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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 **AARON ALFREDO AGELVIS-CUBEROS**

12 Case No.: 3:26-cv-00710-BJC-DDL

13 Petitioner

14 v.

15 **Kristi NOEM**, Secretary, U.S. Department of
16 Homeland Security; et al.,

17 **Judge:**
18 **Hon. Benjamin J. Cheeks**

19 **PETITIONER’S TRAVERSE TO**
20 **RESPONDENT’S RETURN**

21 Petitioner Aaron Alfredo Agelvis-Cuberos respectfully submits this Traverse in response
22 to Respondents’ Return. The question presented is whether DHS may classify an individual
23 apprehended in the interior of the United States under 8 U.S.C. § 1225(b), thereby foreclosing
24 bond jurisdiction, rather than under 8 U.S.C. § 1226(a).

25 Petitioner was arrested by U.S. Border Patrol on September 30, 2022, issued a Form I-94,
26 and paroled into the United States. He was released into the interior of the United States and
27 remained at liberty in the community for approximately three years before being re-detained on
28 October 15, 2025. Following his re-arrest, the Immigration Judge denied bond solely on the basis
of *Matter of Yajure-Hurtado*, concluding that § 1225(b) governed custody.

In their Return, Respondents assert that Petitioner is subject to mandatory detention under
§ 1225(b). ECF No. 4 at 2. They acknowledge, however, that “the facts are not materially

1 distinguishable” from prior cases decided by this Court addressing the same statutory issue. *Id.* at
2 3. No intervening Supreme Court or Ninth Circuit authority compels a departure from this
3 Court’s prior rulings.

4 **I. Respondents’ Incorporation by Reference Is Improper**

5 In their Return, Respondents state that they “incorporate by reference” arguments
6 previously advanced in other cases addressing the same statutory issue. ECF No. 4 at 3–4. That
7 approach is insufficient in a habeas proceeding.

8 A return must respond to the specific petition before the Court. Reliance on briefing from
9 other cases—without setting forth the arguments in full—does not satisfy Respondents’
10 obligation to demonstrate that detention in this case is lawful. Habeas review requires an
11 individualized assessment of the statutory and factual posture presented here.

12 Moreover, Respondents expressly acknowledge that “the facts are not materially
13 distinguishable” from prior cases decided by this Court addressing the same issue. ECF No. 4 at
14 3. They identify no intervening Supreme Court or Ninth Circuit authority that would alter the
15 statutory analysis previously adopted in this District. Instead, they rely on arguments advanced in
16 other proceedings. *Id.* at 3–4. Such reliance does not demonstrate that a different result is
17 warranted in this case.

18 Accordingly, Respondents’ incorporation by reference provides no basis to deny the writ.

19 **II. This Court Has Already Rejected Respondents’ Statutory Theory**

20 Respondents’ Return advances the same statutory interpretation this Court has previously
21 rejected in granting habeas relief in materially similar interior-arrest cases. In multiple recent
22 writ orders, this Court has concluded that detention under 8 U.S.C. § 1225(b) does not apply to
23 individuals apprehended in the interior of the United States and classified as “arriving aliens” for
24 purposes of foreclosing bond jurisdiction. See, e.g., *Fierro-Pedroza v. LaRose*, No. 3:25-cv-
25 3479-BJC-VET (S.D. Cal. Jan. 13, 2026); *Estrada-Sanchez v. LaRose*, No. 3:26-cv-0044-BJC-
26 VET (S.D. Cal. Jan. 15, 2026); *Mejia-Echavarria v. LaRose*, No. 3:26-cv-0129-BJC-DDL (S.D.
27 Cal. Feb. 2, 2026); *Garcia Pacheco v. LaRose*, No. 3:26-cv-0107-BJC-DDL (S.D. Cal. Jan. 21,

1 2026). In those cases, the Court held that detention must proceed, if at all, under 8 U.S.C. §
2 1226(a).

3 The detention posture here is materially indistinguishable from the cases in which this
4 Court has granted relief. Petitioner was re-detained in the interior of the United States and denied
5 bond solely on the ground that *Matter of Yajure-Hurtado* foreclosed jurisdiction under § 1226(a).
6 In their Return, Respondents assert that § 1225(b) governs custody. ECF No. 4 at 2.

7 Respondents identify no intervening Supreme Court or Ninth Circuit authority that alters
8 the statutory framework or compels a different result. Indeed, they acknowledge that “the facts
9 are not materially distinguishable” from prior cases decided by this Court. *Id.* at 3. In the absence
10 of controlling authority to the contrary, adherence to this Court’s recent rulings is warranted.

11 Accordingly, detention in this case must be governed by § 1226(a), not § 1225(b).

12 **III. Petitioner’s Continued Detention Violates the Due Process Clause**

13 On October 15, 2025, approximately three years after his release into the United States on
14 parole, Petitioner was taken into ICE custody. At the time of his re-detention, he had been
15 residing in the interior of the United States.

16 Following his re-arrest, the Immigration Judge denied bond solely on the ground that
17 Petitioner was classified under 8 U.S.C. § 1225(b), thereby concluding that bond jurisdiction was
18 foreclosed. As a result, Petitioner has been detained without any individualized determination of
19 flight risk or danger to the community.

20 This categorical denial of access to a bond hearing—based exclusively on statutory
21 classification rather than individualized assessment—violates the Due Process Clause. Civil
22 immigration detention must comport with due process and include meaningful procedural
23 safeguards. Where detention is prolonged and no bond hearing is available, due process requires
24 either release or a constitutionally adequate bond hearing at which the Government bears the
25 burden of justifying continued detention.

1 **IV. Relief Sought**

2 For the foregoing reasons, Petitioner respectfully requests that the Court grant the
3 Petition for Writ of Habeas Corpus.

4 Petitioner requests that the Court order his immediate release from custody. In the
5 alternative, Petitioner requests that the Court order a constitutionally adequate bond hearing
6 before a neutral adjudicator within seven (7) days of the Court's order. At such hearing, the
7 Government should bear the burden of demonstrating, by clear and convincing evidence, that
8 continued detention is necessary to prevent flight or danger to the community.

9 Petitioner further requests that the Court prohibit denial of bond based solely on
10 classification under 8 U.S.C. § 1225(b) and enjoin his transfer outside this District pending
11 compliance with the Court's order.

12 Petitioner requests such further relief as the Court deems just and proper.

13 Respectfully submitted,

14 /s/ Alejandro J. Monsalve, Esq. CA SBN 324958

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