bond and immigration-judge review. 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 Due Process. It collapses Congress’s dual-track detention scheme and imposes categorical detention on long-time residents who present no danger or flight risk.
9. On December 18, 2025, the Central District of California entered final judgment in *Maldonado Bautista v. Santacruz*, declaring that the nationwide “Bond Eligible Class” is detained under INA § 236(a), 8 U.S.C. § 1226(a), “not subject to mandatory

detention” under INA § 235(b)(2), 8 U.S.C. § 1225(b)(2), and vacating DHS’s July 8, 2025 “Interim Guidance Regarding Detention Authority for Applicants for Admission.” Final Judgment at 1–2, *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025).

10. Petitioner falls within the Maldonado Bautista Bond Eligible Class because he entered without inspection, was not apprehended upon arrival, and—at the time DHS made its initial custody determination—was not detained under INA §§ 236(c), 235(b)(1), or 241, 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025). Nevertheless, Respondents continue to take the position that § 1225 controls Petitioner’s custody, and they rely on that theory to deny him the § 1226(a) bond process that *Maldonado Bautista* held governs for class members.
11. The human consequences are immediate and severe. Detention has stripped this household of Petitioner’s income and, critically, of his day-to-day caregiving and logistical support for a profoundly disabled child who depends on constant care and specialized equipment. The Constitution and the INA do not permit detention in these circumstances without the custody process the law requires.
12. Petitioner respectfully requests that this Court grant the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 and order his immediate release under reasonable conditions of supervision, or at minimum, order Respondents to provide a prompt bond hearing governed by INA § 236(a), 8 U.S.C. § 1226(a), with the constitutionally required burden and standard placed on the government. In the alternative, Petitioner

requests that the Court order Respondents to show cause why the writ should not be granted within three days. See 28 U.S.C. § 2243.

## **II. JURISDICTION AND VENUE**

13. Petitioner is detained in civil immigration custody in Harris County at the Houston Contract Detention Facility in Houston, Texas. *See* Exh. 1 (ICE Locator Results). He has been detained since or about, September 5, 2025.
14. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et seq.
15. 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.
16. 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**

17. 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.

18. 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**

19. Petitioner Carlos Montoya Flores is a 37-year-old citizen of Honduras He last entered the United States in or about 2004 without inspection and has resided here continuously for over 20 years.
20. 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.
21. Respondent Kristi Noem is named in her official capacity as Secretary of the United States 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.

22. Respondent Todd M. Lyons is named in his official capacity as Director of U.S. Immigration and Customs Enforcement. He oversees ICE operations, including detention and removal, and is a legal custodian of Petitioner.
23. Respondent Bret Bradford is named in his official capacity as Acting ICE Field Office Director for U.S. Immigration and Customs Enforcement. He is responsible for ICE enforcement in this District and is a legal custodian of Petitioner.
24. Respondent John Linscott is named in his official capacity as ICE Director at the Houston Contract Detention Facility, U.S. Immigration and Customs Enforcement. He exercises authority over the facility where Petitioner is held and is a legal custodian of Petitioner.
25. Respondent Martin Frink is named in his official capacity as Warden of the Houston Contract Detention Facility, operated by CoreCivic. He has immediate physical custody of Petitioner pursuant to an agreement with ICE to detain noncitizens.
26. Each Respondent is sued in his or her official capacity as a custodian and/or policymaker responsible for Petitioner's continued detention.

## **V. FACTS**

27. Petitioner Carlos Alexander Montoya Flores ("Mr. Montoya Flores") is a native and citizen of Honduras. He entered the United States without inspection approximately eighteen years ago and has resided continuously in the United States since that time.
28. Petitioner has built his life in Texas and has worked steadily to support his family. For the past six years, he has been employed as a landscaper and has been a reliable source of income and stability for his household.

29. On September 3, 2025, Petitioner was stopped in Houston, Texas for an alleged minor traffic violation (failure to stop at a stop sign). Following that stop, he was taken into custody and booked into the Brazos County Jail.
30. On September 5, 2025, Petitioner was transferred into the custody of the DHS and has remained detained by ICE since that date at the Houston Contract Detention Facility. He has not been provided a meaningful opportunity to seek release consistent with the governing detention statute and the Constitution.
31. After taking Petitioner into ICE custody, DHS initiated removal proceedings by issuing a Notice to Appear. His case is now pending before the Immigration Court, and EOIR's Automated Case Information System reflects that he is scheduled for a master calendar hearing on January 15, 2026, at 9:30 a.m. Exh. 2.
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 immigration judge under 8 U.S.C. § 1226(a). As a result, since September 5, 2025, Petitioner has not received any bond hearing or other individualized determination of whether continued detention is necessary to address flight risk or danger.
33. Petitioner is the father of four U.S. citizen children. He is also the stepfather of two U.S. citizen stepchildren from a prior marriage to a U.S. citizen. He has served as a consistent parental figure and a primary source of financial support for the children in the household.
34. Petitioner is currently in a relationship with Evangelina Duran, who is undocumented. Ms. Duran has three children; two are over the age of twenty-one, and one is seventeen

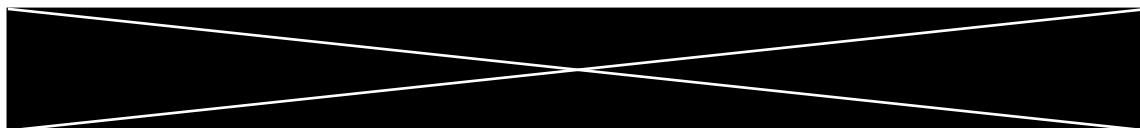
years old. Petitioner's detention has destabilized this blended family unit and removed a primary source of support from the home.

35. One of Petitioner U.S. citizen stepchildren, [REDACTED] has severe medical and functional impairments and requires continuous care. X [REDACTED] has been diagnosed with a hypoxic brain injury after being deprived of oxygen for a prolonged period, leaving her 100% disabled.

36. X [REDACTED] depends entirely on caregivers for all activities of daily living. She requires assistance with bathing, hygiene, dressing, and mobility, and caregivers must transfer her using specialized equipment, including a lift and sling.

37. X [REDACTED] also requires complex medical support for nutrition, hydration, and medication administration. She receives food and medications through a feeding tube and relies on a pump for fluids. Her care is constant and hands-on, day and night.

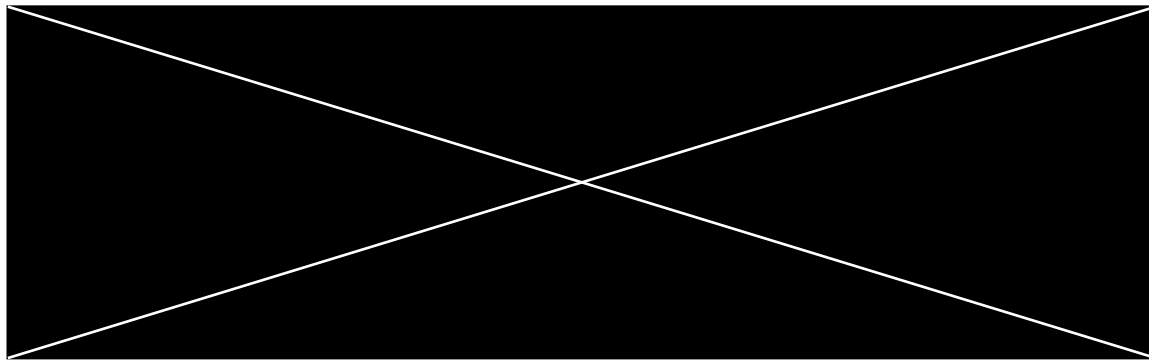
38. The events that resulted in [REDACTED] condition have imposed severe emotional and safety-related burdens on the family. According to the family, X [REDACTED] was abducted



found unresponsive after a prolonged period without oxygen, resulting in her permanent disability.

39. Because of the extent of [REDACTED] brain injury, she cannot communicate in full sentences and cannot reliably provide detailed information about what occurred. The family understands that this has significantly hindered law enforcement's ability to identify and prosecute all responsible individuals.

40.



41. Petitioner detention has immediate and concrete consequences for [REDACTED] and the children. It removes a critical caregiver and support person from the home, increases the caregiving burden on other family members, and undermines the household’s ability to manage X [REDACTED]’s intensive daily medical needs.

42. Release will allow Mr. Montoya Flores to return to work, stabilize the household financially, and provide essential daily support to the family, including caregiving assistance for X [REDACTED]’s continuous needs.

## VI. LEGAL FRAMEWORK

### A. Due Process

43. 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

44. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

45. 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).
46. 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).
47. 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

48. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2).
49. 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).
50. After IIRIRA, EOIR promulgated regulations clarifying that, in general, people who entered without inspection and were placed in § 1229a 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).

51. 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).
52. 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.
53. On July 8, 2025, ICE announced new “Interim Guidance Regarding Detention Authority for Applicants for Admission,”<sup>1</sup> reversing longstanding understanding and practice.
54. 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).
55. 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 §

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<sup>1</sup> Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applicants-for-admission>.

1225(b)(2)(A) and are ineligible for immigration-judge bond hearings. 29 I. & N. Dec. 216 (B.I.A. 2025).

56. 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.<sup>2</sup>
57. 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) process); *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (S.D.

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<sup>2</sup> *See, e.g., Granados Gonzalez v. Bondi*, No. 4:25-cv-04756 (S.D. Tex. Nov. 3, 2025); *Gonzalez Garcia v. Bondi*, No. 5:25-cv-00226 (S.D. Tex. Nov. 26, 2025); *Arreola Chavez v. Bondi*, No. 5:25-cv-00227 (S.D. Tex. Dec. 12, 2025); *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); *Hernandez 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)).

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 acceptance of bond payment or new bond hearing, 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); *Escobar Palacios v. Bondi*, No. 4:25-cv-05846 (S.D. Tex. Dec. 22, 2025) (granting habeas and ordering a bond hearing under 1226(a)). 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.

58. Courts elsewhere in the Fifth Circuit, particularly in the Southern 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); *Hernandez-Hervert v. Bondi*, No. 1:25-cv-01763-RP (W.D. Tex. Nov. 14, 2025) (granting habeas relief, rejecting Respondents' reliance on *Matter of Yajure-Hurtado*, and requiring § 1226(a) custody process); *Rojas Vargas v. Bondi*, No. 1:25-cv-01699-DAE, 2025 WL 3251728 (W.D. Tex. Nov. 5, 2025) (granting a TRO, holding that § 1226(a) governs detention of long-resident noncitizens, and requiring a prompt bond hearing with a clear-and-convincing Government burden or release); *Melendez*

*Hernandez v. Bondi*, No. 1:25-cv-01811-DAE (W.D. Tex. Nov. 26, 2025) (granting a TRO and ordering a § 1226(a) bond hearing with the Government bearing the clear-and-convincing burden of flight risk or danger, or release if no timely hearing is provided); *Becerra Vargas v. Bondi*, No. 5:25-CV-01023-FB-HJB (W.D. Tex. Nov. 26, 2025) (granting habeas in part and ordering release from custody); *Navarrete Perdomo v. Bondi*, No. 5:25-cv-01398 (W.D. Tex. Nov. 25, 2025) (granting habeas relief and ordering release); *Perez Reyes v. Bondi*, No. 5:25-cv-01302-XR (W.D. Tex. Nov. 26, 2025)(granting habeas and ordering release); *Paredes Quintero v. Bondi*, No. 5:25-cv-01697-JKP (W.D. Tex. Dec. 18, 2025) (granting habeas and ordering release within 24 hours); *Trejo Enriquez v. Bondi*, No. 1:25-cv-02012-ADA-DH (W.D. Tex. Dec. 19, 2025)(granting habeas and ordering release); *Rodriguez Rivera v. Bondi*, No. 1:25-cv-01979-RP (W.D. Tex. Dec. 19, 2025)(granting habeas and ordering immediate release); *Narvaez San Elias v. Bondi*, No. 5:25-cv-01736-JKP (W.D. Tex. Dec. 22, 2025) (granting habeas relief and ordering release by December 24, 2025 no later than 1 p.m.); *Rodriguez Miranda v. Bondi*, No. 1:25-cv-02005-RP (W.D. Tex. Dec. 23, 2025)(granting habeas and ordering immediate release); *Siac Guzman v. Bondi*, No. 1:25-cv-02055-RP (W.D. Tex. Dec. 23, 2025)(granting habeas and ordering immediate release).

59. 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).

60. These decisions reflect a clear judicial consensus that the government’s reliance on § 1225(b)(2) is misplaced where § 1226(a) applies.
61. 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.
62. 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 Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010); *Gomes*, 2025 WL 1869299, at \*7.
63. Section 1226 therefore applies to people charged as inadmissible who are already in the interior, including those present without admission or parole.
64. 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.
65. 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.
66. 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.

67. 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.
68. 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).
69. 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.**

51. Petitioner was arrested in the interior following over 18 years 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.

52. 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.
53. 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).
54. *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.
55. 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).

56. 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).

57. 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**

58. On December 18, 2025, the Central District of California entered final judgment in *Maldonado Bautista v. Santacruz*, declaring that the nationwide “Bond Eligible Class” is detained under INA § 236(a), 8 U.S.C. § 1226(a), “not subject to mandatory detention” under INA § 235(b)(2), 8 U.S.C. § 1225(b)(2), and vacating DHS’s July 8, 2025 “Interim Guidance Regarding Detention Authority for Applicants for Admission.” Final Judgment at 1–2, *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025).

59. Petitioner falls within the Maldonado Bautista Bond Eligible Class because he entered without inspection, was not apprehended upon arrival, and—at the time DHS made its initial custody determination—was not detained under INA §§ 236(c), 235(b)(1), or 241, 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025). Nevertheless, Respondents continue to take the position that § 1225 controls Petitioner’s custody, and

they rely on that theory to deny him the § 1226(a) bond process that *Maldonado Bautista* held governs for class members.

60. 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.

61. 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.

62. For these reasons, Petitioner respectfully requests that the Court order his immediate release.

## **VI. CLAIMS FOR RELIEF**

### **FIRST CAUSE OF ACTION**

#### **Violation of the Due Process Clause (Fifth Amendment)**

63. Petitioner incorporates all allegations above.

64. 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).

65. 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).
66. 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)

67. Petitioner incorporates all allegations above.
68. 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).
69. 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.
70. 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

71. Petitioner incorporates all allegations above.

72. 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).

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

#### **FOURTH CAUSE OF ACTION**

##### **ADMINISTRATIVE PROCEDURE ACT**

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

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

76. 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.

77. 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.

78. 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**

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

80. 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.

81. 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.

82. First, although Petitioner is not a U.S. citizen or resident, he has lived here for over 18 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 U.S. citizen children will suffer exceptional and extremely unusual hardship if he were removed to Honduras. Petitioner has significant family connections in the United States, including his U.S. citizen children. All of which establishes a substantial legal relationship with the United States.

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

84. 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.

85. 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 September 5, 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,

**/s/ Maria Nereida Jaimes**

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

I represent Petitioner, Carlos Alexander Montoya Flores, 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.

**/s/ Maria Nereida Jaimes**  
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