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12 UNITED STATES DISTRICT COURT
13 FOR THE DISTRICT OF COLORADO

14 LARA MEJIA, Jose

15 Petitioner,

16 v.

17 JUAN BALTAZAR, Warden of the Aurora
Contract Detention Facility, in his official
18 capacity; U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT; ROBERT
19 GUADIAN, Director of the Denver Field Office
of Enforcement and Removal Operations, U.S.
20 Immigration and Customs Enforcement, in his
official capacity; KRISTI NOEM, Secretary of
21 the U.S. Department of Homeland Security, in
her official capacity; TODD LYONS, Acting
22 Director of U.S. Immigration and Customs
Enforcement, in his official capacity; PAMELA
23 BONDI, Attorney General of the United States,
in her official capacity; EXECUTIVE OFFICE
24

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

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FOR IMMIGRATION REVIEW; SIRCE
OWEN, Acting Director for Executive Office of
Immigration Review, in her official capacity;
and U.S. DEPARTMENT OF HOMELAND
SECURITY

Respondents.

1 INTRODUCTION

2 1. Petitioner, JOSE LARA MEJIA, hereby petitions this Court for a writ of habeas
3 corpus (the Petition). Petitioner has been continuously present in the United States without
4 lawful immigration status since March 22, 1999 and in removal proceedings based on a charge of
5 entry without inspection under 8 U.S.C. § 1182(a)(6)(A)(i). The Department of Homeland
6 Security initiated removal proceedings by serving Petitioner with a Notice to Appear on January
7 27, 2026, and his removal proceedings remain pending. On January 26, 2026, Petitioner was
8 taken into custody by officers of Immigration and Customs Enforcement (“ICE”) following a
9 motor vehicle collision in which his vehicle was struck by an intoxicated driver who ran a red
10 light. After local law enforcement responded to the accident, ICE was contacted, and Petitioner
11 was subsequently arrested in Cheyenne, Wyoming.

12 2. Petitioner now faces unlawful detention, because the Department of Homeland
13 Security (DHS) and the Executive Office of Immigration Review (EOIR) have incorrectly
14 concluded that aliens who entered the United States without inspection are subject to mandatory
15 detention without the possibility of bond. That conclusion violates the plain language of the
16 applicable statutory framework and contravenes decades of agency practice applying the correct
17 statute.

18 3. DHS policy issued on July 8, 2025, instructs all Immigration and Customs
19 Enforcement (ICE) employees to consider anyone inadmissible under 8 U.S.C. §
20 1182(a)(6)(A)(i)—*i.e.*, those who entered the United States without admission or inspection—to
21 be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on
22 bond.

1 4. Consistent with this new policy, on September 5, 2025, the Board of Immigration
2 Appeals (BIA or “Board”) issued a precedential decision binding on all immigration judges that
3 held that an immigration judge has no authority to consider bond requests for any person who
4 entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216
5 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C.
6 § 1225(b)(2)(A) and therefore ineligible to be released on bond.

7 5. Respondents’ new legal interpretation is plainly contrary to the statutory
8 framework and decades of agency practice applying the correct statute—8 U.S.C. § 1226(a)—to
9 individuals like Petitioner.

10 6. Petitioner’s detention on the basis of the new DHS policy and the Board’s
11 decision in *Matter of Yajure Hurtado* violates the plain language of the Immigration and
12 Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
13 previously entered and are now residing in the United States. Instead, such individuals are
14 subject to a § 1226(a), which allows for release on conditional parole or bond. That statute
15 expressly applies to individuals who, like Petitioner, are charged as inadmissible for having
16 entered the United States without inspection.

17 7. Petitioner also brings this Petition as a member of the class of detainees
18 conditionally certified in *Gutierrez v. Baltasar*, No. 25-CV-2720-RMR, 2025 U.S. Dist. LEXIS
19 229826 (D. Colo. Nov. 21, 2025) (the “Bond Eligible Class”). In that case, the district court
20 found that the Bond Eligible Class—for purposes of a declaratory judgment holding that the
21 Bond Eligible Class was detained under 8 U.S.C. § 1226(a), and thus may not be denied
22 consideration for release on bond under § 1225(b)(2)(A)—consisted of those who met the
23 following conditions:

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- 1 a. For the person's most recent entry into the United States, the government has not
2 alleged that the person was admitted into the United States;
- 3 b. For the person's most recent entry into the United States, the person was not
4 paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A) at the time of
5 entry;
- 6 c. The person is not a person whose most recent arrest occurred at the border while
7 they were arriving in the United States; and,
- 8 d. The person is being detained based on Respondents' assertion that they are
9 subject to 8 U.S.C. § 1225(b)(2)(A).

10 *Gutierrez*, 2025 U.S. Dist. LEXIS 229826 at *17-18.

11 8. *Gutierrez* is consistent with decisions from other district courts effectively
12 certifying the same nationwide class. *See Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM, 2025
13 U.S. Dist. LEXIS 231977, *26-27 (C.D. Cal. Nov. 25, 2025) (certifying a nationwide class and
14 extended declaratory judgment to the certified class); *see also Bautista v. Santacruz*, 2025 U.S.
15 Dist. LEXIS 262265, at *85-88 (C.D. Cal. Dec. 18, 2025) (final judgment; class-wide
16 declaratory relief and APA vacatur of DHS's July 8, 2025 policy); *Guerrero Orellana v. Moniz*,
17 No. 25-CV-12664-PBS, 2025 U.S. Dist. LEXIS 214095, (D. Mass. Oct. 30, 2025) (certifying
18 substantially same class for statutory claim regarding bond eligibility).

19 9. *Gutierrez* is on appeal to the Tenth Circuit Court of Appeals. *See Notice of*
20 *Appeal, Mendoza Gutierrez v. Baltasar*, No. 1:25-cv-02720-RMR (D. Colo. Dec. 15, 2025), ECF
21 No. 68.

22 10. Pending the appeal, Petitioner is a member of the Bond Eligible Class, because:

- 23 a. the Government has not alleged that he was admitted into the United States at
24 most recent entry;

- 1 b. was not paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A) at
2 the time of his most recent entry;
- 3 c. his most recent arrest did not occur at the border while he was arriving in the
4 United States; and
- 5 d. is being detained based on Respondents' assertion that he is subject to 8
6 U.S.C. § 1225(b)(2)(A).

7 11. As discussed below, the majority of district courts to consider the issue have held
8 that individuals like Petitioner and others in the Bond Eligible Class are entitled to a bond
9 hearing under § 1226(a) and that § 1225(b)(2)(A) does not apply to them. Nevertheless,
10 immigration judges have taken the position that they remain bound to follow the agency's prior
11 decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

12 12. Following his apprehension on January 26, 2026, the Department of Homeland
13 Security ("DHS") initiated removal proceedings against Petitioner pursuant to 8 U.S.C. § 1229a
14 by serving a Notice to Appear on January 27, 2026. DHS charges Petitioner as inadmissible
15 under 8 U.S.C. § 1182(a)(6)(A)(i) on the sole ground that he entered the United States without
16 inspection.

17 13. As of the filing of this Petition, Petitioner is in the physical custody of
18 Respondents at the Aurora Contract Detention Facility. He now faces unlawful detention because
19 the DHS and EOIR are detaining him pursuant to 8 U.S.C. § 1225(b)(2)(A) (instead of the
20 applicable provision, § 1226(a)). In other words, Respondents have unlawfully ordered that
21 Petitioner be denied the opportunity to be released on bond.

22 14. The Court should expeditiously grant this Petition and find that Petitioner's
23 apprehension and detention without opportunity for bond is unlawful in violation of (i) the Due
24 Process Clause of the Fifth Amendment of the Constitution and (ii) 8 U.S.C. § 1226(a).

1 15. Because Respondents are detaining Petitioner unlawfully Petitioner asks the Court
2 to issue a writ of habeas corpus and order his immediate release from detention, or, in the
3 alternative, order Respondents to schedule a bond hearing under § 1226(a) before an immigration
4 judge within seven (7) days, wherein they will bear the burden to demonstrate that he is a danger
5 to the community or a flight risk to justify continued detention.

6 **JURISDICTION**

7 16. This action arises under the Constitution of the United States and the Immigration
8 and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

9 17. Petitioner is in the physical custody of Respondents. As of the filing of this
10 Petition, Petitioner is detained at the Aurora Contract Detention Facility in Aurora, Colorado.

11 18. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), 28
12 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
13 Constitution (the Suspension Clause).

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

16 **VENUE**

17 20. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
18 500 (1973), venue lies in the United States District Court for the District of Colorado, the judicial
19 district in which Petitioner currently is detained. Petitioner is in the physical custody of
20 Respondents. Petitioner is detained at the Aurora Contract Detention Facility in Aurora,
21 Colorado.

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

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

5 22. Courts have long recognized the significance of the habeas statute in protecting
6 individuals from unlawful detention. The “Great Writ” has been referred to as “perhaps the most
7 important writ known to the constitutional law of England, affording as it does a *swift* and
8 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391,
9 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the
10 calendar of the judge or justice who entertains it and receives prompt action from him within the
11 four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation
12 omitted).

13 23. The Court must grant the Petition for writ of habeas corpus or issue an order to
14 show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28
15 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a
16 return “within *three days* unless for good cause additional time, not exceeding twenty days, is
17 allowed.” *Id.* (emphasis added).

18 **PARTIES**

19 24. Petitioner JOSE LARA MEJIA is a citizen of Mexico who has been in
20 immigration detention since January 26, 2026. Petitioner has resided in the United States since
21 March 22, 1999. After Petitioner was arrested in Cheyenne, Wyoming, ICE did not set bond. He
22 is being denied a bond hearing because Respondents have deemed have deemed him an
23 “applicant for admission.”
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1 25. Respondent JUAN BALTAZAR is the Warden of the Aurora Contract Detention
2 Facility where Petitioner is detained. Warden BALTAZAR has immediate physical custody of
3 the Petitioner. He is sued in his official capacity.

4 26. Respondent U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) is
5 the federal agency responsible for enforcing immigration laws.

6 27. Respondent ROBERT GUADIAN is the Director of the Denver Field Office of
7 ICE's Enforcement and Removal Operations division. As such, Field Office Director GUADIAN
8 is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He
9 is named in his official capacity.

10 28. Respondent KRISTI NOEM is the Secretary of the Department of Homeland
11 Security. She is responsible for the implementation and enforcement of the Immigration and
12 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
13 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

14 29. Respondent TODD LYONS, Acting Director of ICE, oversees ICE's
15 implementation of policies for the detention and removal of noncitizens. He is sued in his official
16 capacity.

17 30. Respondent PAMELA BONDI is the Attorney General of the United States. She
18 is responsible for the Department of Justice, of which the Executive Office for Immigration
19 Review and the immigration court system it operates is a component agency. She is sued in her
20 official capacity.

21 31. Respondent EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (EOIR) is
22 the federal agency responsible for implementing and enforcing the INA in removal proceedings,
23 including for custody redeterminations in bond hearings.

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1 32. Respondent SIRCE OWEN is the Acting Director of EOIR and is sued in her
2 official capacity

3 33. Respondent DEPARTMENT OF HOMELAND SECURITY (DHS) is the federal
4 agency responsible for implementing and enforcing the INA, including the detention and
5 removal of noncitizens.

6 **STATEMENT OF FACTS**

7 34. Petitioner has significant, longstanding equities in the United States and is
8 actively pursuing lawful permanent resident status. Petitioner is the beneficiary of an approved
9 Form I-130, Petition for Alien Relative, filed by his United States citizen spouse and approved
10 on February 12, 2020. Petitioner also received approval of a Form I-601A, Application for
11 Provisional Unlawful Presence Waiver, on October 5, 2024. Since the approval of the I-601A
12 waiver, Petitioner has been awaiting scheduling of a consular interview in order to complete
13 immigrant visa processing and obtain lawful permanent resident status. As of October 2024,
14 Petitioner has remained in this posture solely due to agency processing delays.

15 35. On January 26, 2026, Petitioner was apprehended in Cheyenne, Wyoming
16 following a motor vehicle accident in which his vehicle was struck by a drunk driver who ran a
17 red light. Local law enforcement responded to the accident and contacted Immigration and
18 Customs Enforcement. ICE agents subsequently arrived at the scene, determined that Petitioner
19 was not a United States citizen, and took him into custody.

20 36. There have been no other purported changes to his situation which would place
21 him now in detention.

22 37. Petitioner is now being held in the Aurora Contract Detention Facility in this
23 District.

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1 38. Petitioner’s criminal history is limited to two Colorado misdemeanor convictions.
2 In 2003, Petitioner was convicted in Colorado state court of possession of a Schedule V
3 controlled substance (Morpholine). In 2004, Petitioner was convicted in Colorado state court of
4 Harassment, a misdemeanor. Both convictions occurred more than twenty years ago. Since that
5 time, Petitioner has not incurred any additional arrests or convictions and has lived a law-abiding
6 life in the United States for over two decades. These convictions and their dispositions were fully
7 disclosed and considered in connection with Petitioner’s approved Form I-130 and Form I-601A
8 applications. Petitioner is not statutorily barred from pursuing lawful permanent resident status
9 based on these convictions. ICE officials have indicated they do not intend to release Petitioner.

10 **LEGAL FRAMEWORK**

11 39. The Supreme Court has stated that it “is well established the Fifth Amendment
12 entitles aliens to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510,
13 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—
14 from government custody, detention, or other forms of physical restraint—lies at the heart of the
15 liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see*
16 *also id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause includes
17 protection against unlawful or arbitrary personal restraint or detention.”). This fundamental due
18 process protection applies to all noncitizens, including both removable and inadmissible
19 noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“both removable and inadmissible aliens are
20 entitled to be free from detention that is arbitrary or capricious”).

21 40. Due process therefore requires “adequate procedural protections” to ensure that
22 the government’s asserted justification for physical confinement “outweighs the individual’s
23 constitutionally protected interest in avoiding physical restraint.” *Id.* at 690 (internal quotation
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1 marks omitted). In the immigration context, the Supreme Court has recognized only two valid
2 purposes for civil detention—to mitigate the risks of danger to the community and to prevent
3 flight. *Id.*; *Demore*, 538 U.S. at 528.

4 41. The INA prescribes three basic forms of detention for noncitizens in removal
5 proceedings.

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

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

14 44. Third, the Act also provides for detention of noncitizens who have been
15 previously ordered removed, including individuals in withholding-only proceedings, *see* 8
16 U.S.C. § 1231(a)-(b).

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

18 46. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
19 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
20 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section
21 1226(a) was most recently amended last year by the Laken Riley Act, Pub. L. No.119-1, 139
22 Stat. 3 (2025).

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1 47. Following enactment of the IIRIRA, EOIR drafted new regulations explaining
2 that, in general, people who entered the country without inspection were not considered detained
3 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited
4 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
5 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

6 48. Thus, in the decades that followed, most people who entered without inspection—
7 unless they were subject to some other detention authority—received bond hearings. That
8 practice was consistent with many more decades of prior practice, in which noncitizens who
9 were not deemed “arriving” were entitled to a custody hearing before an immigration judge or
10 other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at
11 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at §
12 1252(a)).

13 49. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
14 rejected well-established understanding of the statutory framework and reversed decades of
15 practice.

16 50. The new policy, entitled “Interim Guidance Regarding Detention Authority for
17 Applicants for Admission,”¹ claims that all persons who entered the United States without
18 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The
19 policy applies regardless of when a person is apprehended, and affects those who have resided in
20 the United States for months, years, and even decades

21 51. On September 5, 2025, the BIA adopted this same position in a published
22 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the

23 _____
24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are
2 ineligible for bond hearings before immigration judges.

3 52. Since Respondents adopted their new policies, dozens of federal courts have
4 rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected
5 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

6 53. Even before ICE or the BIA introduced these nationwide policies, immigration
7 judges in the Tacoma, Washington, immigration court stopped providing bond hearings for
8 persons who entered the United States without inspection and who have since resided here. On
9 review, the U.S. District Court in the Western District of Washington rejected the immigration
10 judges' rulings and found that such a reading of the INA is likely unlawful and that § 1226(a),
11 not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States.
12 *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

13 54. Subsequently, court after court has consistently adopted the same reading of the
14 INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v.*
15 *Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v.*
16 *Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
17 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
18 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
19 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
20 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE,
21 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-
22 ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-
23 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH),

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1 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-
2 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-
3 02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-
4 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
5 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
6 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
7 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
8 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
9 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
10 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
11 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
12 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
13 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
14 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
15 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

16 55. In Colorado, a federal district judge recently reached the same conclusion. *Garcia*
17 *Abanil v. Baltazar*, No. 25-cv-4029-WJM-STV, 2026 U.S. Dist. LEXIS 7440, at *16, 19 (D.
18 Colo. Jan. 16, 2026) (finding that detention without a bond hearing under § 1225(b)(2) violated
19 the INA and the petitioner’s right to due process under the Fifth Amendment to the U.S.
20 Constitution).

21 56. Courts across the nation have rejected DHS’s and EOIR’s new interpretation
22 because it defies the INA. As the *Garcia Abanil* Court and others have explained, the plain text
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1 of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like
2 Petitioner.

3 57. Section 1226(a) applies by default to all persons “pending a decision on whether
4 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
5 § 1229a, which “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

6 58. The text of § 1226 also explicitly applies to people charged as being inadmissible,
7 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
8 (E)’s reference to such people makes clear that, by default, such people are afforded a bond
9 hearing under subsection (a). As the *Rodriguez Vazquez* Court explained, “[w]hen Congress
10 creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions,
11 the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
12 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

13 59. The plain reading of Section 1226 therefore leaves no doubt that it applies to
14 people who face charges of being inadmissible to the United States, including those—like
15 Petitioner—who are present without admission or parole.

16 60. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
17 recently entered the United States. The statute’s entire framework is premised on inspections at
18 the border of people who are “seeking admission” to the United States. 8 U.S.C.
19 § 1225(b)(2)(A).

20 61. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not
21 apply to individuals like Petitioner, who have already entered and were residing in the United
22 States at the time they were apprehended.

23 **CLAIM FOR RELIEF**

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COUNT ONE
Violation of the INA

62. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

63. The mandatory detention provision at 8 U.S.C. § 1225(b)(2)(A) 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 previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

64. The application of § 1225(b)(2)(A) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT TWO
Violation of the Due Process Clause of
the Fifth Amendment of the United States Constitution

65. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

66. The Fifth Amendment's Due Process Clause prohibits the Government from depriving any 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 Clause protects." *Zadvydas*, 533 U.S. at 690. It is well-established that "the Due Process Clause applies to 'all persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

1 67. Because 8 U.S.C. § 1226 governs Petitioner’s detention, the due process owed to
2 Petitioner is that provided for in § 1226—namely, an individualized bond hearing before an
3 immigration judge.

4 68. The application of § 1225(b)(2)(A) to Petitioner unlawfully mandates his
5 continued detention and violates due process.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 8 a. Assume jurisdiction over this matter;
- 9 b. Stay Petitioner’s transportation to another jurisdiction until this Court resolves his
10 petition for a writ of habeas corpus;
- 11 c. Declare that Petitioner’s detention is unlawful or, alternatively, issue an Order to
12 Show Cause ordering Respondents to show cause within three days why this
13 petition should not be granted;
- 14 d. Issue a writ of habeas corpus requiring that Respondents release Petitioner
15 immediately or, alternatively, issue a writ of habeas corpus requiring Respondents
16 to schedule a bond hearing under 8 U.S.C. § 1226(a) within seven (7) days,
17 wherein they will bear the burden to demonstrate by clear and convincing
18 evidence that he is a danger to the community or a flight risk, to justify his
19 continued and currently unjustified detention.;
- 20 e. 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
21 law; and
- 22 f. Grant any other and further relief that this Court deems just and proper.

23 DATED this 30 of January, 2026.

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Samantha D. Wolfe, Esq.
Attorneys for Petitioner

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

I represent Petitioner, Jose Lara Mejia, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 30th day of January, 2026.

s/Samantha D. Wolfe
Samantha D. Wolfe

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