

---

**3:26-cv-00117-CAB-BLM** Rojas Dubon v. Wall et al  
Cathy Ann Bencivengo, presiding  
Barbara Lynn Major, referral  
**Date filed:** 01/08/2026  
**Date of last filing:** 01/20/2026

## History

<b>Doc. No.</b>	<b>Dates</b>	<b>Description</b>
<u>1</u>	<i>Filed:</i> 01/08/2026 <i>Entered:</i> 01/09/2026	 Petition for Writ of Habeas Corpus
<u>2</u>	<i>Filed &amp; Entered:</i> 01/09/2026	 Order Setting Briefing Schedule
<u>3</u>	<i>Filed &amp; Entered:</i> 01/14/2026	 Notice of Appearance
<u>4</u>	<i>Filed &amp; Entered:</i> 01/14/2026	 Request to Appear Pro Hac Vice
<u>5</u>	<i>Filed &amp; Entered:</i> 01/16/2026	 Response - Other
<u>6</u>	<i>Filed &amp; Entered:</i> 01/17/2026	 Motion to Amend/Correct
<u>7</u>	<i>Filed &amp; Entered:</i> 01/19/2026	 Reply - Other
<u>8</u>	<i>Filed &amp; Entered:</i> 01/20/2026	 Order re Pro Hac Vice Application



AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT  
for the  
Southern District of California

ROJAS DUBON, Melvin

*Petitioner*

v.

Warden, Imperial Regional Detention Facility, in his/her  
official capacity; and ICE Enforcement and Removal  
Operations, San Diego, in his/her official capacity

*Respondent*

(name of warden or authorized person having custody of petitioner)

Case No. **'26CV0117 CAB BLM**  
*(Supplied by Clerk of Court)*

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

**Personal Information**

1. (a) Your full name: Melvin Rojas Dubon  
(b) Other names you have used: \_\_\_\_\_
2. Place of confinement:  
(a) Name of institution: Imperial Regional Detention Facility  
(b) Address: 1572 Gateway Road,  
Calexico CA 92231  
(c) Your identification number: A [REDACTED]
3. Are you currently being held on orders by:  
 Federal authorities     State authorities     Other - explain: \_\_\_\_\_
4. Are you currently:  
 A pretrial detainee (waiting for trial on criminal charges)  
 Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime  
If you are currently serving a sentence, provide:  
(a) Name and location of court that sentenced you: \_\_\_\_\_  
(b) Docket number of criminal case: \_\_\_\_\_  
(c) Date of sentencing: \_\_\_\_\_  
 Being held on an immigration charge  
 Other (explain): \_\_\_\_\_

**Decision or Action You Are Challenging**

5. What are you challenging in this petition:  
 How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

- Pretrial detention
- Immigration detention
- Detainer
- The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- Disciplinary proceedings
- Other (explain): \_\_\_\_\_

6. Provide more information about the decision or action you are challenging:
- (a) Name and location of the agency or court: ICE Enforcement and Removal Operations (ERO) - San Diego Field Office; custody at Imperial Regional Detention Facility (IRDF); EOIR Imperial, California Immigration Court
- (b) Docket number, case number, or opinion number: \_\_\_\_\_
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed): Ongoing civil imm. detention at IRDF w/o a constitutionally fair and neutral bond hearing due to DHS' and the BIA new interpretation of "applicants for admission" under 8 U.S.C. § 1225 which denies all noncitizens of the right to request bond, despite their date, location, and manner of entry. Plaintiffs correct designation is 8 U.S.C. § 1226
- (d) Date of the decision or action: 10/30/2025

**Your Earlier Challenges of the Decision or Action**

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

- Yes
- No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: \_\_\_\_\_
- (2) Date of filing: \_\_\_\_\_
- (3) Docket number, case number, or opinion number: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not appeal: \_\_\_\_\_

Given prolonged detentention and lack of bond path due to §1225 and mandatory detention for all "aliens applying for admission, IJ custody redetermination would be inadequate/futile and cause irreparable harm.

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

- Yes
- No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: \_\_\_\_\_
- (2) Date of filing: \_\_\_\_\_
- (3) Docket number, case number, or opinion number: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not file a second appeal: \_\_\_\_\_

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes  No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: \_\_\_\_\_
- (2) Date of filing: \_\_\_\_\_
- (3) Docket number, case number, or opinion number: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not file a third appeal: \_\_\_\_\_

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes  No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes  No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes  No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

Yes  No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 10/30/2025
- (b) Date of the removal or reinstatement order: \_\_\_\_\_
- (c) Did you file an appeal with the Board of Immigration Appeals?

Yes  No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

- (1) Date of filing: \_\_\_\_\_
  - (2) Case number: \_\_\_\_\_
  - (3) Result: \_\_\_\_\_
  - (4) Date of result: \_\_\_\_\_
  - (5) Issues raised: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

(d) Did you appeal the decision to the United States Court of Appeals?

Yes  No

If "Yes," provide:

- (1) Name of court: \_\_\_\_\_
  - (2) Date of filing: \_\_\_\_\_
  - (3) Case number: \_\_\_\_\_
  - (4) Result: \_\_\_\_\_
  - (5) Date of result: \_\_\_\_\_
  - (6) Issues raised: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes  No

If "Yes," provide:

(a) Kind of petition, motion, or application: Motion to Terminate with Prejudice

(b) Name of the authority, agency, or court: EOIR Imperial Immigration Court

(c) Date of filing: 01/06/2026

(d) Docket number, case number, or opinion number: A 

(e) Result: Pending

(f) Date of result: \_\_\_\_\_

(g) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

**Grounds for Your Challenge in This Petition**

- 13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:** Fifth Amendment Procedural Due Process - deprivation of liberty without due process  
 See Addendum 1 for timeline of procedural history.

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

Detained at IRDF for over 60 days without an opportunity meaningful bond hearing. DHS has only filed an NTA, dated October 30, 2025. It has failed to prosecute the case in any meaningful way. To date, DHS has submitted no evidence of alienage or removability beyond a notice of change of address. DHS has not met its evidentiary burden. None of the delay in these proceedings is attributable to Petitioner; rather, it is entirely the result of government inaction coupled with continued detention.

(b) Did you present Ground One in all appeals that were available to you?

Yes  No

**GROUND TWO:** Fifth Amendment Substantive Due Process

The petitioner has now been detained for 104 days, it is prolonged and detention will continue for petitioner under DHS and BIA's new interpretation of the statute INA § 235 which deprives him of opportunity for bond. The length of detention is now unreasonable due to the arbitrary and capacious application of the statute.

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

Civil detention has become excessive relative to its purpose: 67+ days already, with further delay likely because DHS has failed to file any evidence of alienage or removability beyond a notice of change of address. Continued confinement persists without any meaningful bond process, rendering the detention arbitrary and disproportionate. Detention's real-world impact includes loss of income for family, caregiver strain on his partner, and the unmet emotional, mental and physical needs of his children. Confinement is no longer reasonable.

(b) Did you present Ground Two in all appeals that were available to you?

Yes  No

**GROUND THREE:** Fourth Amendment Egregious Stop & Fifth Amendment Equal Protection Race and Language-based Targeting

(a) Supporting facts *(Be brief. Do not cite cases or law.):*

Petitioner was approached by DHS officers without a warrant and immediately surrounded and questioned. The stop and arrest were warrantless and suspicionless, triggered by his Hispanic appearance and use of Spanish, and were followed by a coercive custodial interrogation. Any purported evidence of alienage is the fruit of this unlawful seizure. The race- and language-based enforcement underlying the stop has tainted both Petitioner's continued custody and the ensuing removal proceedings.

(b) Did you present Ground Three in all appeals that were available to you?

Yes  No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

**GROUND FOUR:** Unlawful Detention in Violation of the Binding Declaratory Judgment in Maldonado Bautista v. Santacruz

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Petitioner is a member of the nationwide class certified in Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). The district court entered declaratory relief and final judgment holding that class members are detained, if at all, under INA § 236(a) and are not subject to mandatory detention under INA § 235(b)(2).

Despite this binding judgment, DHS continues to detain Petitioner without providing any opportunity for bond, directly contravening the classwide declaratory relief. This continued detention violates federal law and exceeds DHS's statutory authority.

(b) Did you present Ground Four in all appeals that were available to you?

Yes  No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Request for Relief**

15. State exactly what you want the court to do: Immediate release from ICE custody or in the alternative provide fair and neutral bond hearing before a Judge for the Petitioner, designate Plaintiffs category as 8 USC §1226, not §1225. Any further relief the Court deems just and proper, including attorney's fees and costs.

\_\_\_\_\_  
\_\_\_\_\_

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

---

---

**Declaration Under Penalty Of Perjury**

If you are incarcerated, on what date did you place this petition in the prison mail system:

---

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 12/23/2025

Melvin

---

*Signature of Petitioner*



---

*Signature of Attorney or other authorized person, if any*

1 Sabrina Damast (CA SBN #305710 and NY SBN #5005251)  
 2 Law Office of Sabrina Damast, Inc.  
 3 510 West 6th Street, Suite 330  
 4 Los Angeles, CA 90014  
 5 Telephone: (323) 475-8716  
 6 Email: [sabrina@sabrinadamast.com](mailto:sabrina@sabrinadamast.com)  
 7 Brian Vasquez (NY SBN #5834767)  
 8 Rivera Julka Law Group, PC.  
 9 17 W. Main Street,  
 10 Bay Shore, NY 11706  
 11 Telephone: (631) 647-9040  
 12 Email: [brian@riverajulka.com](mailto:brian@riverajulka.com)

*Counsel for Petitioner*

11 **UNITED STATES DISTRICT COURT**  
 12 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

13 **ROJAS DUBON, Melvin**

14 Alien # 

15 **Petitioner,**  
16 **v.**

17 **PAMELA BONDI**, in her official capacity as  
18 Attorney General,

19 **KRISTI NOEM**, in her official capacity as  
20 Secretary of the Department of Homeland  
21 Security,

22 **U.S. DEPARTMENT OF HOMELAND**  
23 **SECURITY,**

24 **CHARLES WALL**, in his official capacity as  
25 Warden of Imperial Regional Detention Facility,

26 **TODD LYONS**, in his official capacity as  
27 Acting ICE Field Office Director,

28 **Respondents.**

Case No. '26CV0117 CAB BLM

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

**ADDENDUM FOR  
PETITION FOR A WRIT OF  
HABEAS CORPUS -  
PROCEDURAL HISTORY**

**ADDENDUM 1 — PROCEDURAL HISTORY**

1. **October 30, 2025 (Hempstead, NY):** U.S. Immigration and Customs Enforcement (“ICE”) detained Melvin Rojas Dubon (“Mr. Rojas Dubon”) in his driveway.
2. **October 30, 2025:** DHS filed an NTA.
3. **October 30, 2025:** ICE transferred Mr. Rojas Dubon to Brooklyn Metropolitan Detention Center “MDC” in Brooklyn, New York.
4. **October 31, 2025:** Mr. Rojas Dubon is scheduled for a Master Calendar hearing with Immigration Judge (“IJ”) Conroy of the New York, NY Immigration Court for November 5, 2025.
5. **October 31, 2025:** ICE transferred Mr. Rojas Dubon to Delaney Hall Detention Facility in Newark, New Jersey.
6. **November 4, 2025:** Mr. Rojas Dubon is scheduled for a Master Calendar hearing with IJ Rastegar of the Elizabeth, NJ Immigration Court for November 19, 2025.
7. **November 7, 2025:** ICE transferred Mr. Rojas Dubon to Imperial Regional Detention Facility in Imperial, California.
8. **November 12, 2025:** Mr. Rojas Dubon is scheduled for a Master Calendar hearing with IJ Munoz of the Imperial, CA Immigration Court for November 14, 2025.
9. **November 14, 2025 (Master — IJ Jeffrey M. Munoz; DHS Atty Fernandez):** Mr. Rojas Dubon appeared pro se and was given additional time to seek an attorney. Matter rest for December 11, 2025.
10. **November 14, 2025:** Mr. Rojas Dubon is scheduled for a Master Calendar hearing with IJ Munoz of the Imperial, CA Immigration Court for December 11, 2025.
11. **November 14, 2025 (Master — IJ Jeffrey M. Munoz; DHS Atty Coffman):** Mr. Rojas Dubon appeared with defense counsel and was given additional time to prepare the case. Matter rest for January 8, 2026.
12. **January 6, 2026 (merits):** Defense filed Motion to Terminate with Prejudice.

**Status:** As of this filing, Respondent has been detained at IRDF for 60+ days. Although DHS filed a Notice to Appear on October 30, 2025, it has failed to timely submit any evidence of alienage or removability, filing only notices of change of address with the Immigration Court. Petitioner remains detained without a lawful evidentiary basis for custody and without a clear or imminent adjudicatory path. Respondent’s Motion to Terminate with Prejudice (seeking relief for constitutional

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

and regulatory violations) remains pending, and the next master hearing is set for Jan. 8, 2026.

1 Sabrina Damast (CA SBN #305710 and NY SBN #5005251)  
2 Law Office of Sabrina Damast, Inc.  
3 510 West 6th Street, Suite 330  
4 Los Angeles, CA 90014  
5 Telephone: (323) 475-8716  
6 Email: [sabrina@sabrinadamast.com](mailto:sabrina@sabrinadamast.com)  
7 Brian Vasquez (NY SBN #5834767)  
8 Rivera Julka Law Group, PC.  
9 17 W. Main Street,  
10 Bay Shore, NY 11706  
11 Telephone: (631) 647-9040  
12 Email: [brian@riverajulka.com](mailto:brian@riverajulka.com)

13 *Counsel for Petitioner*

14 **UNITED STATES DISTRICT COURT**  
15 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

16 ROJAS DUBON, Melvin  
17 Alien # 

18 Petitioner,  
19 v.

20 PAMELA BONDI, in her official capacity as  
21 Attorney General,

22 KRISTI NOEM, in her official capacity as  
23 Secretary of the Department of Homeland  
24 Security,

25 U.S. DEPARTMENT OF HOMELAND  
26 SECURITY,

27 CHARLES WALL, in his official capacity as  
28 Warden of Imperial Regional Detention Facility,

TODD LYONS, in his official capacity as Acting  
ICE Field Office Director,  
Respondents.

Case No. '26CV0117 CAB BLM

**MEMORANDUM OF**  
**LAW IN SUPPORT OF**  
**PETITION FOR WRIT**  
**OF HABEAS CORPUS**  
**AND COMPLAINT FOR**  
**DECLARATORY AND**  
**INJUNCTIVE RELIEF**

**TABLE OF CONTENTS**

1

2 **INTRODUCTION** ..... 1

3 **JURISDICTION AND VENUE** ..... 3

4 **PARTIES** ..... 4

5 **LEGAL BACKGROUND** ..... 5

6 **FACTS** ..... 6

7 **ARGUMENT** ..... 8

9

10 **I. EXHAUSTION SHOULD BE EXCUSED FOR FUTILITY AND IRREPARABLE**

11 **HARM.** ..... 8

12 **II. PETITIONER IS ENTITLED TO A BOND REDETERMINATION AS A**

13 **MALDONADO BAUTISTA CLASS MEMBER** ..... 9

14 **III. DHS’S §1225(B)(2) MISCLASSIFICATION IS ERRONEOUS; §1226(A) GOVERNS**

15 **PETITIONER’S CUSTODY AND AFFORDS IJ BOND JURISDICTION** ..... 12

16 **IV. THE STATUTORY TEXT, STRUCTURE, AND HISTORY CONFIRM**

17 **§1226(A)—NOT §1225(B)(2)—GOVERNS INTERIOR ARRESTS; §1225 IS**

18 **TEMPORALLY AND GEOGRAPHICALLY LIMITED AND DHS’S NEW**

19 **INTERPRETATION IS FACIALLY ERRONEOUS.**..... 14

20 **V. DHS/BIA’S §1225(B)(2) INTERPRETATION IS OVERBROAD: TEXT,**

21 **REGULATIONS, AND PRECEDENT LIMIT §1225 TO “ARRIVALS”; INTERIOR**

22 **ARRESTS LIKE THE PETITIONER’S ARE GOVERNED BY §1226(A).**..... 15

23 **VI. THE CURRENT INTERPRETATION OF §1225 IS IN VIOLATION OF THE**

24 **ADMINISTRATIVE PROCEDURE ACT** ..... 18

25 **VII. THE GOVERNMENT’S OVERBROAD §1225 APPLICATION VIOLATES THE**

26 **PETITIONER’S PROCEDURAL AND SUBSTANTIVE DUE PROCESS RIGHTS.**..... 20

27

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

**PRAYER FOR RELIEF** .....24

**TABLE OF AUTHORITIES**

**Cases**

1  
2 *Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954)..... 3,19  
3  
4 *Al Otro Lado v. Exec. Office for Immigration Review*, 138 F.4th 1102, (9th Cir. 2025) ..... 11  
5  
6 *Banda v. McAleenan*, 385 F.Supp.3d 1099 (2019) ..... 21,22,24  
7  
8 *Chipantiza-Sisalema v. Francis*, 2025 WL 1927931 (S.D.N.Y. July 13, 2025) ..... 24  
9  
10 *Demore v. Kim*, 538 U.S. 510 (2003) ..... 21  
11  
12 *Diouf v. Napolitano*, 634 F.3d 1081 (9th Cir. 2011) ..... 21  
13  
14 *Foucha v. Louisiana*, 504 U.S. 71 (1992)..... 21  
15  
16 *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022) ..... 20  
17  
18 *Hernandez Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal Sept. 3, 2025)..... 3,12  
19  
20 *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017) ..... 20,21,22  
21  
22 *INS v. Lopez-Mendoza*, 468 U.S. 1032 (1984) ..... 24  
23  
24 *Jennings v. Rodriguez*, 583 U.S. 281 (2018) ..... 2,6,17,21  
25  
26 *Laing v. Ashcroft*, 370 F.3d 994 (9th Cir. 2004) ..... 8,11  
27  
28 *Leonardo v. Crawford*, 646 F.3d 1157 (9th Cir. 2011) ..... 8,11  
*Loper Bright v. Raimondo*, 603 U.S. 369 (2024)..... 15,18  
*Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. 2025) ..... 1,9,10,11  
*Martinez v. Hyde*, 2025 WL 2084238 (C.D. Cal. 2025) ..... 16  
*Matter of Akhmedov*, 29 I&N Dec. 166 (BIA 2025)..... 17  
*Matter of Bulnes*, 25 I. & N. Dec. 57 (BIA 2009) ..... 16  
*Matter of M-D-C-V-*, 28 I. & N. Dec. 22 (BIA 2020)..... 12,16  
*Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) ..... passim  
*Mathews v. Eldridge*, 424 U.S. 319 (1976) ..... 20  
*N.Z.M. v. Wolf*, 2020 WL 2813557 (S.D. Tex. May 28, 2020) ..... 24  
*O-J-M- v. Bostock*, 2025 WL 1943008 (D. Or. July 14, 2025) ..... 24  
*Puga v. Chertoff*, 488 F.3d 812 (9th Cir. 2007) ..... 9  
*Sanchez v. Sessions*, 904 F.3d 643 (9th Cir. 2018) ..... 24  
*Singh v. Holder*, 638 F.3d 1196, (9th Cir. 2011) ..... 3,14,20,25

---

1	<i>United Aeronautical Corp. v. United States Air Force</i> , 80 F.4th 1017 (9th Cir. 2023) .....	11
2	<i>United States v. Salerno</i> , 481 U.S. 747-51 (1987).....	21
3	<i>U.S. v. Stanford</i> , 722 F.Supp.2d 803 (S.D. Tex. 2010) .....	21
4	<i>Vasquez Garcia v. Noem</i> , 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025).....	13
5	<i>Zadvydas v. Davis</i> , 533 U.S. 678 (2001) .....	20,21
6	<i>Zaragoza Mosqueda et. al. v. Noem</i> , 2025 WL 2591530 (C.D. Cal Sept. 8, 2025) .....	2,6,9,12
7	<b>Statutes</b>	
8	5 U.S.C. § 553 .....	19
9	5 U.S.C. § 702 .....	18
10	5 U.S.C. § 703 .....	18
11	5 U.S.C. § 706 .....	18,20,24
12	8 U.S.C. § 1103(a).....	4
13	8 U.S.C. § 1225 .....	passim
14	8 U.S.C. § 1226 .....	passim
15	8 U.S.C. § 1229(a).....	passim
16	8 U.S.C. § 1252(g).....	4
17	28 U.S.C. § 28 .....	4
18	28 U.S.C. § 1331 .....	3
19	28 U.S.C. § 2201(a).....	11
20	28 U.S.C. § 2201-2.....	3
21	28 U.S.C. § 2241 .....	3,19
22	INA § 235(b)(1).....	1,10
23	INA § 235(b)(2).....	10
24	INA § 236(a) .....	1,9,11
25	INA § 236(b)(1).....	1,10
26	INA § 236(c) .....	1,10
27	INA § 241 .....	1,10
28	United States Constitution, Article I, Section 9.....	3

---

1	<b>Regulations</b>	
2	8 C.F.R § 1.2.....	16
3	8 C.F.R. § 1003.10(b).....	20
4	8 C.F.R. § 1003.19(a).....	5,14,15
5	8 C.F.R. § 1003.31(h).....	20
6	8 C.F.R. § 1236.1(d).....	5,14,15
7	62 Fed. Reg. 10312 (Mar. 6, 1997).....	12

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

---

1  
2 **INTRODUCTION**

3 1. Melvin Rojas Dubon (hereinafter “Petitioner”), has resided in the U.S.  
4 since July 2003. He was seized by federal agents on October 30, 2025, without a  
5 warrant or suspicion, in violation of the Fourth Amendment, the Department of  
6 Homeland Security’s (DHS) regulations, and due process. His detention, without  
7 timely, admissible evidence or a meaningful bond process, violates the Fourth  
8 Amendment, the procedural and substantive due process guarantees of the Fifth  
9 Amendment (including equal protection), as well as the agency’s own regulations.  
10

11 2. Petitioner is also a member of the nationwide class certified in *Maldonado*  
12 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. 2025). On  
13 November 25, 2025, the court certified a nationwide class of noncitizens who entered  
14 without inspection, were not apprehended upon arrival, and are not otherwise subject  
15 to mandatory detention under INA §§ 236(c), 235(b)(1), or 241, and held that class  
16 members are detained under INA § 236(a) and entitled to individualized bond  
17 hearings. Because Respondents continue to apply 8 USC § 1225(b)(2) to deny bond  
18 jurisdiction, Petitioner seeks habeas relief to enforce that binding declaratory  
19 judgment.  
20  
21  
22

23 3. A recent BIA decision considers all individuals who entered without  
24 inspection as “applicants for admission” to the U.S. finding these individuals are  
25 ineligible for bond under 8 U.S.C. § 1225(b)(2)(A), and *Jennings v. Rodriguez*, 583  
26 U.S. 281 (2018). The Petitioner disputes this classification as discussed below.  
27  
28

1           4. Section 1225(b)(2)(A) requires mandatory detention for aliens seeking  
2 admission. IJs have recently begun applying this provision to aliens arrested in the  
3 interior. Noncitizens arrested in the interior are subject to § 1226(a), which permits  
4 release on bond. Petitioner is entitled to a § 1226(a) bond hearing. In July 2025, ICE  
5 began instructing its attorneys to coordinate with DOJ, to deny jurisdiction for bond  
6 hearings for aliens who entered the U.S. without inspection.<sup>1</sup> That policy has prevented  
7 the Petitioner to solicit bond with the Immigration Court as it would be futile despite  
8 his interior arrest. The BIA held in *Matter of Yajure Hurtado*, that IJs lack jurisdiction  
9 for bond hearings for noncitizens present without admission, deeming them subject to  
10 1225(b)(2). 29 I. & N. Dec. 216 (BIA 2025). Petitioner preserves a facial and as-  
11 applied challenge to that interpretation in this habeas action.  
12

13  
14  
15  
16           5. Several courts have rejected this interpretation, and yet Respondents  
17 continue to argue noncitizens who entered without inspection are ineligible for bond.  
18 Multiple districts have granted relief to similarly situated petitioners. *See Rodriguez*  
19 *v. Bostock*, 2025 WL 1193850 (W.D. Wa. Apr. 24, 2025), *Zaragoza Mosqueda et. al.*  
20 *v. Noem*, 2025 WL 2591530, at \*7 (C.D. Cal Sept. 8, 2025); *Hernandez Nieves v.*  
21 *Kaiser*, 2025 WL 2533110 (N.D. Cal Sept. 3, 2025).  
22  
23

24           6. As applied to Petitioner, the government’s misclassification and the  
25

---

26  
27 <sup>1</sup> See Exhibit B, “ICE Says Many In Immigration Detention No Longer Qualify For Bond Hearings,” *CBS NEWS* (Jul.  
28 15, 2025) <https://www.cbsnews.com/news/ice-immigration-detention-bond-hearings/>; “ICE declares millions of  
undocumented immigrants ineligible for bond hearings,” *The Washington Post* (Jul. 15, 2025)  
<https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/>

1 *Accardi* doctrine, which requires agencies to follow their own rules. Petitioner seeks  
2 declaratory and injunctive relief, including under the Administrative Procedure Act  
3 (“APA”). Specifically, he requests a Temporary Restraining Order  
4 (“TRO”)/Preliminary Injunction (“PI”) and habeas order directing immediate release;  
5 or, alternatively, a prompt, *Singh*-compliant bond hearing within 7–14 days. See *Singh*  
6 *v. Holder*, 638 F.3d 1196, (9th Cir. 2011). At the hearing, the Government must prove  
7 danger or flight risk by clear-and-convincing evidence; the IJ must consider  
8 alternatives to detention and ability to pay, and issue reasoned, on-the-record findings.  
9 Additionally, Petitioner seeks short-term no-transfer protection or 48-hours’ notice to  
10 ensure the hearing is meaningful.  
11  
12  
13  
14

#### 15 **JURISDICTION AND VENUE**

16 7. This Court has jurisdiction over this petition under 28 U.S.C. § 2241  
17 (federal habeas statute); 28 U.S.C. § 1331 (federal question) because Petitioner  
18 challenges the legality of his civil immigration detention and asserts violations of the  
19 Constitution and laws of the U.S.; 28 U.S.C. § 2201-2 (declaratory judgment); and  
20 the United States Constitution, Article I, Section 9 (Suspension Clause). The  
21 Petitioner does not ask this Court to stop the commencement or adjudication of  
22 removal proceedings, nor to delay the enforcement of any removal order. Instead, he  
23 challenges his current civil detention, specifically, his continued custody without a  
24 lawful statutory basis or constitutionally adequate bond process. See 8 U.S.C. §  
25 1252(g).  
26  
27  
28



1  
2 **LEGAL BACKGROUND**

3 15. The Immigration and Nationality Act (“INA”) prescribes three forms of  
4 detention for noncitizens. First, under 8 U.S.C. §1226, the government may detain  
5 noncitizens in standard non-expedited removal proceedings before an immigration  
6 judge (“IJ”). *See* 8 U.S.C. § 1226(a). Individuals detained under §1226(a) are eligible  
7 for bond hearings, *see* 8 C.F.R. §§1003.19(a) and §§1236.1(d), while those arrested,  
8 charged with, or convicted of certain offenses are subject to mandatory detention  
9 under 8 U.S.C. §1226(c). Second, under 8 U.S.C. §1225(b)(1) noncitizens subjected  
10 to expedited removal—typically recent arrivals or those seeking admission—must be  
11 detained. Section §1225(b)(2) extends mandatory detention to other applicants for  
12 admission not covered by expedited removal. Finally, 8 U.S.C. § 1231(a)–(b) (post-  
13 admission not covered by expedited removal. Finally, 8 U.S.C. § 1231(a)–(b) (post-  
14 final-order detention) authorizes the detention of noncitizens with final orders.  
15

16  
17 16. Respondents’ new policy—treating all noncitizens as §1225(b)(2)(A)  
18 applicants for admission even when arrested far from the border undermines this well-  
19 established understanding and violates the statutory scheme. A District Court in the  
20 Ninth Circuit held that noncitizens who entered without admission or parole are  
21 entitled to bond hearings, rejecting this use of §1225(b)(2). *Rodriguez v. Bostock*, No.  
22 3:25-CV-05240- TMC, 2025 WL 1193850, at \*12 (W.D. Wash. Apr. 24, 2025).  
23  
24 Courts have held that §1226 governs detention of noncitizens who entered without  
25 inspection and were later apprehended inside the U.S. These rulings rely on case-  
26 specific facts, statutory text and structure, legislative history, and the decision in  
27  
28

1 *Jennings v. Rodriguez*, 583 U.S. 281 (2018). Despite federal court rulings and  
2 legislative history, ICE continues to coordinate with EOIR to deny bond hearings for  
3 all noncitizens.  
4

5 17. The BIA’s decision in *Matter of Yajure Hurtado*, confirms that EOIR is  
6 adopting and enforcing the position that noncitizens who entered the U.S. without  
7 admission or parole are ineligible for bond hearings, and this policy is being applied  
8 nationwide. 29 I. & N. Dec. 216 (BIA) (2025). Under *Zaragoza Mosqueda et al. v.*  
9 *Noem*, the BIA’s decision in *Matter of Yajure Hurtado* renders it futile to require  
10 prudential exhaustion. 2025 WL 2591530, at \*7 (D.D. Cal. Sept. 8, 2025).  
11  
12

13 18. EOIR’s interpretation, directed by DHS, contradicts the statute. The plain  
14 text shows that §1226(a), not §1225(b), governs individuals like Petitioner. Section  
15 1226(a) applies by default, to those “pending a decision on whether the [noncitizen]  
16 is to be removed from the United States,” with removal hearings conducted under  
17 §1229(a), to determine removability. §1226 applies to individuals charged as  
18 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §  
19 1226(c)(1)(E). Subparagraph (E)’s confirms this category, and, by default, such  
20 individuals are entitled to bond hearings under §1226 (a). Thus, Section §1226  
21 governs those present without admission or parole and facing inadmissibility charges.  
22  
23  
24  
25

### FACTS

26 19. Petitioner has resided in New York for more than two decades until his  
27 detention on October 30, 2025, and is currently detained in California. Before his  
28

1 detention, he lived in Hempstead, New York with his long-term partner and their U.S.  
2 citizen children. Petitioner is the biological father of M [REDACTED] (M, DOB:  
3 [REDACTED]) and E [REDACTED] (F, DOB [REDACTED]), and has helped raise C [REDACTED]  
4 A [REDACTED] (M, DOB [REDACTED]), his partner's child from a prior relationship. Petitioner  
5 has worked in construction for approximately eighteen years and was the primary  
6 financial provider for his household; his partner's income from house cleaning is  
7 insufficient to meet basic needs. Petitioner has no criminal record, pays his taxes, and  
8 has lived as a law-abiding member of his community. His prolonged detention has  
9 caused severe financial and emotional hardship, particularly for his daughter, who has  
10 shown signs of depression and has been receiving therapy since his detention.  
11  
12  
13

14 20. On October 30, 2025, Petitioner was at a KeyFood supermarket in  
15 Hempstead, New York purchasing groceries. After exiting the store and briefly  
16 speaking in Spanish with individuals near the bottle exchange machines, Petitioner  
17 began walking outside when he was suddenly grabbed by the shoulder. He was  
18 immediately surrounded by three individuals wearing black, bulletproof-style jackets  
19 with no visible badges, names, or identifying insignia, and none of whom identified  
20 themselves as law enforcement. Petitioner was pinned against a car, physically  
21 restrained, and asked for his keys and wallet. One individual took his identification to  
22 a nearby vehicle, while Petitioner remained restrained and unable to leave. He was  
23 then handcuffed, placed into a vehicle, and later transported to a government facility,  
24 where he was questioned about his immigration history without being advised of his  
25  
26  
27  
28

1 right to remain silent or his right to counsel. Prior to this incident, Petitioner had never  
2 had any contact with immigration authorities and did not understand why he was  
3 targeted or detained.  
4

5 21. Upon being detained, DHS filed a NTA initiating removal proceedings and  
6 Petitioner was transferred from Brooklyn MDC in Brooklyn, NY to Delaney Hall  
7 Detention Facility in Newark, NJ to finally Imperial Regional Detention Facility in  
8 Calexico, CA (“IRDF”). Furthermore, on January 5, 2026, Petitioner filed Motion to  
9 Terminate with the Immigration Court citing Fourth and Fifth Amendment violations  
10 and regulatory breaches arising from his unlawful stop, arrest, interrogation, and  
11 detention.  
12  
13

14 22. As of January 5, 2026, Petitioner continues to be detained for 67 days  
15 without a bond process and without admissible evidence supporting the basis for his  
16 detention. Petitioner’s ongoing detention has caused mounting hardship for his  
17 family. As the primary provider, Petitioner’s absence has led to worsening financial  
18 and emotional strain.  
19  
20

## 21 ARGUMENT

### 22 I. EXHAUSTION SHOULD BE EXCUSED FOR FUTILITY AND 23 IRREPARABLE HARM.

24 23. Although exhaustion of administrative custody remedies is prudential  
25 rather than jurisdictional, and is ordinarily required, courts excuse exhaustion where  
26 administrative remedies are inadequate, futile, or would result in irreparable injury.  
27 *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011); *Laing v. Ashcroft*, 370  
28

1 F.3d 994, 1000–01 (9th Cir. 2004); *see also Puga v. Chertoff*, 488 F.3d 812, 815–16  
2 (9th Cir. 2007). Additionally, under *Zaragoza Mosqueda et al. v. Noem*, the BIA’s  
3 decision in *Yajure Hurtado* renders prudential exhaustion futile. 2025 WL 2591530,  
4 at \*7 (D.D. Cal. Sept. 8, 2025). The same factors apply to the Petitioner, warranting  
5 waiver of prudential exhaustion.  
6

7  
8 24. Petitioner did not file a bond motion before the Immigration Court because  
9 such a motion would have been futile given the DHS’s detention posture and the legal  
10 basis asserted for Petitioner’s custody, which deprived the Immigration Judge of  
11 authority to provide meaningful or timely relief. Requiring Petitioner to pursue a  
12 bond motion would only have prolonged his detention and compounded an ongoing,  
13 noncompensable loss of liberty. Accordingly, prudential exhaustion should be  
14 waived.  
15

16  
17 **II. PETITIONER IS ENTITLED TO A BOND REDETERMINATION AS**  
18 **A MALDONADO BAUTISTA CLASS MEMBER**

19 25. The Petitioner repeats, re-alleges, and incorporates by reference each and  
20 every allegation in the preceding paragraphs as is fully set forth herein.

21 26. Petitioner is a member of the nationwide class certified in *Maldonado*  
22 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. 2025) and is  
23 therefore entitled to an individualized bond hearing under INA § 236(a). On  
24 November 25, 2025, the United States District Court for the Central District of  
25 California certified a nationwide class consisting of noncitizens who entered the  
26 United States without inspection, were not apprehended upon arrival, and are not  
27  
28

1 otherwise subject to mandatory detention under INA §§ 236(c), 235(b)(1), or 241. The  
2 court expressly extended declaratory relief to the class as a whole, holding that class  
3 members are not subject to mandatory detention and are instead detained pursuant to  
4 § 236(a), which provides for discretionary release on bond. *Maldonado Bautista*, No.  
5 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025).  
6  
7

8 27. Five days earlier, on November 20, 2025, the court granted partial summary  
9 judgment and squarely rejected the government's position that individuals who  
10 entered without inspection are subject to mandatory detention under INA § 235(b)(2).  
11 The court concluded that such individuals are properly detained, if at all, under INA  
12 § 236(a), and therefore must be afforded the opportunity for release on bond. In so  
13 holding, the court expressly rejected the BIA's decision in *Matter of Yajure Hurtado*,  
14 29 I&N Dec. 216 (BIA 2025), determining that its core legal conclusion could not be  
15 reconciled with the Immigration and Nationality Act. *Maldonado Bautista v.*  
16 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20,  
17 2025);  
18  
19  
20

21 28. On December 18, 2025, the court entered Final Judgment on Counts I–III,  
22 confirming that its declaratory rulings were final and binding, rejecting the  
23 government's characterization of class certification as interlocutory, and conclusively  
24 adjudicating the challenged detention policy. As a result, Petitioner's statutory  
25 entitlement to a bond hearing has already been determined as a matter of law, and the  
26 government is collaterally estopped from relitigating whether Petitioner is subject to  
27  
28

1 mandatory detention, as the declaratory judgment carries the full force and effect of  
2 a final judgment under 28 U.S.C. § 2201(a) and is binding on federal officials,  
3 including EOIR and Petitioner’s local custodian. The court further found that  
4 additional administrative exhaustion would be futile, citing “troubling” evidence that  
5 the Department of Justice issued internal guidance directing Immigration Judges to  
6 disregard the court’s orders and continue applying *Yajure-Hurtado* despite its  
7 rejection, demonstrating that the agency has prejudged the issue in bad faith and that  
8 requiring further immigration court proceedings would serve only to prolong  
9 unlawful detention. Under Ninth Circuit law, exhaustion is not required where  
10 administrative remedies are futile or inadequate. See *Leonardo v. Crawford*, 646 F.3d  
11 1157, 1160 (9th Cir. 2011); *Laing v. Ashcroft*, 370 F.3d 994, 1000–01 (9th Cir. 2004).

12  
13  
14  
15  
16 29. Because Petitioner is a *Maldonado Bautista* class member, he is statutorily  
17 entitled to a bond hearing under INA § 236(a), and because the government has  
18 refused to honor that entitlement, habeas relief is appropriate to enforce the binding  
19 declaratory judgment. The Ninth Circuit has long recognized that declaratory  
20 judgments against federal officials are the functional equivalent of injunctive relief  
21 and must be presumed to be followed absent a stay or reversal. See *United*  
22 *Aeronautical Corp. v. United States Air Force*, 80 F.4th 1017, 1031 (9th Cir. 2023);  
23 *Al Otro Lado v. Exec. Office for Immigration Review*, 138 F.4th 1102, 1123–24 (9th  
24 Cir. 2025). Accordingly, this Court should grant the writ of habeas corpus and order  
25 the government to provide Petitioner with a prompt bond redetermination hearing  
26  
27  
28

1 before an Immigration Judge with authority to order release.

2 **III. DHS’S §1225(B)(2) MISCLASSIFICATION IS ERRONEOUS;**  
3 **§1226(A) GOVERNS PETITIONER’S CUSTODY AND AFFORDS IJ**  
4 **BOND JURISDICTION**

5 30. The Petitioner repeats, re-alleges, and incorporates by reference each and  
6 every allegation in the preceding paragraphs as is fully set forth herein.

7 31. Petitioner is currently detained without a meaningful bond process due to  
8 the government misclassifying him as an “applicant for admission” under 8 U.S.C.  
9 §1225(b)(2), which strips IJs of bond jurisdiction. This misclassification improperly  
10 treats interior arrests of those who entered without inspection (EWIs) as “arrivals,”  
11 despite the INA and longstanding regulations distinguishing “arriving” noncitizens  
12 from those apprehended in the interior and placed in §1229(a) proceedings—who are  
13 detained, if at all, under §1226(a) and are entitled to IJ bond review. See 62 Fed. Reg.  
14 10312, 10323 (Mar. 6, 1997); *Matter of M-D-C-V-*, 28 I. & N. Dec. 18, 22–23 (BIA  
15 2020).

16 32. The BIA’s decision in *Matter of Yajure Hurtado*, attempts to validate  
17 DHS’s new erroneous interpretation that any noncitizen present without admission is  
18 a §1225(b)(2) detainee and therefore not eligible for bond. 29 I. & N. Dec. 216 (BIA  
19 2025). Federal courts have rejected this broad position for interior arrests of EWIs,  
20 holding that §1226(a)—not §1225(b)(2)—governs IJ bond jurisdiction. *See Rodriguez*  
21 *v. Bostock*, 2025 WL 1193850, at \*12 (W.D. Wash. Apr. 24, 2025); *Zaragoza*  
22 *Mosqueda v. Noem*, 2025 WL 2591530, at \*7 (C.D. Cal. Sept. 8, 2025); *Hernandez*  
23  
24  
25  
26  
27  
28

1 *Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); *Vasquez Garcia v.*  
2 *Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025). Petitioner is asking this Court to  
3  
4 find that he is unlawfully detained under §1225(b) and instead, that his detention  
5 should be governed under §1226(a).

6         33. The mandatory detention provision at 8 U.S.C. § 1225(b)(2), applies only  
7  
8 to noncitizens *seeking admission* and not to noncitizens who have entered the U.S.  
9 without inspection. Noncitizens who have entered without inspection should be  
10 detained under §1226(a), unless they are subject to another mandatory detention  
11 provision, such as § 1225(b)(1), § 1226(c), or § 1231. A detention under §1225(b) is  
12 mandatory, which is why DHS's and the BIA's overexpansion of the statute is  
13 egregiously striping individuals of their fundamental right to request bond.  
14  
15

16         34. Since July 2025, DHS's position has been that all noncitizens who have not  
17 been admitted are "seeking admission," and subject to §1225(b)(2) mandatory  
18 detention. This erroneous expansion has deprived the Petitioner of his right to a bond  
19 hearing under §1226. Specifically, §1226 applies to noncitizens who entered the U.S.  
20 unlawfully, but who were later apprehended within the borders of the U.S. long after  
21 their entry. §1226 does not specify that it only applies to noncitizens who have been  
22 admitted. Instead, it has been found to also apply to noncitizens who entered without  
23 inspection (and not to aliens who have been found to be seeking admission).  
24 §1225(b)(2) limits its application to aliens who are applicants for admission after the  
25 examination of an immigration officer, in other words, who are seeking admission. If  
26  
27  
28

1 DHS's interpretation of §1225 is valid, it would render §1226(c) meaningless because  
2 it would render superfluous the provisions that apply to certain categories of criminal  
3 aliens. Section 1226(c) mandates detention only for noncitizens implicated in  
4 specifically enumerated offenses. DHS's interpretation would render § 1226(c)  
5 superfluous by subjecting all noncitizens who were not admitted to mandatory  
6 detention under § 1225. Congress would not have enacted a separate mandatory  
7 detention provision if § 1225 already governed all such individuals.  
8  
9

10 35. DHS and BIA's overbroad interpretation of §1225 nullifies §1226(a) and  
11 contradicts the long-standing post-IIRIRA framework recognized in EOIR's 1997  
12 rulemaking. Because the Petitioner was arrested in the interior, and is in proceedings  
13 under §1229a, §1226(a) governs, and is statutorily eligible for an IJ bond hearing  
14 under 8 C.F.R. §§ 1003.19(a), 1236.1(d). This Court should hold that §1226(a)  
15 applies, reject the misclassification, and order immediate release or, at a minimum, a  
16 prompt *Singh*-compliant bond hearing on a fixed timeline.  
17  
18  
19

20 **IV. THE STATUTORY TEXT, STRUCTURE, AND HISTORY**  
21 **CONFIRM §1226(A)—NOT §1225(B)(2)—GOVERNS INTERIOR**  
22 **ARRESTS; §1225 IS TEMPORALLY AND GEOGRAPHICALLY**  
23 **LIMITED AND DHS'S NEW INTERPRETATION IS FACIALLY**  
24 **ERRONEOUS.**

25 36. The Petitioner repeats, re-alleges, and incorporates by reference each and  
26 every allegation in the preceding paragraphs as is fully set forth herein.

27 37. Section 1226(a) has long been understood to grant immigration authorities  
28 discretion to release noncitizens on bond, a practice reflected in implementing

1 regulations that allow detainees to seek bond hearings. See 8 C.F.R. §§ 1003.19(a),  
2 1236.1(d). By contrast, § 1225 has a limited temporal and geographic scope, applying  
3 only to “arriving” noncitizens, those apprehended within two years of entry, or  
4 individuals actively “seeking admission,” as reinforced by regulations addressing  
5 persons “coming or attempting to come” to the United States. The use of present-tense  
6 language in both the statute and regulations excludes noncitizens apprehended in the  
7 interior, who are no longer in the process of arriving or seeking admission

10 38. The BIA’s decision in *Matter of Yajure Hurtado*, departs from the long-  
11 standing understanding by recasting all EWIs—even those arrested deep in the  
12 interior—as §1225(b)(2) detainees with no IJ bond jurisdiction. 29 I. & N. Dec. 216  
13 (BIA 2025). Under *Loper Bright v. Raimondo*, the APA requires courts to exercise  
14 independent judgement in deciding whether an agency has acted within its statutory  
15 authority, and courts may not defer to an agency interpretation of the law “simply  
16 because a statute is ambiguous.” 603 U.S. 369, 395, 401 (2024). The interpretation of  
17 §1225 in *Matter of Yajure Hurtado* marks a departure from the EOIR’s 1997  
18 rulemaking and decades of consistent practice and has faced resistance in multiple  
19 district courts. Under *Loper Bright*, such a shift warrants no deference. Accordingly,  
20 §1225 should be interpreted in line with its text, structure, and legislative history.

25 **V. DHS/BIA’S §1225(B)(2) INTERPRETATION IS OVERBROAD:  
26 TEXT, REGULATIONS, AND PRECEDENT LIMIT §1225 TO  
27 “ARRIVALS”; INTERIOR ARRESTS LIKE THE PETITIONER’S  
28 ARE GOVERNED BY §1226(A).**

39. The Petitioner repeats, re-alleges, and incorporates by reference each and

1 every allegation in the preceding paragraphs as is fully set forth herein.

2 40. The government’s interpretation of § 1225(b)(2) improperly extends a  
3 provision limited to noncitizens “seeking admission” into a no-bond regime for  
4 interior arrests, regardless of where or how long a person has been in the United States.  
5 This reading conflicts with the statute’s text, structure, and history, and effectively  
6 erases § 1226(a)’s long-recognized role in removal proceedings. Section 1225 is  
7 expressly confined to the admission and entry context, as reflected in its title, repeated  
8 references to “inspection,” and regulations defining an “arriving alien” as one  
9 “coming or attempting to come into the United States.” 8 C.F.R. § 1.2. The present-  
10 tense, process-oriented phrase “seeking admission” excludes individuals apprehended  
11 long after entry, a conclusion confirmed by case law and BIA precedent rejecting  
12 interpretations that disregard this language and violate the rule against surplusage. See  
13 *Martinez v. Hyde*, 2025 WL 2084238, at \*6 (C.D. Cal. 2025); *Matter of M-D-C-V-*,  
14 28 I. & N. Dec. 18, 23 (BIA 2020).

15 41. Additionally, the BIA confirms that IJs decide whether someone is properly  
16 classified as an “arriving” individual. *See Matter of Bulnes*, 25 I&N Dec. 57, 59 (BIA  
17 2009) (stating that “[a]n Immigration Judge has the authority to consider and decide  
18 whether he has jurisdiction over a matter presented to him”). That longstanding  
19 practice presupposes a clear boundary between §1225 “arriving” cases and §1226(a)  
20 interior cases—and undercuts any claim that §1225 was meant to include all who  
21 entered without inspection. If §1225 was genuinely meant to broadly classify all EWIs  
22  
23  
24  
25  
26  
27  
28

1 as applicants for admission, past IJs would not have needed the authority to analyze  
2 this question initially.

3  
4 42. The previous interpretation of §1225 focused on individuals seeking entry.  
5 In *Jennings v. Rodriguez*, it was found that §1225(b) is primarily concerned with those  
6 seeking entry and is enforced “at the Nation’s borders and ports of entry, where the  
7 Government must determine whether a [noncitizen] seeking to enter the country is  
8 admissible.” 583 U.S. at 297, 287 (2018). The Court in *Jennings v. Rodriguez* noted  
9 that it was illogical to suggest switching from §1225(b) detention to §1226(a)  
10 detention, since the latter authorizes detention “only ‘on a warrant issued’ by the  
11 Attorney General.” *Id.* at 302. Despite clear statutory distinctions, DHS and the BIA  
12 collapse categories—treating arriving and interior noncitizens alike—broadening the  
13 statute’s scope and disregarding legislative history.  
14  
15  
16

17 43. This interpretation has led to confusion and inconsistency. In *Matter of*  
18 *Akhmedov*, the AG affirmed that a noncitizen who entered without inspection was  
19 detained under §1226 and entitled to a bond hearing, which was denied solely due to  
20 flight risk. That decision—issued after DHS’s July 2025 memo—undermines the  
21 DHS’s current misreading of §1226. If upheld, this approach will continue  
22 misclassifying interior arrestees as “arriving,” deny them § 1226(a) bond hearings,  
23 and sow confusion contrary to the INA’s text, structure, and legislative history. The  
24 Court should reject this expansive interpretation and affirm that §1226(a) governs  
25 Petitioner’s detention.  
26  
27  
28

1           **VI. THE CURRENT INTERPRETATION OF §1225 IS IN VIOLATION**  
2           **OF THE ADMINISTRATIVE PROCEDURE ACT**

3           44. Petitioner repeats, re-alleges, and incorporates by reference each and every  
4 allegation in the preceding paragraphs as is fully set forth herein.

5           45. The Administrative Procedure Act (“APA”), 5 U.S.C. §§ 551–559,  
6 authorizes federal courts to decide questions of law, interpret statutory and  
7 constitutional provisions, and determine the legality of agency action. Under *Loper*  
8 *Bright v. Raimondo*, courts must exercise independent judgment in assessing whether  
9 an agency acted within its statutory authority and may not defer to an agency’s  
10 interpretation merely because a statute is ambiguous. 603 U.S. 369, 395, 401 (2024).  
11 The APA further guarantees judicial review to any person adversely affected by  
12 agency action, 5 U.S.C. § 702, and empowers courts to grant injunctive or habeas  
13 relief, compel unlawfully withheld action, or set aside agency action that is arbitrary,  
14 capricious, contrary to law, or beyond statutory authority. 5 U.S.C. §§ 703, 706(1)–  
15 (2).  
16  
17  
18  
19

20           46. Applying §1225(b)(2) to Petitioner—an interior arrestee in §1229a  
21 proceedings—exceeds statutory authority (§ 706(2)(C)) and is not in accordance with  
22 law (§ 706(2)(A)). The text, structure, and history confine §1225 to applicants  
23 “seeking admission” at, or effectively, at the border; §1226(a) is the default detention  
24 authority for §1229a proceedings and preserves IJ bond jurisdiction. *See* 62 Fed. Reg.  
25 10,312, 10,323 (Mar. 6, 1997). DHS’s and BIA’s shift disregards that framework and  
26 has been rejected by multiple district courts. The result is prolonged custody without  
27  
28

1 any IJ bond process, i.e., detention contrary to the INA. Petitioner is seeking his  
2 immediate release. The federal habeas statute grants federal courts the authority to  
3 grant a writ of habeas corpus where an individual is “in custody in violation of the . .  
4 . . . laws . . . of the United States,” 28 U.S.C. § 2241(c)(3). The Petitioner is being  
5 wrongfully detained under DHS’s and the BIA’s incorrect interpretation of §1225,  
6 which is preventing the Petitioner from receiving a bond hearing and has resulted in  
7 his prolonged detention.  
8

9  
10 47. Section 1225(b)(2)’s mandatory detention provision does not apply to  
11 noncitizens residing in the United States who entered without inspection or parole;  
12 such individuals are detained under § 1226(a) unless another specific detention  
13 provision applies. Here, Petitioner has been detained for 67 days due to DHS’s  
14 misapplication of § 1225 and therefore challenges those actions. Under the *Accardi*  
15 doctrine, agency action that fails to comply with governing regulations or internal  
16 rules and prejudices an individual’s rights is subject to challenge. *Accardi v.*  
17 *Shaughnessy*, 347 U.S. 260, 268 (1954). Petitioner has been prejudiced because these  
18 errors deprived him of the fair and neutral bond hearing to which he is statutorily  
19 entitled under § 1226.  
20  
21  
22  
23

24 48. DHS’s across-the-board detention policy—implemented through internal  
25 directives and litigation positions—constitutes a legislative rule adopted without  
26 notice-and-comment, in violation of 5 U.S.C. § 553. In this case, the policy also  
27 conflicts with fairness-protective case-management rules it permits the Government  
28

1 to continue depriving Petitioner of liberty while removal proceedings stagnate,  
2 deadlines are unenforced, and DHS has not been required to timely meet its  
3 evidentiary burden, thereby transforming procedural delay into prolonged, unchecked  
4 incarceration.

5  
6 49. The Court should (1) set aside DHS’s and BIA’s application of §1235(b)(2)  
7 to Petitioner as unlawful under §706(2)(A) and (C); (2) order his immediate release,  
8 or at a minimum, compel prompt, lawful action under §1226(a) (a *Singh*-compliant IJ  
9 bond hearing within 7–14 days); and (3) recognize that this is individualized relief  
10 consistent with *Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–49 (2022) (district  
11 courts may grant case-specific relief).

12  
13  
14 **VII. THE GOVERNMENT’S OVERBROAD §1225 APPLICATION**  
15 **VIOLATES THE PETITIONER’S PROCEDURAL AND**  
16 **SUBSTANTIVE DUE PROCESS RIGHTS.**

17 50. Petitioner repeats, re-alleges, and incorporates by reference each and every  
18 allegation in the preceding paragraphs as is fully set forth herein.

19 51. The government may not deprive a person of life, liberty, or property  
20 without due process of law. U.S. Const. amend. V. Under *Zadvydas v. Davis*, freedom  
21 from imprisonment “from government custody, detention, or other forms of physical  
22 restraint—lies at the heart of the liberty” that the Due Process Clause protects. 533  
23 U.S. 678, 690, (2001). Due process demands procedures that reliably justify  
24 confinement and provide a “meaningful time” and “meaningful manner” to be heard.  
25 *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Hernandez v. Sessions*, 872 F.3d 976  
26  
27  
28

1 (9th Cir. 2017) (bond procedures must consider the ability to pay and alternatives and  
2 distinguish between those who must be detained and those who may be released).

3  
4 52. Prolonged civil detention cannot be arbitrary and becomes unconstitutional  
5 when it extends beyond a brief period without adequate justification or procedural  
6 safeguards. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538  
7 U.S. 510, 529–31 (2003); *Hernandez v. Sessions*, 872 F.3d 976, 991–95 (9th Cir.  
8 2017). These due process protections apply to all “persons” within the United States,  
9 including removable, inadmissible, and “arriving” noncitizens detained under the  
10 INA, as well as those subject to post-order detention. See *Diouf v. Napolitano*, 634  
11 F.3d 1081, 1086–87 (9th Cir. 2011); *Jennings v. Rodriguez*, 583 U.S. 281 (2018).  
12 Consistent with Fifth Amendment principles governing both pretrial and immigration  
13 detention, procedural due process ordinarily requires an individualized custody  
14 hearing before a neutral adjudicator. See *Foucha v. Louisiana*, 504 U.S. 71, 81, 86  
15 (1992); *United States v. Salerno*, 481 U.S. 739, 747–51 (1987).

16  
17  
18  
19  
20 53. Prolonged detention may violate due process when it becomes  
21 unreasonable relative to its regulatory goals. Courts have recognized that detention,  
22 even if initially lawful, can become unconstitutional if it is excessively prolonged  
23 without sufficient justification. *U.S. v. Stanford*, 722 F.Supp.2d 803 (S.D. Tex. 2010).  
24 The government’s detention of Petitioner without a bond hearing to assess whether he  
25 is a flight risk or a danger to others violates his right to due process. The Ninth Circuit  
26 has consistently held that prolonged detention without adequate procedural  
27  
28

1 protections raises serious constitutional concerns. *See Banda v. McAleenan*, 385  
2 F.Supp.3d 1099 (2019) (establishing the case-specific analysis for whether a detention  
3 violates a petitioner's due process, considering factors such as (1) the total length of  
4 detention to date, (2) the likely duration of future detention, (3) the conditions of  
5 detention, (4) delays in the removal proceedings caused by the detainee, (5) delays  
6 caused by the government, and (6) the likelihood that the removal proceedings will  
7 result in a final order of removal). Additionally, the Ninth Circuit emphasizes that due  
8 process limits are enforced when procedures fail to reliably distinguish between those  
9 who must be detained and those who may be released, and when government-created  
10 delays result in continued custody. *Hernandez v. Sessions*, 872 F.3d 976, 991–95 (9th  
11 Cir. 2017).

12  
13  
14  
15  
16 54. Despite the protections afforded under the Fifth Amendment, DHS'  
17 detention of the Petitioner without a meaningful bond hearing has violated the  
18 Petitioner's due process rights. This is apparent when analyzing the *Banda* factors: (1)  
19 the Petitioner has been detained for over 67 days. The Petitioner has been deprived of  
20 his liberty and freedom without being given a fair opportunity to be heard in a bond  
21 hearing and have his case individually reviewed. This is especially important here in  
22 a civil, nonpunitive detention case where no bond hearing has occurred. (2) Under  
23 DHS's and the BIA's misinterpretation of §1225, the Petitioner will continue to be  
24 miscategorized as a noncitizen applying for admission, which will deny him his right  
25 to a bond hearing. This misclassification will likely result in his continued detention  
26  
27  
28

1 throughout the entire duration of his proceedings, which could extend indefinitely. (3)  
2 The Petitioner has endured poor detention conditions; he has also been moved from  
3 NY to CA which has resulted in complete isolation from his family.<sup>2</sup> (4) Additionally,  
4 there have been no delays due to the Petitioner's actions. (5) The government has  
5 caused substantial delays by failing to meet its burden to establish alienage during the  
6 pendency of these proceedings. To date, DHS has filed only a Notice to Appear and  
7 has not submitted independent, competent evidence to prove alienage, despite  
8 Petitioner's continued detention. Although removal proceedings remain ongoing and  
9 DHS has not violated a specific court-imposed deadline, the government's prolonged  
10 reliance on an unsubstantiated charging document—without advancing the  
11 evidentiary posture of the case—has effectively stalled the proceedings while  
12 Petitioner remains in custody. This lack of progress is attributable solely to the  
13 government, which bears the burden of proof, and has resulted in continued detention  
14 without a meaningful opportunity to test removability or obtain a bond hearing,  
15 thereby raising serious due process concerns. (6) Petitioner has filed a Motion to  
16 Terminate, and if DHS attempts to submit evidence to establish alienage, Petitioner  
17 will likewise move to suppress such evidence because any proof of alienage would be  
18 the product of egregious violations of his Fourth and Fifth Amendment rights. In light  
19 of these constitutional violations and DHS's failure to independently establish  
20 alienage, Petitioner is likely to succeed on his motions to suppress and to terminate

28 \_\_\_\_\_  
<sup>2</sup> See **Exhibit B**, Mr. Rojas Dubon's Sworn Declaration.

1 the proceedings. It is unlikely that his removal proceedings will result in a final order  
2 of removal. Under these circumstances, the detention is arbitrary and excessive under  
3  
4 *Zadvydas*'s framework and weighs in favor of the *Banda* factors.

5 55. Lastly, Petitioner's sworn declaration details a warrantless, suspicionless  
6 seizure—apparently based on his Hispanic appearance and use of the Spanish  
7 language—followed by a coercive interrogation. If credited, this conduct constitutes  
8 an egregious Fourth Amendment violation and impermissible race-based enforcement  
9 in violation of the Fifth Amendment's equal protection guarantee. *See INS v. Lopez-*  
10 *Mendoza*, 468 U.S. 1032, 1050–51 (1984); *Sanchez v. Sessions*, 904 F.3d 643, 650–  
11 53 (9th Cir. 2018). These violations underscore the unconstitutionality of his detention  
12 absent a fair bond process.  
13  
14  
15

16 **PRAYER FOR RELIEF**

17 **WHEREFORE**, Petitioners respectfully requests that this Court:

- 18 1. Assume jurisdiction over this matter and Petitioner's person;
- 19 2. Declare that applying 8 U.S.C. § 1225(b)(2) to Petitioner—an interior arrestee in  
20
- 21 3. § 1229a proceedings—violates the U.S. Code, is arbitrary and capricious under the  
22 APA, and denies due process, and that § 1226(a) governs Petitioner's detention;  
23
- 24 4. Set aside, as applied to Petitioner, Respondents' reclassification policy/practice  
25 placing him under § 1225(b)(2), pursuant to 5 U.S.C. § 706(2)(A), (C);
- 26 5. Grant the writ and order immediate release; see, e.g., *Chipantiza-Sisalema v.*  
27 *Francis*, 2025 WL 1927931 (S.D.N.Y. July 13, 2025); *O-J-M- v. Bostock*, 2025  
28

1 WL 1943008, at \*1 (D. Or. July 14, 2025); *N.Z.M. v. Wolf*, 2020 WL 2813557, at  
2 \*3 (S.D. Tex. May 28, 2020);

3  
4 6. Alternatively, order a prompt, *Singh*-compliant bond hearing within 7–14 days, at  
5 which

6 a. the Government bears a clear-and-convincing burden to prove danger or  
7 flight risk;

8  
9 b. the IJ considers least-restrictive alternatives and ability to pay; and

10 c. the IJ issues reasoned, on-the-record findings with a contemporaneous  
11 transcript;

12  
13 7. Enjoin re-detention absent (i) further order of this Court or (ii) a pre-deprivation,  
14 *Singh*-compliant bond hearing meeting the standards above;

15  
16 8. Enjoin transfer or removal of Petitioner pending compliance with the Court’s  
17 orders (including any ordered bond hearing), and require 72 hours’ notice to  
18 counsel of any proposed movement;

19  
20 9. Retain jurisdiction to monitor and enforce compliance and grant such other and  
21 further relief as the Court deems just and proper.

22  
23 Respectfully submitted,  
*Sabrina Damast*

24  
25 \_\_\_\_\_  
26 Sabrina Damast (CA SBN #305710 and NY SBN #5005251)  
27 Law Office of Sabrina Damast, Inc.  
28 510 West 6th Street, Suite 330  
Los Angeles, CA 90014  
Telephone: (323) 475-8716

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

**TABLE OF EXHIBITS**

- A. “ICE Says Many In Immigration Detention No Longer Qualify For Bond Hearings,” *CBS NEWS* (Jul. 15, 2025) <https://www.cbsnews.com/news/ice-immigration-detention-bond-hearings/>
  
- B. Mr. Rojas Dubon’s Sworn Declaration

# EXHIBIT

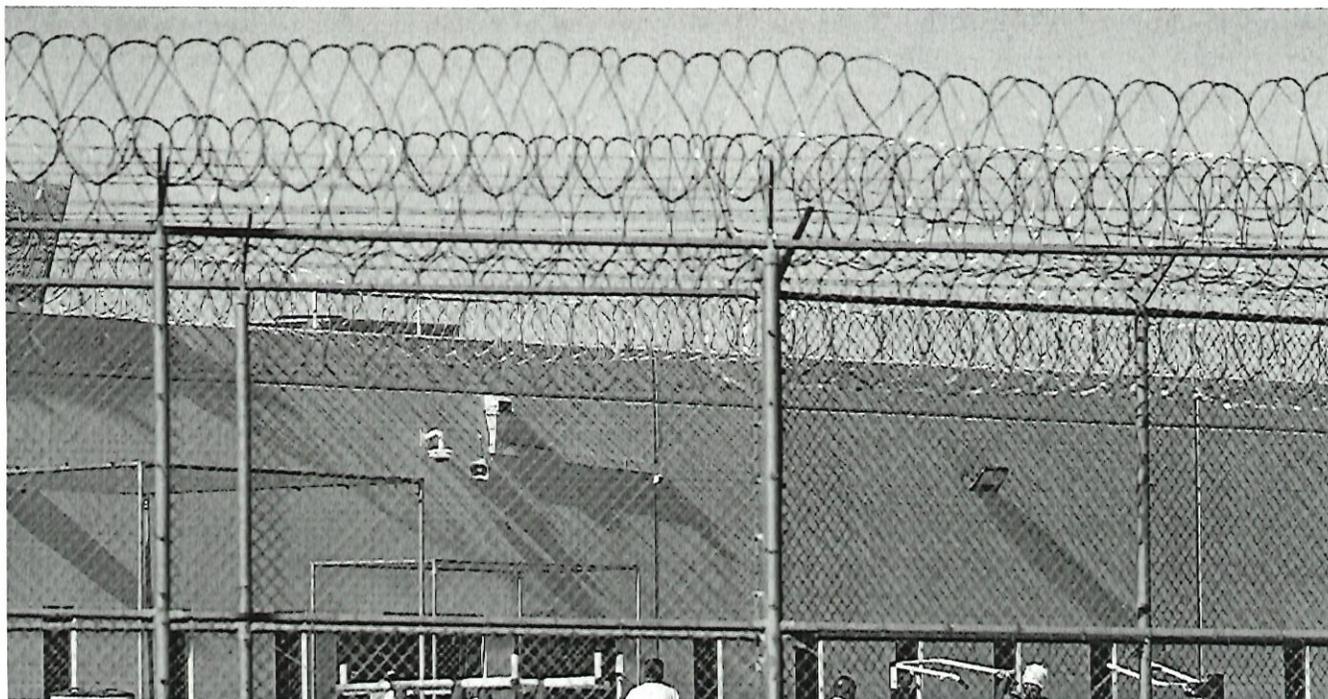
A

## ICE says many in immigration detention no longer qualify for bond hearings

 [cbsnews.com/news/ice-immigration-detention-bond-hearings](https://www.cbsnews.com/news/ice-immigration-detention-bond-hearings)

Camilo Montoya-Galvez

July 15, 2025



The Trump administration has dramatically curtailed the ability for those facing deportation to be released from immigration detention, its latest effort to expand the scope of its sweeping immigration crackdown, sources briefed on the policy change told CBS News.

By reinterpreting an immigration law from the 1990s, Immigration and Customs Enforcement is now instructing officials to argue in immigration court that detainees facing deportation are not eligible to be released on bond if they entered the U.S. illegally.

Previously, ICE's mandatory detention policy was generally limited to recent border-crossers and noncitizens convicted of certain crimes.

Immigrants who had lived in the U.S. unlawfully for years were eligible for bond hearings and the opportunity to persuade an immigration judge that they were not flight risks and should be allowed to fight their deportation outside of a detention center. But under the policy shift, their only avenue to be released would be if ICE officials — not immigration judges — agree to "parole" them out of custody.

The policy change last week came about after the Department of Homeland Security "revisited its legal position on detention and release authorities," in coordination with the Justice Department, according to one of the sources, who read portions of a memo outlining the shift.

According to the source, the memo says all noncitizens who were not formally admitted into the U.S., and entered between or at ports of entry, face detention under Section 235 of the Immigration and Nationality Act, which says those subject to it "shall be detained."

The Washington Post first reported the new detention rules.

In a statement Tuesday, ICE confirmed the new guidance, saying all "aliens seeking to enter our country in an unlawful manner or for illicit purposes shall be treated equally under the law, while still receiving due process."

"The recent guidance closes a loophole to our nation's security based on an inaccurate interpretation of the statute," ICE said. "It is aligned with the nation's long-standing immigration law."

DHS spokeswoman Tricia McLaughlin said President Trump and Secretary Kristi Noem "are now enforcing this law as it was actually written to keep America safe."

"Politicians and activists can cry wolf all they want, but it won't deter this administration from keeping these criminals and lawbreakers off American streets — and now thanks to the Big Beautiful Bill, we will have plenty of bed space to do so," she added.

The One Big Beautiful Bill Act, signed into law by Mr. Trump earlier this month, allocated an unprecedented amount of money towards immigration enforcement and border security, with \$75 billion given to ICE alone.

Administration officials have said they plan to use the massive funding infusion to hire 10,000 deportation officers and give ICE the ability to hold more than 100,000 detainees at any given time. On Tuesday morning, ICE was holding more than 58,000 detainees facing deportation, according to internal agency data shared with CBS News.

Greg Chen, the head of government relations at the American Immigration Lawyers Association, said ICE officials in more than a dozen immigration courts have been telling judges in recent days that the new policy change requires the detention of those who entered the country illegally, irrespective of how recently.

"This automatic detention rule means hundreds of thousands of people will be deprived of their liberty, even if there's no need for them to be detained," Chen said.

# EXHIBIT

# B

DocuSign Envelope ID: CF8BCF49-BE94-469F-AF2D-1C198EFA4EF3

**DEFENDANT'S DECLARATION PURSUANT TO 28 U.S.C. § 1746 BY MELVIN ROJAS**

**DUBON (A# [REDACTED])**

I, Melvin Rojas Dubon, under penalty of perjury, declare the following to be true and correct:

1. My full name is Melvin Rojas Dubon. I was born on [REDACTED] and I am forty-three years old. I was detained by immigration on October 30, 2025. Before that I lived at 10 Washington Avenue, Apartment 5E, Hempstead, New York, where I have lived for approximately two to three years. I lived with my partner, Mercedes Trejo, and our children: M [REDACTED] (DOB: [REDACTED]), E [REDACTED] (DOB: [REDACTED]), and C [REDACTED] (DOB: [REDACTED]), who is Mercedes's child from a prior relationship and whom I have helped raise as my own. I have never used any other name or alias. I have never had any interaction with law enforcement prior to the incident described below.
2. This statement has been written with the assistance of my attorneys at Rivera Julka Law Group. Attorney Brian Vasquez, during a virtual video call, asked me questions in Spanish that were later translated into English for submission to the Court.
3. On October 30, 2025, I was at a KeyFood supermarket in Hempstead, NY purchasing food. After finishing my shopping, I exited the supermarket and started talking to some people that were at the bottle exchange machines in Spanish. After this brief conversation, I was walking outside when I suddenly felt someone grab me by the shoulder.
4. Three male individuals wearing black, bulletproof-style jackets stopped me. Their jackets did not display any badges, names, or identification, and no one identified themselves as law enforcement. I was immediately pinned against a car and physically restrained. They did not ask me any questions at this point.

DocuSign Envelope ID: CF8BCF49-BE94-469F-AF2D-1C198EFA4EF3

5. The individuals demanded my keys and my wallet. One of the individuals then took my identification and went to check it inside their vehicle. While this officer went into his vehicle, which looked like a white courier van, I remained pinned against their vehicle. I was then placed in the back seat of a vehicle in handcuffs. At no point was I told why I was being detained or arrested.
6. I was never advised that I had the right to remain silent, nor was I told that I had the right to speak with an attorney. They surrounded me like I was a criminal at the. I was in complete shock during this encounter. I felt afraid, confused, and helpless.
7. I repeatedly asked who they were and why I was being detained, but no one answered any of my questions. I tried to speak to one individual who appeared to be Hispanic, but I received no response. I only speak Spanish, and although the officers spoke in English among themselves, they did not explain anything to me. From the very beginning of this encounter, I did not feel free to leave. I was physically restrained and continuously guarded by officers.
8. I was taken to Central Islip at approximately 9:00 a.m. that same day, where I was processed and fingerprinted. I was held in a room with approximately ten other immigrants while still handcuffed. A few hours later, I was interrogated by an officer who asked me how long I had been in the United States (I said about 23 years) and when I had entered the United States (I said 2003). I t was hear that I remember someone first mentioning that I would have a court hearing and told that I would be transferred to a facility in New Jersey. Aside from the questions I was asked, at no point before starting to answer all of those questions. I was not told that I had the option of hiring an attorney. The officer at no time told me that this information could be used against me.

DocuSign Envelope ID: CF8BCF49-BE94-469F-AF2D-1C198EFA4EF3

9. I was later transferred to Newark, New Jersey, and then to Imperial, California. While detained in California, officers attempted to pressure me to sign for voluntary departure in exchange for money. The first day I was in California, an officer showed up and they first told me about the option of leaving the country at my will and that I could get \$1,000 if I accepted. They offered me this alternative on one other instance. On both occasions, I informed the officers that I was not interested and that I wanted to speak with an attorney.
10. I have worked in construction for approximately eighteen years and am the main financial provider for my household. Although my partner works in house cleaning, she does not earn a sufficient amount to provide for the entirety of the household's income. Without my income, I know my family would struggle to meet basic needs. My children depend on me emotionally and financially.
11. My detention has been very hard on my youngest daughter. Since I was taken away, she has not been the same. She has been very sad, scared, and withdrawn, and she often asks when I am coming home. She does not fully understand why I am gone, and that has caused her a lot of emotional pain. She has shown signs of depression and has been going to therapy regularly to get help. I worry every day about how a long detention could affect her and my other children. Being away from them has also been very hard on my whole family, who depend on me for emotional support, stability, and guidance. I am afraid that if I remain detained for a long time, it will cause serious and lasting harm to my children and our family.
12. I didn't understand why I was being arrested or why they asked me so many questions without explaining my rights. I felt scared, confused, and surrounded by several officers. Prior to this day, I had never had contact with immigration officials or the police, except

Docusign Envelope ID: CF8BCF49-BE94-469F-AF2D-1C198EFA4EF3

for minor traffic ticket that have been resolved. I have paid taxes, and have been a law-abiding citizen and active member of my community.

I declare under penalty of perjury that the foregoing is true and correct.

Date of Execution: 12/23/2025

Signed by:  
[Signature: Melvin Rojas Dubon]  
[Illegible Alphanumeric Code]  
Melvin Rojas Dubon

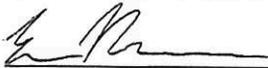
**Translation Certification**

**Document Name:** Defendant's Declaration Pursuant To 28 U.S.C. § 1746 By Melvin Rojas Dubon (A# )

**Original Document Language:** Spanish

**Certification:** I, Estela Maldonado, being proficient in both English and Spanish, certify that the attached document, **Defendant's Declaration Pursuant To 28 U.S.C. § 1746 By Melvin Rojas Dubon (A# )**, represents a true and accurate translation from the Spanish original document.

New York, January 2, 2026

  
\_\_\_\_\_  
Estela Maldonado

Rivera Julka Law Group, PC  
17 W. Main Street  
Bay Shore, NY 11706  
(631) 647-9040

Sworn to before me  
On this 2 day of January 2026

  
\_\_\_\_\_  
Notary Public

BRIAN VASQUEZ  
Notary Public, State of New York  
No. 02VA6414252  
Qualified in Nassau County  
Commission Expires Feb. 16, 2029

**DECLARACIÓN DEL DEMANDADO CONFORME A 28 U.S.C. § 1746 POR MELVIN**

**ROJAS DUBON (A# [REDACTED])**

Yo, Melvin Rojas Dubon, bajo pena de perjurio, declaro lo siguiente como cierto y correcto:

1. Mi nombre completo es Melvin Rojas Dubon. Nací el [REDACTED] y tengo cuarenta y tres años. Fui detenido por inmigración el 30 de octubre de 2025. Antes de eso viví en el 10 de Washington Avenue, apartamento 5E, Hempstead, Nueva York, donde llevo aproximadamente dos o tres años viviendo así. Viví con mi pareja, Mercedes Trejo, y nuestros hijos: M [REDACTED] (fecha de nacimiento: [REDACTED]), E [REDACTED] (fecha de nacimiento: [REDACTED]) y C [REDACTED] (fecha de nacimiento: [REDACTED]), hijo de Mercedes de una relación anterior y a quien he ayudado a criar como si fuera mío. Nunca he usado ningún otro nombre o alias. Nunca había tenido ningún contacto con las fuerzas del orden antes del incidente descrito a continuación.
2. Esta declaración ha sido redactada con la ayuda de mis abogados de Rivera Julka Law Group. El abogado Brian Vasquez, durante una videollamada virtual, me hizo preguntas en español que luego fueron traducidas al inglés para su presentación ante el tribunal.
3. El 30 de octubre de 2025, estaba en un supermercado KeyFood en Hempstead, NY, comprando comida. Después de terminar la compra, salí del supermercado y empecé a hablar en español con algunas personas que estaban en las máquinas de intercambio de botellas. Después de esa breve conversación, estaba saliendo cuando de repente sentí que alguien me agarraba del hombro.
4. Tres hombres con chaquetas negras antibalas me detuvieron. Sus chaquetas no mostraban ninguna placa, nombre ni identificación, y nadie se identificó como agente de la ley.

Inmediatamente me acorralaron contra un coche y me sujetaron físicamente. En ese momento no me hicieron ninguna pregunta.

5. Las personas exigieron mis llaves y mi cartera. Una de las personas tomó entonces mi identificación y fue a comprobarla dentro de su vehículo. Mientras este agente entraba en su vehículo, que parecía una furgoneta de mensajería blanca, yo seguía atrapado contra su vehículo. Luego me colocaron en el asiento trasero de un vehículo esposado. En ningún momento me dijeron por qué me detenían o arrestaban.
6. Nunca me informaron que tenía derecho a guardar silencio, ni que tenía derecho a hablar con un abogado. Me rodearon como si fuera un criminal en el. Estaba completamente en shock durante ese encuentro. Me sentí asustado, confundido e impotente.
7. Pregunté repetidamente quiénes eran y por qué me detenían, pero nadie respondió a ninguna de mis preguntas. Intenté hablar con una persona que parecía ser hispana, pero no recibí respuesta. Solo hablo español, y aunque los oficiales hablaban en inglés entre ellos, no me explicaron nada. Desde el principio de este encuentro, no me sentí libre de irme. Estaba físicamente sujeto y vigilado continuamente por los agentes.
8. Me llevaron a Central Islip aproximadamente a las 9:00 de la mañana de ese mismo día, donde me procesaron y me tomaron las huellas dactilares. Me retuvieron en una habitación con aproximadamente otros diez inmigrantes mientras seguía esposado. Unas horas después, un agente me interrogó preguntándome cuánto tiempo llevaba en Estados Unidos (dije unos 23 años) y cuándo había entrado en Estados Unidos (dije 2003). Escuché que recuerdo que alguien mencionó primero que tendría una audiencia judicial y me dijo que me trasladarían a un centro en Nueva Jersey. Aparte de las preguntas que me hicieron, en ningún momento antes empezaron a responder todas esas preguntas. No me dijeron que

tenía la opción de contratar a un abogado. El agente en ningún momento me dijo que esa información podría usarse en mi contra.

9. Más tarde me trasladaron a Newark, Nueva Jersey, y después a Imperial, California. Mientras estaba detenido en California, los agentes intentaron presionarme para que firmara la salida voluntaria a cambio de dinero. El primer día que estuve en California, apareció un agente y primero me habló de la opción de salir del país a mi antojo y que podría conseguir 1.000 dólares si aceptaba. Me ofrecieron esta alternativa en otra ocasión. En ambas ocasiones, informé a los agentes de que no estaba interesado y que quería hablar con un abogado.
10. He trabajado en la construcción durante aproximadamente dieciocho años y soy el principal proveedor financiero de mi hogar. Aunque mi pareja trabaja en limpieza doméstica, no gana lo suficiente para cubrir todos los ingresos del hogar. Sin mis ingresos, sé que mi familia tendría dificultades para cubrir las necesidades básicas. Mis hijos dependen de mí emocional y económicamente.
11. Mi castigo ha sido muy duro para mi hija pequeña. Desde que me llevaron, ella no ha sido la misma. Ha estado muy triste, asustada y retraída, y a menudo pregunta cuándo vuelvo a casa. No entiende del todo por qué me he ido, y eso le ha causado mucho dolor emocional. Ha mostrado signos de depresión y ha ido regularmente a terapia para buscar ayuda. Me preocupa cada día cómo podría afectarle a ella y a mis otros hijos una detención larga. Estar lejos de ellos también ha sido muy duro para toda mi familia, que depende de mí para apoyo emocional, estabilidad y orientación. Temo que si permanezco detenido durante mucho tiempo, cause un daño grave y duradero a mis hijos y a nuestra familia.

12. No entendía por qué me arrestaban ni por qué me hacían tantas preguntas sin explicar mis derechos. Me sentí asustado, confundido y rodeado de varios agentes. Antes de ese día, nunca había tenido contacto con los funcionarios de inmigración ni con la policía, salvo por una multa de tráfico menor que ya se resolvió. He pagado impuestos, he sido un ciudadano respetuoso de la ley y miembro activo de mi comunidad.

Declaro, bajo pena de perjurio, que lo anterior es verdadero y correcto.

Fecha de ejecución: 12/23/2025

Signed by:  
  
E35E22C6C007498...  
Melvin Rojas Dubon