UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Cristhyam Rios Uriarte and Juan Ramon Rios Uriarte, *Petitioners*, *v.* PAMELA BONDI, United States Attorney General; KRISTI NOEM, Secretary of the United States Department of Homeland Security; TODD M. LYONS, Acting Director of United States Immigration and Customs Enforcement; SYLVESTER ORTEGA Field Office Director for Detention and Removal, United States Immigration and Customs Enforcement, ROSE THOMPSON, Warden, Karnes County Immigration Processing Center *Respondents.*	§	5:26-cv-00164 DHS File Number: [redacted] **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, PETITION FOR WRIT OF HABEAS CORPUS**

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I. INTRODUCTION

1. Petitioners, Cristhyam Rios Uriarte (Cristhyam) and Juan Ramon Rios Uriarte (Juan), are in the physical custody of Respondents at the Karnes County Immigration Processing Center in Karnes City, Texas. They now face unlawful detention because the Department of Homeland Security (DHS), in concert with the Executive Office for Immigration Review (EOIR), have concluded that they are subject to mandatory detention.

2. The Petitioners entered the United States without inspection on September 24, 2019. The government then made the discretional determination in 2019 that they were not subject to mandatory detention and not subject to detention under any provisions under the Immigration & Nationality Act. Indeed, the government issued the Petitioners an NTA and a I-286 document, stating that they were released pursuant to the "...authority contained in Section 236 of the Immigration and Nationality Act..." *See* Exh. 1, (I-286 Documents) and Exh. 2, (Notices to Appear).

3. Petitioners are charged with not possessing a valid visa at the time they were apprehended. *See* 8 U.S.C. § 1182(a)(7)(A)(i).

4. After their initial entry into the country, the government returned the Petitioners to Mexico pursuant to the Migrant Protection Protocols / Remain in Mexico ("MPP") program where they were told to remain in Mexico while they awaited their court date. *See* Exh. 3. On April 21, 2021, the Petitioners were paroled into the United States to continue with their immigration proceedings consistent with the cessation of the MPP program.

5. Petitioners settled in San Antonio, Texas, where they attended regular check-ins with ICE and EOIR hearings. At their last check-in on August 25, 2025, ICE detained Petitioners.

6. On September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge lacks authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board concluded that such individuals are detained under 8 U.S.C. § 1225(b)(2)(A) and thus cannot be released on bond.

7. Both Petitioners requested a bond hearing pursuant to their charging document issued in 2019. They were then separately scheduled for bond hearings in September of 2025. Prior to Cristhyam's scheduled bond hearing, the court issued an order declining to provide Cristhyam with a bond hearing, citing *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In contrast, the Immigration Judge in Juan's case provided him with a hearing but ultimately concluded that Juan was ineligible for bond pursuant to *Matter of Yajure Hurtado*.

8. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment). One of the Petitioners, Cristhyam, requested a new bond hearing,

pursuant to the above settlement; on December 4, 2025, the Immigration Judge denied his request for bond once again citing *Matter of Yajure Hurtado*.

9. Respondents' new legal interpretation is irreconcilable with the statutory framework and decades of agency practice applying §1226(a) to individuals in the Petitioners' position, such as those who enter the United States without inspection.

10. The Government has also taken an abrupt and improper about-face on this issue. Respondents should be judicially estopped from asserting their current interpretation of 8 U.S.C. § 1225(b)(2)(A) because they previously prevailed in litigation after asserting the opposite interpretation. *See New Hampshire v. Maine*, 532 U.S. 742 (2001) (judicial estoppel applies when a party assumes a position in a legal proceeding, succeeds in maintaining that position, and then adopts a contrary position in a later proceeding to gain an unfair advantage). Here, Respondents previously—and successfully—argued that individuals who entered the United States without inspection are detained under § 1226(a), not § 1225(b)(2)(A), and courts accepted that position. Respondents now reverse course and contend that such individuals are subject to mandatory detention under § 1225(b)(2)(A), thereby denying them bond hearings. This shift in position undermines the integrity of the judicial process and imposes an unfair detriment on Petitioners who relied on the prior interpretation. Respondents should be estopped from asserting this inconsistent position.

11. The Government's issuance of the NTAs in 2019 demonstrates it did not place the Petitioners in expedited removal. *See* Exh. 2 (DHS Form I-861, Notice to Appear). Furthermore, Forms I-286 clearly indicate that Respondents processed the Petitioners under INA § 236(a), 8 U.S.C. § 1226(a), a factual assertion that squarely contradicts the

Government's current position—adopted wholesale by the BIA—that Petitioners are ineligible to apply for bond before EOIR. *See* Exh. 1. This reversal undermines the integrity of the adjudicative process and triggers the principles of issue preclusion recognized in *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138 (2015), which require courts to respect agency determinations when the ordinary elements of preclusion are met.

12. "[I]t is well established that the Due Process Clause stands as a significant constraint on the manner in which the political branches may exercise their plenary authority" over which noncitizens may remain in the United States or be detained here. *Hernandez v. Sessions*, 872 F.3d 976, 990 n.17, citing *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). The Due Process Clause protects Petitioners, persons within the United States, from unlawful detention resulting from the denial of adequate procedural protections. *See Hernandez v. Wofford*, No. 25-CV-00986, 2025 WL 2420390, at *3 (E.D. Cal. Aug. 21, 2025), citing *Zadvydas*, 533 U.S. at 693. Even those whose liberty is significantly constrained, or over whom the government wields substantial discretion, retain a protected liberty interest. See *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019), citing *Young v. Harper*, 520 U.S. 143, 150 (1997). The "essence" of procedural due process is that a person at risk of losing liberty receive notice and an opportunity to be heard in a meaningful manner and at a meaningful time. *See Mathews v. Eldridge*, 424 U.S. 319, 348 (1976).

13. Accordingly, Petitioners seek a writ of habeas corpus ordering their immediate release. A bond hearing is not requested by the Petitioners given that the government has already denied both Petitioners bond based on *Matter of Yajure Hurtado.*

II. JURISDICTION

14. Petitioners are in the physical custody of Respondents. Petitioners are detained at the Karnes County Immigration Processing Center in Karnes County, Texas.

15. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

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

III. VENUE

17. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the United States District Court for the Western District of Texas, the judicial district in which Petitioners are currently detained.

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

IV. REQUIREMENTS OF 28 U.S.C. § 2243

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

20. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application

for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

V. PARTIES

21. Petitioners, Cristhyam Rios Uriarte and Juan Ramon Rios Uriarte, brothers, are citizens of Nicaragua who have been in immigration detention since August 25, 2025. Petitioners are currently detained at the Karnes County Immigration Processing Center.

22. Respondent Pamela Bondi is the Attorney General of the United States. She leads the Department of Justice, which includes the Executive Office for Immigration Review and the immigration courts. She is sued in her official capacity.

23. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees ICE, which is responsible for Petitioners' detention. She has ultimate custodial authority over Petitioners and is sued in her official capacity.

24. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. In that role, he is responsible for ICE's immigration enforcement and detention operations and is a legal custodian of Petitioners. He is sued in his official capacity.

25. Respondent Sylvester Ortega is the Field Office Director for the San Antonio Field Office of ICE. He is responsible for enforcement of the immigration laws within this district and for overseeing ICE officials' compliance with agency policies and procedures. He is a legal custodian of Petitioners and is sued in his official capacity.

26. Respondent Rose Thompson, is the warden of the Karnes County Immigration Processing Center, operated by CoreCivic, Inc. She has immediate physical custody of Petitioners pursuant to an agreement with ICE and is a legal custodian of Petitioners. She is sued in her official capacity.

VI. STATEMENT OF FACTS

27. Petitioners, Cristhyam Rios Uriarte and Juan Ramon Rios Uriarte entered the United States through the Rio Grande River on or about September 24, 2019. Upon their entry into the United States, DHS placed the Petitioners into removal proceedings under Section 240 of the INA. *See* Exh. 2. They were then issued a Form I-286, Notice of Release on Recognizance under INA Section 236, and were returned to Mexico pursuant to MPP. *See* Exh. 1.

28. Petitioners' cases were consolidated before EOIR. They appeared for all of their master calendar hearings and timely filed their Form I-589 applications for asylum with the Immigration Court on February 20, 2020, prior to the one-year deadline.

29. On or about April 21, 2021, Petitioners presented themselves at the San Isidro Port of Entry, as ordered, were issued parole and released from ICE custody. From 2021 until May 5, 2025, the Petitioners attended all scheduled EOIR hearings and appointments with ICE.

30. On May 5, 2025, the Petitioners were scheduled for an individual calendar hearing on April 23, 2027, in San Antonio, Texas. Exh. 4 (Hearing Notice).

31. On August 25, 2025, the Petitioners reported to ICE for a routine check-in, as required by their I-220, Order of Release on Recognizance. Without explanation, ICE detained the Petitioners at their check-in.

32. Prior to the Petitioners' detention in August of 2025, they were lawfully employed, paid their taxes, held valid driver licenses and registration for their vehicles and attended all of their hearings and ICE check-in's.
33. Following Cristhyam's arrest and transfer to Karnes County Detention Immigration Processing Center on August 25, 2025, ICE continued to detain the Petitioner despite a lack of a criminal history and his compliance with reporting requirements.
34. Cristhyam requested a bond hearing before the Immigration Court and was afforded a hearing for September 10, 2025. Prior to this hearing, the Immigration Judge issued an order cancelling the hearing and citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) as the legal authority supporting the cancellation.
35. Petitioner Cristhyam Rios Uriarte later requested a new bond hearing due to the order issued by the United States District Court for the Central District of California which granted nationwide class certification, and partial summary judgment on behalf of the class, effectively rejecting the holding of *Yajure Hurtado*. The Immigration Judge scheduled the hearing for December 4, 2025, and, despite the aforementioned order, denied bond to the Petitioner again, citing Matter of *Yajure Hurtado*.
36. In contrast, Petitioner, Juan Ramon Rios Uriarte, was initially transferred to the South Texas Detention Center located in Pearsall, Texas after his detention and was soon after transferred to La Salle County Regional Detention Center located in Encinal, Texas.
37. Juan requested a bond hearing after his transfer to La Salle Detention Center. The bond hearing was conducted on September 12, 2025, and the Immigration Judge ultimately concluded that he did not have jurisdiction to grant a bond. The Judge further issued an

order stating that, in the alternative, Juan was a flight risk based on his sole criminal conviction—an obstruction of highway charge from 2023.

38. Juan was transferred to Karnes Detention Center after his case was consolidated with his brother, Cristhyam. Juan did not request a new bond hearing based on the *Maldonado Batista* Partial Summary Judgment because he believed it would be futile given the December 4, 2025 denial of his brother's bond.

39. The Petitioners' individual hearing was held over three days on December 11 and 12 of 2025 and January 6, 2026. The oral decision is set to be issued on January 27, 2026.

VII. LEGAL FRAMEWORK

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

41. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

42. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

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

VIII. ARGUMENT

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

45. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

46. Following IIRIRA, EOIR issued regulations explaining that, as a general rule, people who entered the United States without inspection were not treated as detained under § 1225, but instead fell under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997).

47. For decades thereafter, noncitizens who entered without inspection and were placed in ordinary § 1229a removal proceedings received bond hearings unless barred by the criminal mandatory-detention provision at 8 U.S.C. § 1226(c). That practice was consistent with earlier law, under which non-"arriving" noncitizens were entitled to custody hearings before an immigration judge or other officer. *See* 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (explaining that § 1226(a) "restates" the prior detention authority in § 1252(a)).

48. On July 8, 2025, ICE—"in coordination with" DOJ—issued the "Interim Guidance Regarding Detention Authority for Applicants for Admission" (the "Todd M. Lyons memo"), abruptly abandoning this long-settled regime. The memo asserts that all individuals who entered without inspection are now subject to § 1225(b)(2)(A)'s

mandatory-detention provision, regardless of when or where they are apprehended, even if they have lived in the United States for years. [1]

49. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. 29 I&N Dec. 216 (BIA 2025).

50. Since Respondents adopted their new policies, a wave of federal courts has rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same new reading of the statute as ICE.[2]

51. In this District, courts have repeatedly rejected Respondents' new reading of the detention statutes and held that § 1226(a)—not § 1225(b)(2)—governs custody for long-resident noncitizens arrested in the interior, including those charged with entry without inspection.

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[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

[2] *See, e.g., Dominguez-Vega v. Thompson*, 25-CA-01439-XR (W.D. Tex Nov. 19, 2025); *Belsai v. Bondi, et al.*, No. 25-cv-3862 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, --- F.Supp.3d ---, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025); *Salazar v. Dedos*, No. 1:25- cv-00835-DHU-JMR, 2025 WL 2676729 (D. N.M. Sept. 17, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sept. 9, 2025); *Chanaguano Caiza v. Scott*, 25-cv-00500, 2025 WL 2806416, at *3 (D. Me. Oct. 2, 2025); *Luna Quispe v. Crawford, et al.*, No. 1:25-CV-1471-AJT-LRV, 2025 WL 2783799, at *6 (E.D. Va. Sept. 29, 2025); *Vazquez v. Bostock*, No. 25-cv-05240, 2025 WL 2782499, at *27 (W.D. Wash. Sept. 30, 2025); *J.U. v. Maldonado*, 25-CV-04836, 2025 WL 2772765, at *5 (E.D.N.Y. Sept. 29, 2025); *Rivera Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *7 (D.N.J. Sept. 26, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 WL 2732717, at *2 (M.D. Fla. Sept. 25, 2025); *Giron Reyes v. Lyons*, No. C25-4048, 2025 WL 2712427, at *5 (N.D. Iowa, Sept. 23, 2025); *Singh v. Lewis*, No. 25-cv-96, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 WL 2650637, at *7-8 (N.D. Cal. Sept. 16, 2025); *Alvarez-Chavez v. Kaiser*, 25-cv-06984-LB 2025 WL 2909526 (N.D. Cal., Oct. 9, 2025);*Cerritos-Echevarria v Bondi*, No. CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282 (D. Az. Oct. 3, 2025);*Padron-Covarrubias v. Vergara*, 5:25-cv-00112, (S.D. Tex. October 8, 2025); *Santiago-Santiago v. Bondi*, EP-25-CV-361-KC, 2025 WL 2792588, (W.D. Tex. Oct. 2, 2025); *Cardin-Alvarez v. Rivas*, CV 25-02943 PHX GMS (CDB), 2025 WL 2898389 (D. Az. Oct. 7, 2025); *Buenrostro-Mendez v. Bondi, et al.*, No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025). *But see Chavez v. Noem*, 3:25-cv-02325-CAB-SBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025 ("by the plain language of § 1225(a)(1) the petitioners are "applicants for admission" and thus subject to the mandatory detention provisions of "applicants for admission" under § 1225(b)(2)[.]"); *Vargas-Lopez v. Trump, et al.*, 8:25CV526 2025 WL 2780351 (D. Neb. Sept. 29, 2025) (the petitioner is an alien within the "catchall" scope of § 1225(b)(2) subject to detention without possibility of release on bond through a proceeding on removal under § 1229a, per 8 U.S.C. § 1225(b)(2)).

See Torre v. Bondi, No. SA-25-CV-01846-FB (W.D. Tex. Jan. 9, 2026)(granting habeas relief for an immigrant who was placed in 240 proceedings, released on his own recognizance and later re-detained); *Gonzalez Guerrero v. Noem*, No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025) (preliminary injunction holding that § 1226, not § 1225(b)(2), governs custody for interior arrests because a broad reading of § 1225(b)(2) would render § 1226 superfluous); *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025) (TRO requiring § 1226 process and enjoining re-detention without notice and a pre-deprivation hearing); *Hernandez-Ramiro v. Bondi*, No. 5:25-cv-01207-XR (W.D. Tex. Oct. 15, 2025) (TRO requiring a prompt § 1226 bond hearing with the Government bearing the burden, or release if no hearing is set); *Santiago-Santiago v. Noem*, No. 3:25-cv-361-KC, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025) (granting habeas relief for a DACA recipient misclassified under § 1225(b)); *Alvarez Martinez v. Noem*, No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025) (granting habeas and holding that the automatic stay of an IJ's bond order violates due process); *Lopez-Arevelo v. Ripa*, No. 3:25-cv-00337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025) (rejecting §§ 1252(g) and 1252(b)(9) as jurisdictional bars and ordering a bond hearing with a clear-and-convincing burden on the Government); *Martinez v. Noem*, No. 3:25-cv-00430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025) (holding that even assuming § 1225(b) applies, *Mathews* requires an individualized bond hearing); *Souza Vieira v. De-Anda Ybarra*, No. 3:25-cv-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025); *Erazo Rojas v. Noem*, No. 3:25-cv-00443-KC (W.D. Tex. Oct. 30, 2025).

52. *Hernandez-Fernandez v. Lyons* is especially instructive and closely parallels Petitioners' situation. *See also Dominguez-Vega v. Thompson*, 25-CA-01439-XR (W.D. Tex. Nov. 19, 2025). There, a Cuban national entered near Eagle Pass without inspection, was released two days later on an Order of Release on Recognizance (I-220A) issued "in accordance with section 236 of the Immigration and Nationality Act [8 U.S.C. § 1226]," lived in the United States for approximately three years, and was later re-detained at a routine check-in after the Government adopted its new § 1225(b) theory. Relying on new BIA precedent, the immigration judge concluded he lacked jurisdiction to conduct a bond hearing and treated the petitioner as subject to mandatory detention under § 1225(b). The district court held that (1) none of the INA's jurisdiction-stripping provisions barred habeas review; (2) further administrative exhaustion would be futile and would only prolong unlawful detention; (3) detaining the petitioner without a meaningful bond process violated procedural due process under *Mathews v. Eldridge*; and (4) the proper remedy was to require either a prompt bond hearing at which the Government bore a clear-and-convincing burden of proving danger or flight risk, or release under reasonable conditions. *See Hernandez-Fernandez*, 2025 WL 2976923, at *1–11*. Petitioners stand in the same legal posture and should receive the same protection here.

53. Outside this Circuit, a growing number of federal courts have likewise rejected ICE and EOIR's expanded interpretation of § 1225(b)(2), holding that § 1226(a) governs detention for noncitizens who have entered the interior and lived in the community. *See,* e.g., *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299, at *9 (D. Mass. July 7, 2025); *Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted sub nom. *Rocha Rosado v. Figueroa*, 2025 WL

2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25-cv-5937-DEH (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM (D. Mass. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-cv-06248-BLF (N.D. Cal. Aug. 21, 2025); *Palma Perez v. Berg*, No. 8:25-cv-00494 (D. Neb. Sept. 3, 2025); and *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025) (holding that § 1226(a), not § 1225(b), governs detention for long-resident noncitizens and that the Government's new reading of § 1225(b) is likely unlawful).

54. Taken together—particularly the decisions from this District and from *Hernandez-Fernandez*—this growing body of case law confirms the same point: § 1226(a) is the default detention authority for noncitizens in § 1229a removal proceedings who are already present in the United States, including those charged as inadmissible for entering without inspection, whereas § 1225(b) governs inspections at the border and recent arrivals "seeking admission."

55. The text of § 1226 confirms this reading. Section 1226(a) applies by default to "any alien" arrested and detained "pending a decision on whether the alien is to be removed from the United States." Those removal decisions are made in § 1229a proceedings "to decid[e] the inadmissibility or deportability of an alien." By its terms, § 1226 applies to noncitizens charged as inadmissible, including those present without admission or parole. *See* 8 U.S.C. § 1226(c)(1)(E). Congress's decision to carve out specific mandatory-detention categories in § 1226(c) "proves" that, absent those exceptions, § 1226(a) generally governs and bond is available. *See Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010); *Gomes*, 2025 WL 1869299, at *7.

56. Section 1226 therefore squarely applies to people like Petitioners: noncitizens who are already in the interior, charged as inadmissible for entering without proper documentation, and placed in § 1229a proceedings.

57. By contrast, § 1225(b) is structurally and textually tied to inspections "at the Nation's borders and ports of entry," where the Government must determine whether a person "seeking to enter" is admissible. *Jennings*, 583 U.S. at 287; 8 U.S.C. § 1225(b)(2)(A). It is not the default detention authority for individuals who, like Petitioners, have already entered, been released into the interior under § 1226, either on their own recognizance or with parole, and lived in the community for an extended period.

58. The Government's own records in this case confirm that Petitioners fall under § 1226(a), not § 1225(b). The Department of Homeland Security placed both Petitioners in § 240 removal proceedings evidenced by their MPP Form 0837 issued by CBP which specifically states that "pursuant to U.S. law, including section 240 of the Immigration and Nationality Act and implementing regulations, an immigration judge will determine whether you are removable from the United States…" *See* Exh 3 (MPP Form 0837). Lastly, the Petitioners Notice of Custody Determination states that they were released pursuant to the authority contained in section 236 of the INA. See Exh. 1, (I-286). Therefore, Petitioners were directly placed in full removal proceedings under INA section 240.

59. Issuance of an I-286 under § 236 is not a ministerial act; it is a formal, quasi-judicial determination of custody status that reflects DHS's decision that the person is subject to § 1226's discretionary regime rather than § 1225(b)'s mandatory-detention provisions. Under long-standing principles of administrative preclusion, courts "have not hesitated" to apply collateral estoppel and res judicata to final agency determinations where the agency

acted in a judicial capacity and the parties had a fair opportunity to litigate. *See Astoria Fed. Sav. & Loan Ass'n v. Solimino*, 501 U.S. 104, 108 (1991) (citing *United States v. Utah Constr. & Mining Co.*, 384 U.S. 394, 422 (1966)). Congress is understood to legislate against that background. *See Astoria*, 501 U.S. at 108. DHS's prior § 236 determination—memorialized in the I-286—thus constitutes a binding judgment for purposes of collateral estoppel and cannot be set aside simply because the agency's litigation strategy has shifted.

60. In light of the statutory text, regulatory history, decades of consistent practice, the Government's prior representations to the Supreme Court, the issuance of the NTA and the I-286, and the growing judicial consensus—including multiple decisions from this District and the closely analogous *Hernandez-Fernandez* decision—Respondents' attempt to reclassify Petitioners under § 1225(b)(2)(A) is unlawful. Section 1226(a) governs their custody and entitles them to release; the Government's contrary position should be rejected and, to the extent necessary, barred by judicial estoppel and principles of administrative preclusion.

61. Section 1226 therefore leaves no doubt that it applies to noncitizens charged as inadmissible to the United States, including those who are present without admission or parole.

62. Conversely, § 1225(b) applies to individuals arriving at U.S. ports of entry or who have only recently entered the United States and remain under "official restraint," not free to mingle with the general population. Its framework is premised on inspections at the border of individuals "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A); *Jennings*, 583 U.S. at 287.

63. Accordingly, the mandatory-detention provision of § 1225(b)(2)(A) does not apply to people like Petitioners, who were encountered near the border, then later released after a quasi-judicial determination by an immigration official that they fall under the discretionary arrest provision of § 1226(a) as uninspected entrants. That decision was made at the outset of proceedings based on facts available to both parties and Petitioners' own admissions. *See* Exh. 5 (DHS Forms I-213). Furthermore, the government issued the Petitioners I-286 documents specifying their release under Section 236. *See* Exh. 1. This reversal undermines the integrity of the adjudicative process and triggers the principles of issue preclusion recognized in *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138 (2015), which require courts to respect agency determinations when the ordinary elements of preclusion are met.

64. For decades, it has been settled practice for immigration officials to issue an I-220A, or Order of Release on Recognizance, to noncitizens encountered at or near the border whom DHS elects to place into the § 1226 framework. The issuance of an I-220A under § 236 is, by design, a formal adjudication of custody status, reflecting DHS's determination that the individual falls under the discretionary detention framework of § 236 rather than the mandatory detention provisions of § 235(b). The Supreme Court has "long favored application of the common-law doctrines of collateral estoppel (as to issues) and res judicata (as to claims) to those determinations of administrative bodies that have attained finality." *Astoria*, 501 U.S. at 108 (citing *Utah Constr.*, 384 U.S. at 422). As *Utah Construction* explains, "[w]hen an administrative agency is acting in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate, the courts have not hesitated to apply res judicata to

enforce repose." 384 U.S. at 422. Because Congress legislates against this background of common-law adjudicatory principles, DHS's prior § 236 determination constitutes a binding judgment for purposes of collateral estoppel and cannot be disturbed absent materially changed circumstances or new facts. Here, Petitioners dutifully complied with the conditions imposed by their release, including by reporting to ICE on August 25, 2025, at which time they were detained.

IX. CLAIMS FOR RELIEF

COUNT I
Violation of the INA

65. Petitioners incorporate by reference the allegations of fact set forth in the preceding paragraphs.

66. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who entered the United States without inspection and who the government issued documentation directly stating their placement into 240 proceedings. Those actions by DHS, followed by the Petitioner's concession to those charges before EOIR, represent a quasi-judicial determination by an agency which precludes further litigation of the issue unless new, material, and previously unavailable facts emerge. Such noncitizens continue to be detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

67. The application of § 1225(b)(2) to Petitioners unlawfully mandates continued detention and violates the INA.

COUNT II
Violation of the Bond Regulations

68. Petitioners incorporate by reference the allegations of fact set forth in preceding paragraphs.

69. 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 (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

70. Nonetheless, pursuant to *Matter of Yajure Hurtado*, both EOIR as well as ICE have a policy and practice of applying § 1225(b)(2) to individuals like Petitioners.

71. The application of § 1225(b)(2) to Petitioners unlawfully mandates their continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
Violation of Due Process

72. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

73. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

74. By statute and regulation, as interpreted by the Board of Immigration Appeals (BIA), ICE has the authority to re-arrest a noncitizen and revoke their bond, only where there has been a change in circumstances since the individual's release. 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9); *Matter of Sugay*, 17 I&N Dec. 647, 640 (BIA 1981). The government has further clarified in litigation that any change in circumstances must be "material." *Saravia v. Barr*, 280 F. Supp. 3d1168, 1197 (N.D. Cal. 2017), aff'd sub nom. Saravia for *A.H. v. Sessions*, 905 F.3d 1137 (9th Cir.2018) (emphasis added). That authority, however, is proscribed by the Due Process Clause because it is well-established that individuals released from incarceration have a liberty interest in their freedom.

75. At a minimum, in order to lawfully re-arrest Petitioners, the government must first establish, by clear and convincing evidence and before a neutral decision-maker that they are a danger to the community or a flight risk, such that their re-incarceration is necessary.

76. Petitioners have a fundamental interest in liberty and being free from official restraint.

77. The government's detention of Petitioners without a bond redetermination hearing to determine whether they are a flight risk or danger to others violates their right to due process.

Judicial Estoppel

78. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

79. The Government is judicially estopped from asserting that the Petitioners are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Under *New Hampshire v. Maine*, 532 U.S. 742 (2001), judicial estoppel applies where a party assumes a position, prevails, and then adopts a contrary position to gain an unfair advantage. The Government's reversal

undermines the integrity of the judicial process and prejudices the Petitioners who relied on the prior interpretation.

X. PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Order that Petitioners shall not be transferred outside the Western District of Texas while this habeas petition is pending;

(3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

(4) Issue a Writ of Habeas Corpus requiring that Respondents release Petitioners within three days;

(5) Declare that the detention of both Petitioners is unlawful;

(6) Grant the writ of habeas corpus ordering Respondents to release Petitioners again on their own recognizance, parole, or reasonable conditions of supervision.

(7) Award costs and, if permissible, attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, preserving both of the Petitioners positions that EAJA may apply in habeas notwithstanding *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023), and noting contrary authority, including *Vacchio v. Ashcroft*, 404 F.3d 663, 670–72 (2d Cir. 2005); *In re Petition of Hill*, 775 F.2d 1037, 1040–41 (9th Cir. 1985); *Daley v. Ceja*, No. 24-1191, — F.4th —, 2025 WL 3058588 (10th Cir. Nov. 3, 2025) (holding that habeas actions challenging immigration detention are unambiguously "civil actions" within EAJA's "any civil action" language and affirming an EAJA award where the habeas petition materially altered the parties' legal relationship by securing a bond hearing and

release); *Abioye v. Oddo*, 2024 U.S. Dist. LEXIS 174205 (W.D. Pa. 2024); and *Arias v. Choate*, 2023 U.S. Dist. LEXIS 119907 (D. Colo. 2023).

(8) Grant any other and further relief that this Court deems just and proper.

DATED this 14th day of January, 2026.

/s/ Erica Britt Schommer

Erica Britt Schommer
Attorney for Petitioners
St. Mary's Center for Legal and Social Justice
2507 NW 36th St.
San Antonio, Texas 78228
TX Bar No. 24041884

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

I represent Petitioners, Cristhyam Rios Uriarte and Juan Ramon Rios Uriarte, and submit this verification on their behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 14th day of January, 2026.

/s/ Erica B. Schommer

Erica B. Schommer

CERTIFICATE OF SERVICE

I hereby certify that on January 14th, 2026, I caused a true and correct copy of the foregoing Petition for Writ of Habeas Corpus and all accompanying exhibits to be served by certified mail, return receipt requested, on the following:

Stephanie Rico, Civil Process Clerk
Office of the Unites States Attorney for the Western District of Texas
601 NW Loop 410,
San Antonio, Texas 78216-5597
and by email at: USATXS.CivilNotice@usdoj.gov

Warden
Karnes County Immigration Processing Center
409 FM1144
Karnes City, TX 78118
United States

Service on the United States Attorney constitutes service on all named federal Respondents in this matter, and service has also been made directly on the Warden as Petitioner's immediate custodian.

Dated this January 14th, 2026.

/s/ Erica B Schommer

Erica Britt Schommer
Attorney for Petitioners
St. Mary's Center for Legal and Social Justice
2507 NW 36th St.
San Antonio, Texas 78228
TX Bar No. 24041884