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5

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

9 A.C.,
10 Petitioner-Plaintiff,
11 v.
Christopher J. LAROSE, Warden, Otay Mesa
Detention Center;

12 Gregory J. ARCHAMBEAULT, Acting Field
13 Office Director of San Diego Office of Detention
and Removal, U.S. Immigrations and Customs
14 Enforcement; U.S. Department of Homeland
Security;

15 Todd M. LYONS, Acting Director, Immigration
16 and Customs Enforcement, U.S. Department of
Homeland Security;

17 Kristi NOEM, in her Official Capacity, Secretary,
18 U.S. Department of Homeland Security; and

19 Pamela BONDI, in her Official Capacity, Attorney
General of the United States;

20 Respondents-Defendants.
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Case No. '26CV208 RBMAHG

**PETITION FOR WRIT OF
HABEAS CORPUS**

1 INTRODUCTION

2 1. The Petitioner, A.C,¹ is in the physical custody of the Department of
3 Homeland Security at the Otay Mesa Detention Center (OMDC) in San Diego,
4 California. He is facing ongoing detention in violation of the Due Process Clause
5 of the Fifth Amendment.

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7 2. Department of Homeland Security (“DHS”) documents allege that
8 Petitioner is a citizen of Guatemala and entered the United States without
9 inspection at an unknown time and place. Petitioner was arrested by Immigration
10 and Customs Enforcement (“ICE”) officers on October 15, 2025 during a
11 workplace enforcement raid in Hamden, Connecticut. He has been detained in
12 DHS custody since his arrest.

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14 3. The Petitioner has been detained for close to three months. Though
15 an Immigration Court held a bond hearing on December 31, 2025, the Immigration
16 Court determined it had no jurisdiction pursuant to *Matter of Yajure Hurtado*, 29
17 I&N Dec. 216 (BIA 2025). The Immigration Court made alternative findings that
18 if the Court did have jurisdiction at a later date, the Court would grant a bond of
19 \$2,000, along with certain conditions.
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¹ The Petitioner is proceeding under a pseudonym and will file a motion to proceed under a
24 pseudonym with the Court. The Petitioner will provide his identity, including his full name and
alien number, to the Respondents’ counsel.

1 4. Currently, the Petitioner remains unlawfully detained in DHS custody
2 without bond and separated from his family. DHS has denied Petitioner with
3 release from immigration custody, consistent with DHS policy² instructing all
4 Immigrations and Customs Enforcement (“ICE”) employees to consider anyone
5 who entered the United States without admission or inspection to be subject to
6 mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be
7 released on bond during the removal hearing process. The Board of Immigration
8 Appeals similarly issued a decision binding on all immigration judges holding that
9 they have no authority to consider bond requests for any person who entered
10 without admission because they should be subject to mandatory detention under 8
11 U.S.C. § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA
12 2025). Subjecting the Petitioner to mandatory detention under 8 U.S.C. §
13 1225(b)(2)(A) violates the plain language of the Immigration and Nationality Act
14 (“INA”) because a different statute, § 1226(a), expressly applies to people who,
15 like Petitioner, are charged as removable for having entered the United States
16 without inspection.
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20 5. The Petitioner therefore respectfully requests that this Court issue a
21 writ of habeas corpus, determine that Petitioner’s ongoing detention violates his
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23 ² *Interim Guidance Regarding Detention Authority for Applicants for Admission*,
24 ICE (July 8, 2025); available at <https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents>.

1 constitutional right to due process, and order Petitioner’s release upon posting of
2 \$2,000 bond pursuant to the Immigration Judge’s alternative finding that she
3 would grant bond in that amount. In the alternative, this Court should order the
4 Respondents to provide the Petitioner with an individualized bond hearing in
5 which jurisdiction exists to proceed on the merits of the claim for release.
6

7 **JURISDICTION**

8 6. Petitioner is in the physical custody of Respondents. Petitioner is
9 detained at the Otay Mesa Detention Center in San Diego, California.

10 7. This action arises under the Due Process Clause of the Fifth
11 Amendment of the U.S. Constitution. Jurisdiction is proper under 28 U.S.C. §§
12 1331 (federal question), 2241 (habeas corpus); U.S. Const. Art. I, § 2; (Suspension
13 Clause); and 5 U.S.C. § 702 (Administrative Procedure Act). This Court may grant
14 relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory
15 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
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17 8. Congress has preserved judicial review of challenges to unlawful
18 immigration detention. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839-841 (2018)
19 (holding that 8 U.S.C. §§ 1226(e), 1252(b)(9) do not bar review of challenges to
20 prolonged immigration detention); *see also id.* at 876 (Breyer, J., dissenting). (“8
21 U.S.C. § 1252(b)(9) . . . by its terms applies only with respect to review of an order
22 of removal”) (internal quotation marks and brackets omitted).
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1 VENUE

2 9. Venue is proper in this District because this is the district in which
3 Petitioner is confined. *See Doe v. Garland*, 109 F.4th 1188, 1197-99 (9th Cir.
4 2024).

5
6 10. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
7 because Respondents are employees, officers, and agencies of the United States,
8 and because a substantial part of the events or omissions giving rise to the claims
9 occurred in the Southern District of California.

10 REQUIREMENTS OF 28 U.S.C. § 2243

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

17
18 12. Habeas corpus is “perhaps the most important writ known to the
19 constitutional law . . . affording as it does a *swift* and imperative remedy in all
20 cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)
21 (emphasis added). “The application for the writ usurps the attention and displaces
22 the calendar of the judge or justice who entertains it and receives prompt action
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1 from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116,
2 1120 (9th Cir. 2000) (citation omitted).

3
4 **PARTIES**

5 13. Petitioner A.C. is a noncitizen currently detained by Respondents
6 pending ongoing removal proceedings.

7 14. Respondent Christopher J. LaRose is employed by CoreCivic as
8 Warden of the Otay Mesa Detention Center, where Petitioner is detained. He has
9 immediate physical custody of Petitioner. He is sued in his official capacity.

10 15. Respondent Gregory J. Archambeault is the Acting Director of the
11 San Diego Field Office of ICE’s Enforcement and Removal Operations division.
12 As such, Mr. Archambeault is Petitioner’s immediate custodian and is responsible
13 for Petitioner’s detention and removal. He is named in his official capacity.
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15 16. Respondent Todd M. Lyons is the Acting Director of Immigration and
16 Customs Enforcement (ICE) and is responsible for ICE’s policies, practices, and
17 procedures, including those relating to the detention of immigrants. ICE is a legal
18 custodian of Petitioner and Mr. Lyons is named in his official capacity.
19

20 17. Respondent Kristi Noem is the Secretary of the Department of
21 Homeland Security. She is responsible for the implementation and enforcement of
22 the Immigration and Nationality Act (INA), and oversees ICE, which is
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1 responsible for Petitioner’s detention. Ms. Noem has ultimate custodial authority
2 over Petitioner and is sued in her official capacity.

3 18. Respondent Pamela Bondi is the Attorney General of the United
4 States. She is responsible for the Department of Justice, of which the Executive
5 Office for Immigration Review and the immigration court system it operates is a
6 component agency. She is sued in her official capacity.
7

8 **FACTS**

9 19. Petitioner is currently detained by Respondents pending immigration
10 removal proceedings in the Otay Mesa Detention Center in San Diego, California.
11

12 20. Immigration records reflect that Petitioner is a citizen of Guatemala
13 and that he entered the United States without inspection. Records reflect that
14 Petitioner was not apprehended upon entry.

15 21. On October 15, 2025, Petitioner was detained by Immigration and
16 Customs Enforcement (“ICE”) officers during a workplace enforcement raid in
17 Hamden, CT.

18 22. The Department of Homeland Security (“DHS”) subsequently served
19 Petitioner with a notice to appear (“NTA”) in immigration court. Petitioner was
20 then transported to Massachusetts and detained in DHS custody. He was then
21 transferred to the Otay Mesa Detention Center in San Diego, CA.
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1 process protection applies to all noncitizens, including both removable and
2 inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth
3 removable and inadmissible [noncitizens] are entitled to be free from detention that
4 is arbitrary or capricious”).

5
6 27. Due process requires “adequate procedural protections” to ensure that
7 the government’s asserted justification for physical confinement “outweighs the
8 individual’s constitutionally protected interest in avoiding physical restraint.”
9 *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted). In the immigration
10 context, the Supreme Court has recognized only two valid purposes for civil
11 detention—to mitigate the risks of danger to the community and to prevent flight.
12 *Id.*; *Demore*, 538 U.S. at 528.

13
14 28. The INA prescribes three basic forms of detention for the vast
15 majority of noncitizens in removal proceedings conducted pursuant to 8 U.S.C. §
16 1229a.

17 29. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in §
18 1229a removal proceedings before an Immigration Judge (“IJ”). Individuals
19 covered by § 1226(a) detention are generally entitled to a bond hearing at the
20 outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while certain
21 noncitizens who have been arrested, charged with, and/or convicted of certain
22 crimes are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).
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1 30. Second, the INA provides for mandatory detention of noncitizens
2 subjected to an expedited removal order imposed pursuant to 8 U.S.C. § 1225(b)(1)
3 and for certain other noncitizen applicants for admission to the U.S. who are
4 deemed not clearly entitled to be admitted. *See* 8 U.S.C. § 1225(b)(2).
5

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

9 32. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a)
10 and 1225(b)(2). The detention provisions at § 1226(a) and § 1225(b)(2) were
11 enacted as part of the Illegal Immigration Reform and Immigrant Responsibility
12 Act (IIRIRA) of 1996, Pub. L. No. 104--208, Div. C, §§ 302-03, 110 Stat. 3009-
13 546, 3009-582 to 3009-583, 3009-585. Section 1226 was most recently amended
14 in early 2025 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
15 Following the enactment of the IIRIRA in 1996, EOIR drafted new regulations
16 applicable to proceedings before immigration judges explaining that, in general,
17 people who entered the country without inspection – also referred to as being
18 “present without admission” - were not considered detained under § 1225 and that
19 they were instead detained under § 1226(a). *See* Inspection and Expedited
20 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
21 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).
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1 Thus, in the decades that followed, most noncitizens who entered without
2 inspection and were placed in standard § 1229a removal proceedings received
3 bond hearings before IJs, unless their criminal history rendered them ineligible for
4 bond pursuant to § 1226(c). That practice was consistent with many more decades
5 of practice prior to IIRIRA, in which noncitizens who were not deemed “arriving”
6 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8
7 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996)
8 (noting that § 1226(a) simply “restates” the detention authority previously found at
9 § 1252(a)).
10

11 33. This practice both pre- and post-enactment of IIRIRA in 1996 is
12 consistent with the fact that noncitizens present within the United States – as
13 opposed to noncitizens present at the border and seeking admission - have
14 constitutional rights. As noted above, “[T]he Due Process Clause applies to all
15 ‘persons’ within the United States, including aliens, whether their presence here is
16 lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693
17 (2001).
18

19 34. On July 8, 2025, ICE, “in coordination with” the Department of
20 Justice, announced a new policy that rejected the well-established understanding of
21 the statutory framework and reversed decades of practice.
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1 35. The new policy, entitled “Interim Guidance Regarding Detention
2 Authority for Applicants for Admission,”³ claims that all noncitizens who entered
3 the United States without inspection shall now be deemed “applicants for
4 admission” and subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
5 The policy applies regardless of when a person is apprehended, and it affects those
6 who have resided in the United States for months, years, and even decades.

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

14 37. Since Respondents adopted their new policies, dozens of federal
15 courts have rejected their new interpretation of the INA’s detention authorities.
16 Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same
17 reading of the statute as ICE. Even before ICE or the BIA introduced these
18 nationwide policies, IJs in the Tacoma, Washington Immigration Court stopped
19 providing bond hearings for persons who entered the United States without
20 inspection and who have since resided here. There, the U.S. District Court in the
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23 ³ Available at [https://immpolicytracking.org/policies/ice-issues-memo-eliminating-](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-)
24 [bond-hearings-for-undocumented-immigrants/#/tab-policy-](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-).

1 Western District of Washington found that such a reading of the INA is likely
2 unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
3 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779
4 F. Supp. 3d 1239 (W.D. Wash. 2025).

5
6 38. Subsequently, court after court has adopted the same reading of the
7 INA's detention authorities and rejected ICE and EOIR's new interpretation,
8 including cases in the Southern District of California. *See, e.g., Vasquez Garcia v.*
9 *Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025);
10 *Sandoval v. LaRose*, No. 25-CV-3408 JLS (VET), 2025 WL 3552748 (S.D. Cal.
11 Dec. 10, 2025); *Cruz-Flores v. Noem*, No. 25-CV-3263 JLS (VET), 2025 WL
12 3526830 (S.D. Cal. Dec. 9, 2025); *Diego-Mateo v. Noem*, No. 25-CV-3223 JLS
13 (MSB), 2025 WL 3471321 (S.D. Cal. Dec. 3, 2025). Outside of the Southern
14 District of California, numerous courts have held likewise. *See, e.g., Gomes v.*
15 *Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz*
16 *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24,
17 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL
18 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No. CV-
19 25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug 13, 2025); *Lopez*
20 *Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug.
21 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411
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1 (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL
2 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025
3 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-
4 06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v.*
5 *Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025);
6 *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug.
7 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), 2025 WL 2466670
8 (D. Minn. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-
9 EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Pizarro Reyes v. Raycraft*,
10 No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v.*
11 *Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see*
12 *also Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb.
13 Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
14 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC,
15 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No.
16 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025)
17 (same).

21 39. Numerous courts have rejected DHS’s and EOIR’s new interpretation
22 because it defies the INA. As the *Rodriguez Vazquez* court and others have
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1 explained, the plain text of the statutory provisions demonstrates that § 1226(a),
2 not § 1225(b), applies to people like the Petitioner.

3 40. Section 1226(a) applies by default to all persons “pending a decision
4 on whether the [noncitizen] is to be removed from the United States.” Removal
5 hearings are held pursuant to § 1229a, to “decid[e] the inadmissibility or
6 deportability of [a noncitizen].” The text of § 1226(a) also explicitly applies to
7 individuals charged as being inadmissible, including those who entered without
8 inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to
9 inadmissible individuals makes clear that, by default, such individuals are afforded
10 a bond hearing under subsection (a).
11

12 41. Section 1226 therefore leaves no doubt that it applies to noncitizens
13 present in the United States who face charges of being inadmissible to the United
14 States, including those who are present without admission or parole.
15

16 42. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry
17 or who recently entered the United States and are encountered at or near the
18 border. The statute’s entire framework is premised on inspections at the border of
19 people who are “seeking admission” to the United States. 8 U.S.C. §
20 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory
21 detention scheme applies “at the Nation’s borders and ports of entry, where the
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1 Government must determine whether [a noncitizen] seeking to enter the country is
2 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

3 43. Accordingly, the mandatory detention provision of § 1225(b)(2) does
4 not apply to people like Petitioner, who did not enter the United States at a port of
5 entry and was not apprehended while attempting to enter the country but rather was
6 residing in the United States at the time he was apprehended.
7

8 **CLAIM FOR RELIEF**

9 **COUNT ONE**
10 **VIOLATION OF 8 U.S.C. § 1226(a) AND ASSOCIATED**
11 **REGULATIONS**

12 44. The Petitioner re-alleges and incorporates herein by reference, as is set
13 forth fully herein, the allegations in all the preceding paragraphs.

14 45. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
15 apply to individuals, like the Petitioner, who did not enter at a port of entry, were
16 residing in the United States prior to being arrested, have been placed under §
17 1229a removal proceedings, and have been charged with a ground of
18 inadmissibility, including 8 U.S.C. § 1182(a)(6)(A)(i). Under the INA and its
19 implementing regulations, such persons may only be detained pursuant to §
20 1226(a), unless subject to § 1225(b)(1), § 1226(c), or § 1231.
21

22 46. In 1997, after Congress amended the INA through the IIRIRA, EOIR
23 and the then-Immigration and Naturalization Service issued an interim rule to
24

1 interpret and apply IIRIRA. Specifically, under the heading of “Apprehension,
2 Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite
3 being applicants for admission, [noncitizens] who are present without having
4 been admitted or paroled (formerly referred to as [noncitizens] who entered
5 without inspection) will be eligible for bond and bond redetermination.” 62 Fed.
6 Reg. at 10323. The agencies thus made clear that individuals who had entered
7 without inspection were eligible for consideration for bond and bond hearings
8 before IJs under 8 U.S.C. § 1226 and its implementing regulations.
9

10 47. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a
11 policy and practice of applying § 1225(b)(2) to individuals like the Petitioner and,
12 pursuant to the July 8, 2025 “Interim Guidance Regarding Detention Authority
13 for Applicants for Admission,” DHS has a policy and practice of applying §
14 1225(b)(2) to individuals like the Petitioner.
15

16 48. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
17 continued detention without a bond hearing and violates 8 U.S.C. § 1226(a) and
18 its accompanying regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
19

20 49. As such, the Respondents’ application of § 1225(b)(2) to Petitioner
21 violates his right to procedural due process under the Fifth Amendment of the
22 United States Constitution.
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- 1 e. Award Petitioner his costs and reasonable attorneys' fees in this action
2 as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412;
3 and
4 f. Grant such further relief as the Court deems just and proper.
5

6
7 DATED this 14th of January, 2026.

8
9 /s/ Warren Craig
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Attorney for Petitioner

1 **VERIFICATION FOR SOMEONE ACTING ON PETITIONER’S BEHALF PERSUANT**
2 **TO 28 U.S.C. § 2242**

3 I am submitting this verification on behalf of the Petitioner because I am Petitioner’s
4 counsel in his removal and custody proceedings. I have been representing Petitioner as co-
5 counsel since December 2025 and have also discussed with him the events described in this
6 Petition. On those bases, I hereby verify that the statements made in the attached Petition for
7 Writ of Habeas Corpus are true and correct to the best of my knowledge.

8 DATED this 13th of January, 2026. /s/Rachel Lerman

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16 *Immigration Attorney for Petitioner*