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

9 Wilber Salmeron Vaqui,

Case No. '26CV0704 LL MMP

10 Petitioner,

**VERIFIED PETITION FOR WRIT OF  
HABEAS CORPUS**

11 vs.

12 JAREMY CASEY, Administrator of Imperial  
13 Detention Center, GREGORY J.  
14 ARCHAMBEAULT, Field Officer Director for  
the San Diego Immigration and Customs  
15 Enforcement Office; TODD LYONS, Acting  
Director of United States Immigration and  
16 Customs Enforcement; KRISTI NOEM,  
Secretary of the United States Department of  
17 Homeland Security, PAMELA BONDI,  
Attorney General of the United States, acting in  
18 their official capacities,

19 Respondents.  
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## INTRODUCTION

- 1  
2 1. Petitioner Wilber Antonio Salmeron Vaqui (“Mr. Salmeron”) has been residing in the  
3 United States since 2012. He arrived in the United States as a minor and was later  
4 apprehended by border officials and designated an Unaccompanied Alien Child  
5 (“UAC”).
- 6 2. Mr. Salmeron was apprehended by immigration authorities on June 12, 2025 in  
7 Rosemead, California as a part of a widescale immigration enforcement action in Los  
8 Angeles County. He was detained and taken to the Imperial Regional Detention Facility,  
9 where he remains presently.
- 10 3. His immigration case was terminated on January 20, 2026. He was briefly released from  
11 Imperial Regional Detention Center on January 21, 2026, before being immediately re-  
12 detained on that same day by Customs and Border Patrol in Calexico, California. He was  
13 processed and taken back to Imperial Region Detention Facility on January 24, 2026.
- 14 4. Mr. Salmeron has effectively been detained at the Imperial Detention Facility in  
15 Calexico, California for more than seven months now, over two-hundred miles away  
16 from his partner and their U.S. citizen daughters in the Los Angeles area. At the time of  
17 his arrest, his partner was pregnant. She gave birth to Mr. Salmeron’s third child on  
18 October 17, 2025. Despite his brief release on January 21, 2026, Mr. Salmeron has yet to  
19 meet his third child, who is now three months old, and he is also missing key moments in  
20 the lives of his two other young daughters, aged five and three.
- 21 5. Mr. Salmeron has three U.S. citizen siblings, including a sister currently serving in the  
22 United States Army, and a Lawful Permanent Resident father. He has no criminal history,  
23 is the sole provider for his family, and has been steadily employed in the construction  
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1 industry for over a decade. He has significant ties to the United States and is not a danger  
2 to the community.

3 6. After his June 2025 arrest, Mr. Salmeron was denied release by the Department of  
4 Homeland Security (“DHS”), and sought a bond determination hearing before an  
5 immigration judge (“IJ”). On August 14, 2025, Mr. Salmeron, representing himself *pro*  
6 *se*, was denied an opportunity to seek bond because the IJ held that she lacked  
7 jurisdiction over the bond hearing based on a new DHS policy that all persons who  
8 entered without inspection are deemed applicants for admission to the United States and  
9 are therefore ineligible for bond hearings based on a provision of the Immigration and  
10 Nationality Act, (“INA”), 8 U.S.C. § 1225(b)(2)(A). This agency policy ignores the  
11 availability of 8 U.S.C. § 1226(a), which allows detained persons to be released on bond  
12 or parole, and reversed decades of practice, rejecting the well-established understanding  
13 of the statutory framework and ordering mandatory detention for noncitizens regardless  
14 of when a person is apprehended – impacting individuals who have resided in the United  
15 States for months, years, and even decades.

16 7. In addition, § 1225(b)(2)(A) does not apply to individuals, like Mr. Salmeron, who was  
17 previously designated as an unaccompanied minor. The authority by which DHS could  
18 detain these individuals is governed by another statute, the Trafficking Victims Protection  
19 and Reauthorization Act (“TVPRA”), which does not mandate detention, and instead  
20 requires DHS to consider the “least restrictive placement,” necessary to prevent danger or  
21 risk of flight, including alternative to detention programs. 8 U.S.C. § 1232(c)(2)(B).

22 8. On September 5, 2025, the BIA adopted the same novel position outlined in a July 8,  
23 2025 policy issued by DHS, in a published decision, *Matter of Yajure Hurtado*, 29 I&N  
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1 Dec. 216 (BIA 2025). In that case, the BIA held that all noncitizens who entered the U.S.  
2 without admission or parole are subject to mandatory detention under § 1225(b)(2)(A),  
3 and therefore ineligible for bond hearings before an IJ.

4 9. Courts have uniformly rejected these unfounded interpretations because they plainly  
5 violate the INA. As myriad courts have explained, the plain text of the  
6 statute demonstrates that § 1225(b) does not apply to individuals like Mr. Salmeron,  
7 who have been living and working in the United States for many years. *See, e.g., Diaz*  
8 *Martinez v. Hyde*, 2025 WL 2084238, No. CV-25-11613-BEM (D. Mass. Jul. 24,  
9 2025); *Rosado v. Figueroa*, 2025 WL 2337099, No. CV-25-02157-PHX-DLR  
10 (CDB) (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588, No.  
11 25 CIV. 5937 (DEH) (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, 2025 WL  
12 2374411, No. 0:25-cv-03142-SRN-SGE (D. Minn. Aug. 15, 2025); *Arrazola-*  
13 *Gonzalez v. Noem*, 2025 WL 2379285, No. 5:25-cv-01789-ODW (DFMx) (C.D. Cal.  
14 Aug. 15, 2025); *Ramirez Clavijo v. Kaiser*, 2025 WL 2419263, No. 25-CV-06248-  
15 BLF (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025, No.  
16 1:25-cv-02428-JRR (D. Md. Aug. 24, 2025); *Kostak v. Trump*, 2025 WL 2472136,  
17 No. 3:25-cv-01093-JE-KDM (W.D. La. Aug. 27, 2025); *Lopez-Campos v. Raycraft*,  
18 2025 WL 2496379, No. 2:25-cv-12486-BRM-EAS (E.D. Mich. Aug. 29,  
19 2025); *Vasquez Garcia v. Noem*, 2025 WL 2549431, No. 25-cv-02180-DMS-  
20 MMP (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, 2025 WL 2591530,  
21 No. 5:25-cv-02304-CAS (BFM) (C.D. Cal. Sept. 8, 2025).

22 10. On December 1, 2025, Mr. Salmeron for a second time requested a bond hearing, this  
23 time represented by a pro bono attorney, following the decision of the Central District of  
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1 California in *Maldonado Bautista*, granting partial summary judgment for detained  
2 noncitizens in a similar situation of Mr. Salmeron and rejecting the Government's  
3 contention that noncitizens such as Mr. Salmeron, who have resided in the United States  
4 for years, yet entered without inspection, are considered "arriving aliens" and therefore  
5 ineligible for bond. *See Maldonado Bautista v. Santacruz et al.*, No. 5:25-cv-01873-SSS-  
6 BFM (C.D. Cal. Nov. 20, 2025).

7 11. Despite the Central District's ruling, once more, the IJ denied bond for Mr. Salmeron,  
8 stating she lacked jurisdiction to hear the case. The IJ did not consider the significant  
9 evidence that Mr. Salmeron, his attorney, and his U.S. citizen family members had  
10 gathered in support of his bond hearing, demonstrating he is neither a flight risk nor  
11 danger to the community.

12 12. Section 1225(b)(2)(A) of the INA states that an applicant for admission shall be detained  
13 for a removal proceeding. It is the position of the Executive Office for Immigration  
14 Review ("EOIR"), which houses both the Board of Immigration Appeals ("BIA") and IJs,  
15 that 8 U.S.C. § 1225(b)(2)(A) applies to *all* individuals who arrive in the United States  
16 without inspection, regardless of how long they have lived in the United States or how far  
17 they were apprehended from the border.

18 13. However, § 1225(b)(2)(A) does not apply to individuals, like Mr. Salmeron, who was  
19 previously designated as an unaccompanied minor. The authority by which DHS could  
20 detain these individuals is governed by another statute, the Trafficking Victims Protection  
21 and Reauthorization Act ("TVPRA"), which does not mandate detention, and instead  
22 requires DHS to consider the "least restrictive placement, including alternative to  
23 detention programs. 8 U.S.C. § 1232(c)(2)(B).  
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1 14. Alternatively, individuals such as Mr. Salmeron, who are present within the United States  
2 and not seeking admission at the border are subject to detention under another provision  
3 of the INA, 8 U.S.C. § 1226(a), and eligible for release on bond.

4 15. Absent an order from this Court, Mr. Salmeron will remain indefinitely and unlawfully  
5 detained, without any avenue for review by a neutral arbiter because DHS and the  
6 Executive Office of Immigration Review (EOIR) – namely, immigration prosecutors and  
7 IJs – have concluded that he is subject to mandatory detention, contrary to decades of  
8 caselaw, DHS and ICE enforcement practices, legislative interpretation, and the plain  
9 statutory language of the INA.

10 16. In addition, Respondents’ policy clearly runs afoul of Mr. Salmeron’s constitutional due  
11 process rights, rights to which “all ‘persons’ within the United States, including aliens,  
12 whether their presence here is lawful, unlawful, temporary, or permanent,” are entitled.  
13 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

14 17. Therefore, each day that Respondents continue to detain Mr. Salmeron, they are violating  
15 his constitutional and statutory rights. Mr. Salmeron was only free from custody for less  
16 than 48 hours, nearly 200 miles away from his family and friends, with no means of  
17 contacting them. Indeed, Mr. Salmeron’s continued detention is causing him immense,  
18 ongoing harm, including mental anguish and ongoing separation from his partner and their  
19 three young daughters, including a newborn daughter whom he has never met.

20 18. As such, Mr. Salmeron respectfully requests that this Court issue a writ of habeas corpus  
21 ordering his immediate release pursuant to the terms of his prior release from ORR custody, or,  
22 in the alternative, a bond hearing before a neutral, at which Respondents must demonstrate their  
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1 compliance with the TVPRA, which states that the DHS Secretary “shall consider placement in  
2 the least restrictive setting available” after taking into account Mr. Salmeron’s “danger to self,  
3 danger to the community, and risk of flight,” and recognizing that Mr. Salmeron “shall be  
4 eligible to participate in alternative to detention programs.” 8 U.S.C. § 1232(c)(2)(B).

### 5 JURISDICTION

6 19. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. §  
7 1331 (federal question), and Article I, section 9, clause 2 of the United States  
8 Constitution (the Suspension Clause).

9 20. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act,  
10 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.  
11

### 12 VENUE

13 21. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500  
14 (1973), venue lies in the United States District Court for the Southern District of  
15 California, the judicial district in which Mr. Salmeron currently is detained at the  
16 Imperial Detention Center in Calexico, California.

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

### 21 PARTIES

22 23. Petitioner Wilber Antonio Salmeron Vaqui is a citizen of El Salvador who had been in  
23 immigration detention at the Imperial Detention Center since June 14, 2025 and was re-  
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1 detained less than forty-eight hours after his release on January 21, 2026. He was placed  
2 back in custody in the Imperial Regional Detention Facility.

3 24. Respondent Gregory J. Archambeault is the Director of the San Diego Field Office of  
4 ICE's Enforcement and Removal Operations division. As such Mr. Archambeault is Mr.  
5 Salmeron's immediate custodian and is responsible for Mr. Salmeron's detention. He is  
6 named in his official capacity.

7 25. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is  
8 responsible for the implementation and enforcement of the Immigration and Nationality  
9 Act (INA), and oversees ICE, which is responsible for Mr. Salmeron's detention. Ms.  
10 Noem has ultimate custodial authority over Mr. Salmeron and is sued in her official  
11 capacity.

12 26. Respondent Todd Lyons is the Acting Director of Immigration and Customs  
13 Enforcement. ICE is responsible for Mr. Salmeron's detention. He is sued in his official  
14 capacity.

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

19 28. Respondent Jaremy Casey is employed by Management & Training Corporation as  
20 Administrator of the Imperial Detention Center, where Mr. Salmeron is detained. He has  
21 immediate physical custody of Mr. Salmeron. He is sued in his official capacity.

22 **FACTS**

23 29. Petitioner Wilber Salmeron has resided in the United States since around  
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1 November 18, 2012 and lives in El Monte, California. Upon his arrival in the  
2 United States, he was designated an unaccompanied minor, transferred to the  
3 custody of the Office of Refugee Resettlement, and ultimately released to the care  
4 of his father shortly after he crossed the border near Hidalgo, Texas in November  
5 2012. Mr. Salmeron then resided with his father in Las Vegas, Nevada, and the pair  
6 eventually moved to the Los Angeles area.

7 30. Mr. Salmeron has three young United States citizen children, including one infant  
8 daughter who was born while he has been in custody. He is the sole financial provider for  
9 his family, has steady employment in the construction industry, has no criminal history,  
10 and has extensive ties to the United States. His U.S. citizen younger sister is currently  
11 serving in the United States Army. He is neither a danger to the community nor a flight  
12 risk.

13 31. On June 14, 2025, he was arrested by immigration authorities as part of a widescale  
14 immigration enforcement activity in Rosemead, California.

15 32. He was placed into removal proceedings to appear before an IJ, and was charged with  
16 having entered the United States without inspection and being present without valid  
17 immigration documents. 8 U.S.C. § 1182(a)(6)(A)(i), § 1182(a)(7)(A)(i).

18 33. ICE denied Mr. Salmeron's request for release, and he requested a bond  
19 hearing before an immigration judge.

20  
21 34. On August 14<sup>th</sup>, 2025, Mr. Salmeron appeared *pro se* in a bond hearing at the  
22 Imperial Immigration Court. The IJ concluded that she lacked jurisdiction to  
23 conduct a bond determination hearing under the BIA's decision in *Matter of Yajure*  
24 *Hurtado*.

1 35. On December 1, 2025, Mr. Salmeron appeared once more in a bond hearing, this  
2 time with representation. The IJ at the Imperial Immigration Court issued a  
3 decision that she lacked jurisdiction to conduct a bond determination hearing under  
4 the BIA's decision in *Matter of Yajure Hurtado*.

5 36. On December 23, 2025, Mr. Salmeron had a third bond hearing, triggered by the  
6 filing of an order from the Southern District of California. The filing appeared to  
7 have been a clerical error by the immigration court, as it was a group petition for  
8 habeas corpus that did not include Mr. Salmeron. In response, the Immigration  
9 Judge withdrew the bond request.

10 37. Any appeal to the Board of Immigration Appeals is futile. Given DHS's July 8,  
11 2025 policy, which states it is the Department's position that all persons who  
12 entered without inspection are "applicants for admission" and therefore subject to  
13 mandatory detention, as well as the recently published BIA decision in *Matter of*  
14 *Yajure Hurtado*, holding that IJs lack jurisdiction to hear bond cases even for  
15 individuals like Mr. Salmeron, who have been in the United States for many years,  
16 seeking BIA review would be futile. *See* Department of Homeland Security, *Interim*  
17 *Guidance Regarding Detention Authority for Applicants for Admission*, July 8,  
18 2025, available at [https://immpolicytracking.org/policies/ice-issues-memo-](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents)  
19 [eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents).

20 38. Mr. Salmeron's case was terminated by an Immigration Judge on January 20, 2026  
21 based on egregious violations of his Constitutional rights. He was briefly released  
22 on January 21, 2026, without notice to his attorney nor his family. He was promptly  
23 re-arrested by Customs and Border Patrol in Calexico, California on that same day.  
24

1 As he was getting off the bus from Imperial Detention Center to be released at the  
2 Greyhound bus station in Calexico, CBP questioned and arrested him. He was held  
3 in CBP custody for three days, unable to contact his family or attorney. Nor was he  
4 allowed to shower or brush his teeth. All the while, his family and friends believed  
5 him to be a missing person and were searching for him in Calexico, California. Mr.  
6 Salmeron was transferred back to Imperial Regional Detention Facility, where he  
7 had been released from mere days before. He did not even have the opportunity to  
8 make it home and meet his newborn daughter. He was placed back in removal  
9 proceedings on January 24, 2026.

## 10 LEGAL BACKGROUND

### 11 I. Law and Procedure Governing this Habeas Petition.

12 39. The “historic purpose of the writ” of habeas corpus is “to relieve detention by  
13 executive authorities without judicial trial.” *Zadvydas v. Davis*, 533 U.S. 678, 699  
14 (2001) (cleaned up). A writ under 28 U.S.C. § 2241 may issue if, among other  
15 things, a person “is in custody under or by color of the authority of the United  
16 States,” or is “in custody in violation of the Constitution or laws or treaties of the  
17 United States.” 8 U.S.C. § 2241(c). A habeas court’s role is at its “most extensive in  
18 cases of pretrial and noncriminal detention,” especially “where there ha[s] been  
19 little or no previous judicial review of the cause for detention,” as is the case here.  
20 *Boumediene v. Bush*, 553 U.S. 723, 780 (2008).

21 40. A court “entertaining an application for a writ of habeas corpus shall forthwith  
22 award the writ or issue an order directing the respondent to show cause why the  
23 writ should not be granted, unless it appears from the application that the applicant  
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1 or person detained is not entitled thereto.” 28 U.S.C. § 2243. “The writ, or order to  
2 show cause shall be directed to the person having custody of the person detained. It  
3 shall be returned within three days unless for good cause additional time, not  
4 exceeding twenty days, is allowed.” *Id.*

5 41. Once the government files its return, the Court shall set a “hearing, not more than  
6 five days after the return unless for good cause additional time is allowed.” *Id.* “The  
7 court shall summarily hear and determine the facts, and dispose of the matter as law  
8 and justice require.” *Id.*

9 42. Because the habeas statute “does not specifically require petitioners to exhaust  
10 direct appeals before filing petitions for habeas corpus,” exhaustion in this case is  
11 “a prudential requirement” that this Court “has discretion to waive.” *Acevedo-*  
12 *Carranza*, 371 F.3d at 541. Indeed, exhaustion of remedies “is not required when to  
13 resort to such remedies would be futile,” *id.* at 541-42, nor is it required where  
14 “irreparable injury will result.” *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir.  
15 2004).

16 **II. The TVPRA and its Continued Application to Individuals Who Age Out of**  
17 **ORR Custody**

18 43. The Trafficking Victims Protection and Reauthorization Act (“TVPRA”) governs  
19 the detention and custody of unaccompanied minors encountered at or near the  
20 border. The TVPRA does not mandate detention. 8 U.S.C. § 1232(c)(2)(A)–(B). It  
21 provides that the government place unaccompanied minor children “in the least  
22 restrictive setting that is in the best interest of the child.” *Id.*

23 44. In making custody determinations, the Office of Refugee Resettlement (“ORR”)  
24

1 must consider a minor’s “danger to self, danger to the community, and risk of  
2 flight.” 8 U.S.C. § 1232(c)(2)(A). In releasing an unaccompanied minor, ORR  
3 necessarily makes a determination that the minor is not a flight risk, danger to  
4 themselves, or to the community. *See Saravia v. Sessions*, 280 F.Supp. 3d 1168,  
5 1176, 1178 (N.D. Cal. 2017). Once released from ORR custody, federal agents  
6 must be able to present evidence of materially changed circumstances to justify re-  
7 detention of an unaccompanied minor. *Id.* at 1176-77.

8 45. In addition, when an individual previously designated as an unaccompanied minor  
9 reaches the age of 18, they are thereby transferred to the “custody” of DHS, and the  
10 Secretary of DHS “shall consider” their placement “in the least restrictive setting  
11 available.” 8 U.S.C. § 1232(c)(2)(B). Specifically, the TVPRA mandates that  
12 noncitizens in this posture “shall be eligible to participate in alternative to detention  
13 programs.” *Id.*

14 46. The Eastern District of California has found that the Fifth Amendment Due Process  
15 Clause bars the government from re-detaining an individual who had been  
16 designated an unaccompanied alien child without a bond hearing, even where the  
17 individual has turned 18 or is reunited with a parent or guardian. *R.D.T.M. v.*  
18 *Wofford*, No. 1:25-cv-01141-KES-SKO (HC), 2025 WL 268866 (E.D. Cal. Sept.  
19 18, 2025). Furthermore, the Eastern District found unaccompanied children who  
20 have been released enjoy a liberty interest in remaining free from detention, and in  
21 order to re-detain these individual, the government must conduct a pre-deprivation  
22 hearing in which they must demonstrate changed circumstances to warrant  
23 detention. *Quinteros Cornejo v. Andrews, et. al*, No. 1:25-CV-02062 JLT HBK,  
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1 2026 WL 237748 (E.D. Cal. Jan. 29, 2026). The TVPRA controls in such cases,  
2 and where the government has not provided a pre-deprivation hearing before re-  
3 detaining, they have violated the liberty rights of the detained individuals such that  
4 release from detention is the proper remedy. *Id. See also R.D.T.M. v Wofford*, (E.D.  
5 Cal. Sept. 18, 2025).

6 **III. Statutes and Regulations Governing Detention of Noncitizens Generally**

7 47. The Immigration and Nationality Act (INA) prescribes three basic forms of  
8 detention for adult noncitizens in removal proceedings.

9 48. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-  
10 expedited removal proceedings before an immigration judge (IJ). *See* 8 U.S.C. §  
11 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset  
12 of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who  
13 have been arrested, charged with, or convicted of certain crimes are subject to  
14 mandatory detention, *see* 8 U.S.C. § 1226(c).

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

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

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

22 52. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the  
23  
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1 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996,  
2 Pub. L. No. 104--208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-  
3 583, 3009-585. Section 1226(a) was most recently amended earlier this year by the  
4 Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

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

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

18 55. Respondents’ new policy turns this well-established understanding on its head  
19 and violates the statutory scheme.

20 56. Indeed, this legal theory that noncitizens who entered the United States without  
21 admission or parole are ineligible for bond hearings was already rejected by a  
22 District Court in the Western District of Washington, finding that such  
23 individuals are entitled to bond redetermination hearings before immigration  
24

1 judges, and rejecting the application of § 1225(b)(2) to such cases. *Rodriguez v.*  
2 *Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at \*12 (W.D. Wash.  
3 Apr. 24, 2025).

4 57. Despite this finding from a federal court, in July 2025, ICE released a  
5 memorandum instructing its attorneys to coordinate with the Department of  
6 Justice, the agency housing EOIR, to reject bond redetermination hearings for  
7 applicants who arrived in the United States without documents.<sup>1</sup>

8 58. This is now a widespread position applying across the United States.

9 59. This interpretation defies the INA. The plain text of the statutory provisions  
10 demonstrates that if the TVPRA does not govern his detention, § 1226(a), not §  
11 1225(b), applies to Mr. Salmeron.

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

16 61. The text of § 1226 also explicitly applies to people charged as being inadmissible,  
17 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E).  
18 Subparagraph (E)’s reference to such people makes clear that, by default, such  
19 people are afforded a bond hearing under subsection (a). Section 1226 therefore  
20 leaves no doubt that it applies to people who face charges of being inadmissible to  
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23  
24 <sup>1</sup> Ice Memo: Interim Guidance Regarding Detention Authority for Applicants for Admission, Available at  
<https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>

1 the United States, including those who are present without admission or parole  
2 62. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who  
3 recently entered the United States. The statute’s entire framework is premised on  
4 inspections at the border of people who are “seeking admission” to the United  
5 States. 8 U.S.C. § 1225(b)(2)(A).

6 63. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to  
7 people like Mr. Salmeron who are alleged to have entered the United States without  
8 admission or parole. Therefore, if this Court finds that Mr. Salmeron’s detention is  
9 not governed by the TVPRA, it should find that he is detained under § 1226(a), and  
10 therefore entitled to a bond hearing.

11 **CLAIM FOR RELIEF**

12 **COUNT I**

13 **Violation of the TVPRA**

14 ***Unlawful Re-Detention***

15  
16 64. Mr. Salmeron repeats, re-alleges, and incorporates by reference each and every allegation  
17 in the preceding paragraphs as if fully set forth herein.

18  
19 65. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Mr.  
20 Salmeron, as he arrived in the United States as an Unaccompanied Alien Child.  
21 Under the Trafficking Victims Protection Reauthorization Act (TVPRA), detention  
22 is not mandated. 8 U.S.C. § 1232(c)(2)(A)–(B). It provides that the government  
23 place individuals entitled to its protections “in the least restrictive setting that is in  
24 the best interest of the child.” *Id.*

1 66. Upon Mr. Salmeron’s arrival in the United States, he was placed in ORR  
2 custody at Bokenkamp Children’s Shelter, and later released to his father’s  
3 custody in Las Vegas, Nevada. This decision by ORR necessitated a finding that  
4 Mr. Salmeron was not a danger nor flight risk. *See Saravia v. Sessions*, 280  
5 F.Supp. 3d 1168, 1176, 1178 (N.D. Cal. 2017).

6 67. The TVPRA continues to apply to individuals, like Mr. Salmeron, who were  
7 designated at UACs, yet turned 18 or have been reunited with their parents, and  
8 the government may not re-detain these individuals without a pre-deprivation  
9 hearing. *R.D.T.M. v. Wofford*, 2025 WL 268866 (ED Cal. Sept. 18, 2025). In  
10 making custody redetermination decisions, the government must also consider  
11 the “least restrictive setting” and make available alternatives to detention. 8  
12 U.S.C. § 1232(c)(2)(A)–(B). Mr. Salmeron has not been given a pre-deprivation  
13 hearing, nor has he been placed in the least restrictive setting. Thus, he is  
14 unlawfully detained in violation of the TVPRA and must be immediately  
15 released from custody.

16 **COUNT II**  
17 **Violation of 8 U.S.C. § 1226(a)**  
18 ***Unlawful Denial of Bond Hearing***

19 68. Mr. Salmeron repeats, re-alleges, and incorporates by reference each and every  
20 allegation in the preceding paragraphs as if fully set forth herein.

21 69. Even if Mr. Salmeron’s detention is not governed by the TVPRA, § 1226(a) would  
22 apply to Mr. Salmeron, and he is thus not subject to mandatory detention and is  
23 entitled to a bond hearing.

24 70. Courts have consistently held that § 1226, rather than § 1225, governs detention of

1 noncitizens already present inside the United States. *See generally Jennings v.*  
2 *Rodriguez*, 583 U.S. 281 (2018); *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir.  
3 2013).

4 71. In particular, § 1225(b)(2) does not apply to those who previously entered the  
5 country, were released from detention after a finding was made that they were not a  
6 flight risk or a danger, and have been present and residing in the United States prior  
7 to re-apprehension. Such individuals may only be detained pursuant to § 1226(a),  
8 unless subject to an exception that is inapplicable to Mr. Salmeron.

9 72. Mr. Salmeron arrived in the United States and entered without inspection in 2012  
10 when he was a minor. He has resided in the U.S. since. He was apprehended within  
11 the interior of the United States in 2025. He is entitled to a bond hearing under §  
12 1226(a).

### 13 **COUNT III**

#### 14 ***Violation of the Administrative Procedure Act***

#### 15 ***Unlawful Denial of Bond***

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

18 74. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to  
19 noncitizens residing in the United States who are subject to the grounds of  
20 inadmissibility because they originally entered the United States without  
21 inspection or parole. Such noncitizens are detained under § 1226(a), unless they  
22 are subject to another detention provision.

23 75. The application of § 1225(b)(2) to bar Mr. Salmeron from receiving a bond  
24 redetermination hearing before an immigration judge is arbitrary, capricious, and

1 not in accordance with law, and as such, it violates the APA. See 5 U.S.C. §  
2 706(2).

3 **COUNT IV**

4 ***Violation of Procedural Due Process***

5 76. Mr. Salmeron repeats, re-alleges, and incorporates by reference each and every  
6 allegation in the preceding paragraphs as if fully set forth herein.

7 77. The government may not deprive a person of life, liberty, or property without due process  
8 of law. U.S. Const. amend. V. "Freedom from imprisonment— from government  
9 custody, detention, or other forms of physical restraint-lies at the heart of the liberty  
10 that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690,121 S.Ct. 2491, 150  
11 L.Ed.2d 653 (2001).

12 78. Mr. Salmeron has a fundamental interest in liberty and being free from official  
13 restraint.

14 79. The government's detention of Mr. Salmeron without a bond redetermination hearing to  
15 determine whether they are a flight risk or danger to others violates his right to due  
16 process.

17 80. The government further violated Mr. Salmeron's due process rights by re-detaining him  
18 immediately upon his release from custody.

19 81. Accordingly, Mr. Salmeron's continued detention violates his procedural due process  
20 rights.

21 **COUNT V**

22 ***Violation of Substantive Due Process***

23 82. The allegations in the above paragraphs are realleged and incorporated herein.

24 83. The Due Process Clause of the Fifth Amendment forbids the government from depriving

1 any person of their liberty “without due process of law.” U.S. CONST. AMEND. V.

2 84. The government has only two legitimate interests that may be served by civil  
3 immigration detention: preventing flight from removal proceedings and protecting the  
4 community from danger.

5 85. Neither of those interests would be served by continuing to detain Mr. Salmeron, as he  
6 has no criminal history and has significant ties to the United States, including three U.S.  
7 citizen children, for whom he is the sole financial provider.

8 86. Accordingly, Mr. Salmeron’s continued detention violates his substantive due process  
9 rights.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Mr. Salmeron prays that this Court grant the following relief:

- 12 a. Assume jurisdiction over this matter;
- 13 b. Issue a writ of habeas corpus declaring that Mr. Salmeron’s custody is governed  
14 by the TVPRA and requiring that Respondents immediately release Mr.  
Salmeron;
- 15 c. Alternatively, issue a writ of habeas corpus declaring that Mr. Salmeron is  
16 detained under § 1226(a) and requiring Respondents to provide a bond hearing  
under 8 U.S.C. § 1226(a) within seven days;
- 17 d. Award Mr. Salmeron attorney’s fees and costs under the Equal Access to Justice  
18 Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under  
law; and
- 19 e. Grant any other and further relief that this Court deems just and proper.

20 DATED this 4<sup>th</sup> day of February 2026

Respectfully Submitted,

21 /s/Megan Day

22 IMMIGRANT DEFENDERS

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