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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 JULIO ADRIAN RUIZ ZAZUETA,

10 Plaintiff,

11 vs.

12 TODD M. LYONS, DIRECTOR OF
13 IMMIGRATION AND CUSTOMS
14 ENFORCEMENT; JOHN RATHMAN,
15 WARDEN OF THE IMPERIAL REGIONAL
16 DETENTION CENTER; PAM BONDI,
17 ATTORNEY GENERAL OF THE UNITED
18 STATES; KRISTI NOEM, SECRETARY OF
19 THE DEPARTMENT OF HOMELAND
20 SECURITY,

21 Defendant

Case No.: '26CV0149 BTM MSB

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

PETITIONER DHS NO.:



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28 PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C § 2241; VERIFIED PETITION
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1 Petitioner, who previously entered the United States, and resided within the United States for
2 many years before he was detained by ICE. Instead, individuals like petitioner, are subject to
3 a different statute § 1226(a), that allows people like Petitioner to be release on a conditional
4 parole or bond. Instead § 1226(a) expressly applies to people like petitioner who are charged
5 with being inadmissible for having entered the United States without inspection and being
6 present without admission.
7

8 7. Respondent's new policy and interpretation of INA is plainly contrary to the statutory
9 framework and contrary to the decades long agency practice applying § 1226(a) to people
10 like Petitioner, who is present within the United States.
11

12 8. Respondent's new interpretation of the INA also violates Petitioner's right to due process.
13 All individuals within the United States have constitutional rights. "[T]he Due Process
14 Clause applies to all 'persons' within the United States, including aliens, whether their
15 presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 553 U.S.
16 678, 693 (2001).
17

18 9. Based on the foregoing, Petitioner seeks a writ of habeas corpus requiring that he be released
19 unless Respondents provide a bond hearing under § 1226(a).
20

21 JURISDICTION AND VENUE

22 10. This Court has jurisdiction over this matter pursuant to 28 U.S.C § 2241, which provides that
23 a writ of habeas corpus may be granted to a person "in custody in violation of the
24 Constitution or laws or treaties of the United States."

25 11. This Court has jurisdiction to hear habeas corpus petitions from immigration detainees.

26 12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28
27 U.S.C. § 2201 *et seq.*, and the All-Writs Act, 28 U.S.C. § 1651

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1 13. Venue is proper in the Southern District of California pursuant to 28 U.S.C. § 2241(d)
2 because Petitioner is currently detained at Imperial Regional Detention Facility in the city of
3 Calexico, California, which is within the jurisdiction of this court.
4

5 14. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973),
6 venue lies in the United States District court for the Southern District of California, the
7 judicial; district in which Petitioner is currently detained.

8 15. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are
9 employees, Officers and Agents of the United States, and because a substantial part of the
10 events or omissions giving rise to this claim have occurred in the Southern District of
11 California.
12

13 **REQUIREMENTS OF 28 U.S.C. §2243**

14 16. The Court may grant the petition for writ of habeas corpus or order Respondents to show
15 cause “forthwith”, unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order
16 to show cause is issued, the Respondents must file a return “within three days unless for good
17 cause additional time, not exceeding twenty days, is allowed.” *Id.*
18

19 17. Habeas corpus is “perhaps the most important writ known to the constitutional law ...
20 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
21 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for
22 writ usurps the attention and displaces the calendar of the judge or justice who entertains it
23 and receives prompt action from him within the four corners of the application.” *Yong v.*
24 *I.N.S.*, 208 F.3d 1116, 1120, (9th Cir. 2000) (citation omitted).
25

26 **PARTIES**

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28 PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C § 2241; VERIFIED PETITION
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1 18. Petitioner JULIO ADRIAN RUIZ ZAZUETA  is a citizen of Mexico who is
2 currently detained by ICE at the Imperial Regional Detention Center in Calexico, California.

3 19. Respondent TODD M. LYONS is the Director of ICE and is legally responsible for the
4 administration of the immigration laws and the detention of Petitioner. Respondent is sued in
5 his official capacity.
6

7 20. Respondent JOHN RATHMAN is the Warden of the Imperial Regional Detention Center,
8 where Petitioner is detained. Respondent has immediate physical custody of Petitioner and is
9 sued in his official capacity.
10

11 21. Respondent PAM BONDI is the Attorney General of the United States and is responsible for
12 the administration of the Department of Justice and the supervision of all immigration
13 proceedings. Respondent is sued in her official capacity.

14 22. Respondent KRISTI NOEM is the Secretary of the Department of Homeland Security, which
15 oversees ICE. Respondent is sued in her official capacity.
16

17 **FACTUAL BACKGROUND**

18 23. The INA prescribes three basic forms of detention for the vast majority of non-citizens in
19 removal proceedings conducted pursuant to 8 U.S.C. § 1229(a).

20 24. 8 U.S.C. § 1226 authorizes the detention of noncitizens in § 1229(a) removal proceedings
21 before an IJ. Individuals covered in § 1226(a) detention are generally entitled to a bond
22 hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while
23 noncitizens who have been arrested, charged with, or convicted of certain crimes are subject
24 to mandatory detention, *see* 8 U.S.C. § 1226(c).
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1 25. The INA also provides that for mandatory detention of noncitizens subject to an expedited
2 removal order under 8 U.S.C. § 1225(b)(1) and for other noncitizen applicants for admission
3 to the U.S. who are deemed not clearly entitled to be admitted. *See* 8 U.S.C. § 1225(b)(2).
4

5 26. The INA also provides for detention of noncitizens who have been ordered removed,
6 including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a), (b).

7 27. This case concerns the detention provision at §§ 1226(a) and 1225(b)(2).

8 28. The detention provisions § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal
9 Immigration Reform and Immigration Responsibility Act (IIRIRA) OF 1996, Pub. L. No.
10 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section
11 1226 was most recently amended in early amended in early 2025 by the Laken Riley Act,
12 Pub. L. No. 119-1, 139 Stat. 3 (2025).
13

14 29. Following the enactment of the IIRIRA, EOIR drafted new regulations applicable to
15 proceedings before immigration judges explaining that, in general, people who entered the
16 country without inspection and Expedited Removal of Aliens; Detention and Removal of
17 Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323
18 (Mar. 6, 1997).
19

20 30. After the establishment for many decades to follow people who entered without admission or
21 parole and were place in standard § 1229(a) removal proceedings received bond hearings
22 before IJ's unless their criminal history rendered them ineligible. That practice was
23 consistent with many more decades of prior decades of prior practice, in which noncitizens
24 who were not deemed "arriving" were entitled to a custody hearing before and IJ or other
25 hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1 at 229
26
27

1 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at §
2 1252(a)).

3 31. This practice before and after the enactment of IIRIRA is consistent with the fact that
4 noncitizens present within the United States- as opposed to noncitizens present at a border
5 seeking admission- have constitutional rights. “[T]he Due Process Clause applies to all
6 ‘persons’ within the United States, including aliens, whether their presence here is lawful,
7 unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 553 U.S. 678, 693 (2001).

8
9 32. On July 8, 2025, ICE, “in coordination with” the Department of Justice, announced a new
10 policy that rejected this well-established understanding of the statutory framework and
11 reversed decades of practice.

12
13 33. The new policy entitled “Interim Guidance Regarding Detention Authority for Applicants for
14 Admission” claims that all noncitizens who entered the United Sates without inspection shall
15 now be deemed “applicants for admissions” under 8 U.S.C. § 1225 and therefore are subject
16 to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of when a
17 person is apprehended and affects those who have resided in the United States for months,
18 years, and even decades.

19
20 34. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of*
21 *Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). There, the Board held that all noncitizens
22 who entered the United States without admission or parole are considered applicants for
23 admission who are seeking admission and are ineligible for IJ bond hearings.

24
25 35. Since Respondent’s adopted this new policy dozens of federal courts have rejected their new
26 interpretation of the INA’s detention authorities. Courts have likewise rejected *Matter of*
27 *Yajure Hurtado*, which adopts the same reading of the statute as ICE.

1 36. For example, when IJs in Tacoma, Washington immigration court stopped providing
2 individuals with bond hearings who entered the United States without inspection and who
3 have since resided here, the U.S. District Court for the Western District of Washington found
4 that such a reading of the INA is likely unlawful and that § 1226(a) , not § 1225(b), applies to
5 noncitizens who are not apprehended upon arrival to the United States; on September 30,
6 2025 the U.S. District Court for the Western District of Washington issued a partial summary
7 judgment order concluding that such persons are subject to detention under 8 U.S.C. §
8 1226(a) and are not subject to mandatory detention under 8 U.S.C. 1225(b)(2)(A) *Rodriguez-*
9 *Vazquez v. Bostock*, No. 3:25-cv-0524-TMC (W.D. Wash. Sept. 30, 2025), Order Granting
10 Plaintiffs Partial Motion for Summary Judgment and Denying Defendant’s motion to
11 Dismiss, Dkt. 65.
12
13

14 37. Court after court adopted the same reading of the INA’s detention authorities and rejected
15 ICE’s new policy and EOIR’s new interpretation, including many California. See *Beltran v.*
16 *Noem*, 3:25-cv-02650-LL-DEB (S.D Cal. Nov. 4, 2025); *Alvarez Chavez v. Kaiser*, 2025 WL
17 2909526 (N. D. Cal Oct. 9, 2025); *J.S.H.M. v. Wofford*, 2025 WL 2938808 (E.D. Cal. Oct.
18 16, 2025); *Coc Tut v. Noem*, No. 5:25-cv-2701-DOC-AGR (C.D. Cal. Oct. 16, 2025);
19 *Menjivar Sanchez v. Wofford*, 2025 WL 2959274 (C.D. Cal. Oct. 17, 2025); *Gomez Garcia v.*
20 *Noem*, 2025 WL 2986672 (C.D. Cal. Oct. 22, 2025); *Martinez Lopez v. Noem*, No. 3:25-cv-
21 02734 (S.D. Cal. Oct. 23, 2025); *Esquivel-Ipina v. Larose*, 2025 WL 2998361 (S.D. Cal Oct.
22 24, 2025); *Castellanos Lopez v. Warden Otay Mesa Det. Ctr.*, 2025 WL 3005346 (S.D. Cal.
23 Oct. 27, 2025); *J.A.E.M. v. Wofford*, 2025 WL 3013377 (E.D. Cal. Oct. 27, 2025); *J.A.C.P. v.*
24 *Wofford*, 2025 WL 30133328 (E.D. Cal. Oct. 27, 2025); *Suy Tol. v. Noem*, No. 5:25-cv-2806-
25 JFW-AS (C.D. Cal. Oct. 29, 20258); *Portillo v. Noem*, No. 5:25-cv-2892-JFW-PCVx (C.D.
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1 Oct. 31, 2025); *Lopez Pop v. Noem*, Case No. 5:25-cv-2589-SSS-SSC (C.D. Cal Oct. 3,
2 2025); *Santiago Flores v. Noem*, Case No. 5:25-cv-2490-AB-AJR (C.D. Cal. Sept. 29, 2025);
3 *Arreola Armenta v. Noem*, 5:25-cv-2416-JFW-SP (C.D. Cal. Sept. 16, 2025); *Maldonado*
4 *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025.) These courts
5 have rejected DHS's and EOIR's new interpretation because it defies the INA. As the
6 *Rodriguez Vazquez* court and others have explained that the plain language of the statutory
7 provisions demonstrates that § 1226(a) not § 1225(b), applies to people like petitioner.
8

9 38. Section § 1226(a) applies by default to all persons “pending a decision on whether the
10 [noncitizen] is to be removed from the United States.” These removal hearings are held under
11 §1229(a) to “decid[e] the inadmissibility or deportability of a [noncitizen].” *Rodriguez*
12 *Vzaquez*. See also *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28,
13 2025) Order Granting Temporary Restraining Order, Dkt. 14 at 9 (“[T]he Court finds that the
14 potential for Petitioner’s continued detention without an initial bond hearing would cause
15 immediate and irreparable injury, as this violates statutory rights afforded under §1226(a).”)
16 *Ceja Gonzalez*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal August 13, 2025), Order Granting
17 Ex-Parte Application for TRO and OSC, Dtk. 12 at 7 (§ 1226 applies to aliens present in the
18 United States.)
19
20

21 39. The text of § 1226 also explicitly applies to people charged as being inadmissible, including
22 those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s
23 reference to such persons makes clear that, by default, such persons are afforded a bond
24 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[W]hen Congress
25 creates ‘specific expectations’ to a statute’s applicability it ‘proves’ that absent those
26
27

1 exceptions, the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing
2 *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

3
4 40. Section 1226 therefore leaves no doubt that it applies to people who face charges of being
5 inadmissible to United States, including those who are present without inspection and who
6 face charges in removal proceedings of being inadmissible to the United States.

7 41. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently
8 entered the United States. The statute’s entire framework is premised on inspections at the
9 border of people who are “seeking admission” to the United States. 8 U.S.C. §
10 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention
11 scheme applies “at the Nation’s borders and ports of entry, where the Government must
12 determine whether a [noncitizen] seeking to enter the country is admissible.” *Jennings v.*
13 *Rodriguez*, 583, U.S. 281, 287 (2018)

14
15 42. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to person like
16 petitioner, who is already present in the United States and has been residing in the United
17 States for many years before his apprehension.

18
19 **FACTS**

20 43. Petitioner, JULIO ADRIAN RUIZ ZAZUETA, resides in Thermal, California of the county
21 of Riverside with his spouse Azalea Lopez Salazar a lawful permanent resident and their two
22 daughters who are United States Citizens.

23
24 44. On November 14, 2025, the Petitioner was working in the agricultural fields in the city of
25 Thermal, California when federal agents approached the Petitioner and he was taken into
26 custody.

1 45. On January 2, 2026 petitioner filed a motion for bond redetermination with the Imperial
2 Immigration court before an IJ.

3 46. On January 6, 2026 the IJ denied the request for bond and issued a decision that “Respondent
4 is an applicant for admission and is subject to mandatory detention under INA 235(b). *Matter*
5 *of Yajure Hurtado*, 29 I & N Dec. 216 (BIA 2025). The Court has no authority to redetermine
6 the conditions of his custody”.

7
8 47. Any appeal to the BIA by the Petitioner is futile. On September 5, 2025, the BIA affirmed in
9 a precedent decision, *Matter of Yajure Hurtado*, 29 I & N. Dec. 2016 (BIA 2025), that
10 individuals like Petitioner are applicants for admission and subject to detention under §
11 1225(b)(2)(A).
12

13 **FIRST CLAIM FOR RELIEF**

14 **PETITIONER’S DETENTION IS A VIOLATION OF 8 U.S.C. § 1226(a)**

15 48. Petitioner incorporates by reference the allegation of fact set forth in the preceding
16 paragraphs.
17

18 49. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Petitioner who
19 is present and residing within the United States and has been placed under § 1229(a) removal
20 proceedings and charged with inadmissibility pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). As
21 relevant here, § 1225(b)(2) does not apply to those who previously entered the country and
22 have been present and residing in the United States prior to being apprehended and placed in
23 removal proceedings by Respondent’s. Such noncitizens may only be detained pursuant to §
24 1226(a), unless subject to § 1226(c) or § 1231.
25

26 50. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention
27 without a bond hearing and violates § 1226(a).
28

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SECOND CLAIM FOR RELIEF

PETITIONERS DETENTION IS IN VIOLATION OF DHS AND EOIR BOND

REGULATIONS

51. Petitioner incorporates by reference the allegation of fact set forth in the preceding paragraphs.

52. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formally referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323. The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before an IJ under 8 U.S.C. § 1226 and its implementing regulations.


53. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individuals like Petitioner and pursuant to the July 8, 2025 “Interim Guidance Regarding Detention Authority for Applicants for Admission,” DHS policy and practice of applying § 1225(b)(2) to individuals like Petitioner.

54. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violations 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

THIRD CLAIM FOR RELIEF

PETITIONER’S DETENTION VIOLATES THE ADMINISTRATIVE PROCEDURE

ACT, 5 U.S.C. § 706(2)

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1 55. Petitioner incorporates by reference the allegations of facts set forth in the preceding
2 paragraphs.

3 56. Under the Administrative Procedure Act, a court must “hold unlawful and set aside agency
4 action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance
5 with the law,” that is “contrary to constitutional right [or] power,” or that is “in excess of
6 statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. §
7 706(2)(A)(C).
8

9 57. Respondent’s detention of Petitioner pursuant to § 1225(b)(2) is arbitrary and capricious,
10 violates the INA and the Fifth Amendments; is not authorized under § 1225(b)(2), and
11 therefore is in violation of 5 U.S.C. § 706(2).
12

13 **FOURTH CLAIM FOR RELIEF**

14 **PETITIONER’S DETENTION VIOLATES HIS FIFTH AMENDMENT RIGHT TO**
15 **DUE PROCESS**
16

17 58. Petitioner incorporates by reference the allegations of facts set forth in the preceding
18 paragraphs.

19 59. The Government may not deprive a person of life, liberty, or property without due process of
20 law. U.S. Const. amend V. “Freedom from imprisonment-from government custody,
21 detention, or other forms of physical restraint- lies at the hearing of the liberty that the Clause
22 protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
23

24 60. Petitioner has a fundamental interest in liberty and being free from official restraint.

25 61. The Respondents’ detention of Petitioner without providing a bond redetermination hearing
26 to determine whether he is a flight risk or a danger to others violates his right to Due Process.
27

28 //


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PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully ask that this Court take jurisdiction over this matter and grant the following relief:

1. Order that Petitioner shall not be transferred outside of the Southern District of California while this petition is pending;
2. Issue an Order to Show Cause ordering Respondents to show cause within three days why this Petition should not be granted.;
3. Issue a Writ of Habeas Corpus requiring Respondents to release Petitioner or provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
4. Declare that Petitioner’s detention is unlawful;
5. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under the law; and
6. Grant any other further relief this Court deems just and proper.

Dated: January 9, 2026



Alberto Sobero, Esq.
Attorney for Petitioner

VERIFICATION

I, Alberto Sobero, Esq., declare as follows:

I am an attorney admitted to practice law in the State of California. Because many of the allegations of this Petition require legal knowledge not possessed by the Petitioner, I am making this verification on his behalf.

I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof to be true to my knowledge, information, or belief.

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on January 9, 2026.



Alberto Sobero, Esq.
Attorney for Petitioner