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9
10 **THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF IDAHO**

12 **WILMER ALONZO CARDOZA GARCIA**

13 Petitioner,

14 v.

15 **PAMELA BONDI**, Attorney General;
16 **KRISTI NOEM**, Secretary of Homeland
17 Security;
18 **TODD LYONS**, Acting Director, U.S.
19 Immigration and Customs Enforcement;
20 **MICHAEL W. BANKS**, Chief, U.S. Border
21 Patrol;
22 **CAMMILLA WAMSLEY**, Field Office
23 Director, ICE Seattle Field Office;
Director, ICE Spokane Field Office;
Director, BP Spokane Field Office;
ROBERT NORRIS, Sheriff, Kootenai
County, Idaho,

Respondents.

Case No.: 2:26-cv-69

PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241 AND
COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF FOR AN ORDER TO
SHOW CAUSE

Agency File Number: Unknown

PETITION FOR WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS
UNDER 28 U.S.C. § 2241
(CASE NO. 2:26-cv-69)

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INTRODUCTION

1. Petitioner, WILMER ALONZO CARDOZA GARCIA, is a citizen of Honduras who is present in the United States without lawful immigration status and not in removal proceedings. On February 4, 2026, Mr. Cardoza Garcia was seized by agents with U.S. Customs and Border Protection (CBP).
2. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have concluded that noncitizens who entered the United States without inspection are subject to mandatory detention without the possibility of bond.
3. DHS’s policy, issued on July 8, 2025, instructs all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—*i.e.*, those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.
4. Likewise, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. section 1225(b)(2)(A) and, therefore, ineligible to be released on bond.
5. Despite contrary rulings from this Court and several others around the country, this BIA decision remains in practical effect. *See, e.g., Lazara Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, No. 5:25-cv-01873-SSS-BFM, at p. 9 (C.D. Cal. Dec. 18, 2025) (“Petitioners have provided evidence that the Office of Immigration Litigation issued a

1 memorandum instructing IJs [immigration judges] to ‘hold the position that *Yajure*
2 *Hurtado* remains good law.’”).

3 6. Petitioner’s detention on this basis violates the plain language of the Immigration and
4 Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
5 previously entered and are now residing in the United States. Instead, such individuals are
6 subject to a different statute, section 1226(a), that allows for release on conditional parole
7 or bond. That statute expressly applies to people who, like Petitioner, are charged as
8 inadmissible for having entered the United States without inspection.

9 7. Respondents’ new legal interpretation is plainly contrary to the statutory framework and
10 contrary to decades of agency practice applying section 1226(a) to people like Petitioner.

11 8. Petitioner asks the Court to issue a writ of habeas corpus and conclude that his detention is
12 not justified because the government has not established by clear and convincing evidence
13 that he presents a risk of flight or danger in light of available alternatives to detention and
14 order his release.

15 9. Petitioner asks this Court to find that his apprehension and detention without opportunity
16 for bond was unconstitutional and to order his release, and to stay his transportation out of
17 the Court’s jurisdiction.

18 10. The Court must grant the petition for writ of habeas corpus or issue an order to show cause
19 (OSC) to the Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C.
20 § 2243. If an order to show cause is issued, the Court must require Respondents to file a
21 return “within *three days* unless for good cause additional time, not exceeding twenty days,
22 is allowed.” *Id.* (emphasis added).

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

9 **PARTIES**

10 12. Petitioner, Wilmer Alonzo Cardoza Garcia, is a citizen of Honduras who is presently
11 detained at the Kootenai County Jail or ICE or CBP custody in Idaho.

12 13. Respondent, Pamela Bondi, is sued in her official capacity as the Attorney General of the
13 United States. She has responsibility over the Executive Office for Immigration Review,
14 which decides removal cases and applications for relief from removal.

15 14. Respondent, Kristi Noem, is sued in her official capacity as the Secretary of the Department
16 of Homeland Security (DHS). She is the cabinet-level secretary responsible for all
17 immigration enforcement in the United States.

18 15. Respondent, Todd Lyons, is sued in his official capacity as the Acting Director of U.S.
19 Immigration and Customs Enforcement (ICE). He is the head of the federal agency
20 responsible for all immigration enforcement in the United States.

21 16. Respondent, Michael Banks, is sued in his official capacity as Chief of the U.S. Border
22 Patrol. He is responsible for border management and control.

1 17. Respondent Cammilla Wamsley is sued in her official capacity as the Field Office Director
2 of the ICE Seattle Field Office. She is responsible for overseeing ICE operations pertaining
3 to noncitizens within its territorial jurisdiction, including detentions, enforcement, and
4 removal operations.

5 18. Respondent, Spokane ICE Field Office Director, is sued in his or her official capacity as
6 the Field Office Director of the ICE Spokane Field Office. He or she is responsible for
7 overseeing ICE operations pertaining to noncitizens within its territorial jurisdiction,
8 including detentions, enforcement, and removal operations. Assuming Petitioner is in ICE
9 custody, which is unclear at the time of filing, he or she is the immediate legal custodian
10 of the petitioner for purposes of a federal habeas petition.

11 19. Respondent, Spokane BP Field Office Director, is sued in his or her official capacity as the
12 Field Office Director of the BP Spokane Field Office. He or she is responsible for
13 overseeing BP operations pertaining to noncitizens within its territorial jurisdiction,
14 including detentions, enforcement, and removal operations. Assuming Petitioner is in BP,
15 rather than ICE, custody, which is unclear at the time of filing, he or she is the immediate
16 legal custodian of the petitioner for purposes of a federal habeas petition.

17 20. Respondent, Robert Norris, is sued in his official capacity as the Sheriff of the Kootenai
18 County Jail, where Petitioner is currently detained. Sheriff Norris has direct custody of
19 Petitioner.
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22 **JURISDICTION**
23

1 21. This Court has jurisdiction over this matter under 18 U.S.C. § 1331 (federal question
2 jurisdiction); 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act);
3 28 U.S.C. § 2241 et seq. (declaratory action), Immigration and Nationality Act (INA), 8
4 U.S.C. § 1101 et seq., and the Suspension Clause of Article I, § 9, cl. 2, of the U.S.
5 Constitution. *See INS v. St. Cyr*, 533 U.S. 289 (2001).

6 22. The Court may grant relief under habeas corpus, the All Writs Act, the Declaratory
7 Judgment Act, 28 U.S.C. § 2201 et seq., and the Administrative Procedures Act, 5 U.S.C.
8 § 701 et seq.

9 23. No other petitions, appeals, or motions regarding habeas corpus have been filed with any
10 other court.

11 **VENUE**

12 24. Venue in the District of Idaho is appropriate under 28 U.S.C. § 1391(e)(1) because the
13 Petitioner is detained in this judicial district.

14 25. Venue is further appropriate under 28 U.S.C. § 1391(e)(1) because the Respondents live,
15 work, and/or operate within this judicial district and because the actions which gave rise to
16 this Petition took place in Kootenai County, Idaho and other areas of Idaho, which falls
17 within this judicial district.

18 **REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

19 26. The Court must grant the petition for writ of habeas corpus or issue an order to show cause
20 (OSC) to Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. §
21 2243. If an OSC is issued, the Court must require Respondents to file a return “within three
22 days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

1 27. Courts have long recognized the significance of the habeas statute in protecting individuals
2 from unlawful detention. The Great Writ has been referred to as “perhaps the most
3 important writ known to the constitutional law of England, affording as it does a swift and
4 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S.
5 391, 400 (1963).

6 LEGAL FRAMEWORK

7 28. The Supreme Court has stated that it “‘is well established the Fifth Amendment entitles
8 aliens to due process of law in deportation proceedings.’” *Demore v. Kim*, 538 U.S. 510,
9 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from
10 imprisonment—from government custody, detention, or other forms of physical restraint—
11 lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*,
12 533 U.S. 678, 690 (2001); see also *id.* at 718 (Kennedy, J., dissenting) (“Liberty under the
13 Due Process Clause includes protection against unlawful or arbitrary personal restraint or
14 detention.”). This fundamental due process protection applies to all noncitizens, including
15 both removable and inadmissible noncitizens. See *id.* at 721 (Kennedy, J., dissenting)
16 (“both removable and inadmissible aliens are entitled to be free from detention that is
17 arbitrary or capricious”).

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

1 30. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for
2 noncitizens in removal proceedings.

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

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

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

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

15 35. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal
16 Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-
17 –208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section
18 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L.
19 No.119-1, 139 Stat. 3 (2025).

20 36. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in
21 general, people who entered the country without inspection were not considered detained
22 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and
23

1 Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
2 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

3 37. Thus, in the decades that followed, most people who entered without inspection—unless
4 they were subject to some other detention authority—received bond hearings. That practice
5 was consistent with many more decades of prior practice, in which noncitizens who were
6 not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing
7 officer. See 8 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 38. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected
11 well-established understanding of the statutory framework and reversed decades of
12 practice.

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

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

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

1 section 1225(b)(2) to such cases. *Rodriguez v. Bostock*, No. 3:25-CV-05240- TMC, 2025
2 WL 1193850, at *12 (W.D. Wash. Apr. 24, 2025).

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

7 43. A May 22, 2025, unpublished BIA decision confirms that EOIR is taking this same position
8 that noncitizens who entered the United States without admission or parole are ineligible
9 for immigration judge bond hearings.

10 44. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter*
11 *of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States
12 without admission or parole are subject to detention under section 1225(b)(2)(A) and are
13 ineligible for IJ bond hearings.

14 45. This is now a widespread position applying across the United States. *See Lazara*
15 *Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, No. 5:25-cv-01873-SSS-BFM,
16 at p. 9 (C.D. Cal. Dec. 18, 2025) (“Petitioners have provided evidence that the Office of
17 Immigration Litigation issued a memorandum instructing IJs [immigration judges] to ‘hold
18 the position that *Yajure Hurtado* remains good law.’”).

19 46. Since Respondents adopted their new policies, dozens of federal courts have rejected their
20 new interpretation of the INA’s detention authorities. Courts have likewise rejected *Matter*
21 *of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

22 47. This Court held in *Torres Hernandez v. Bondi, et al.*, No. 1:25-cv-00615-BLW, Dkt.
23 No. 15 (D. Idaho Nov. 19, 2025), that a similarly situated petitioner---one who entered the

1 U.S. without inspection, was not in removal proceedings, and resided in the United States--
 2 --was detained pursuant to 8 U.S.C. § 1226(a) and ordered his immediate relief.¹

3 48. Court after court has adopted the same reading of the INA's detention authorities and
 4 rejected ICE and EOIR's new interpretation. See, e.g., *Gomes v. Hyde*, No. 1:25-CV-
 5 11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV
 6 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado*
 7 *v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
 8 2025), report and recommendation adopted, No. CV-25-02157-PHX-DLR (CDB), 2025
 9 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH),
 10 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-
 11 SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No.
 12 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v.*
 13 *Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*,
 14 No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo*
 15 *v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-*
 16 *Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025);
 17 *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27,
 18 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL
 19 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-
 20 EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-

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 23 ¹ Respondents appealed this decision to the Court of Appeals for the Ninth Circuit. Respondents
 then moved the court to stay appellate proceedings until it resolved *Rodriguez Vazquez v. Bostock*,
et al., No. 25-6842, which involves the same legal issue. As of the date of this filing, *Rodriguez*
Vazquez remains pending.

1 cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v.*
2 *Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025);
3 *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9,
4 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9,
5 2025); see also, e.g., *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D.
6 Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
7 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025
8 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-
9 03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

10 49. DHS’s interpretation defies the INA. As the courts above have explained, the plain text of
11 the statutory provisions demonstrates that section 1226(a), not section 1225(b), applies to
12 people like Petitioner.

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

16 51. The text of section 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 people are
19 afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that
20 it applies to people who face charges of being inadmissible to the United States, including
21 those who are present without admission or parole.

1 52. Section 1226, therefore, leaves no doubt that it applies to people who face charges of being
2 inadmissible to the United States, including those who are present without admission or
3 parole.

4 53. By contrast, section 1225(b) applies to people arriving at U.S. ports of entry or who recently
5 entered the United States. The statute's entire framework is premised on inspections at the
6 border of people who are "seeking admission" to the United States. 8 U.S.C.
7 § 1225(b)(2)(A).

8 54. Accordingly, the mandatory detention provision of section 1225(b)(2) does not apply to
9 people like Petitioner who are alleged to have entered the United States without admission
10 or parole.

11 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

12 55. Petitioner has exhausted all available administrative remedies that can provide the relief he
13 seeks because a bond hearing is not available to him. *Lazara Maldonado Bautista et al. v.*
14 *Ernesto Santacruz Jr. et al.*, No. 5:25-cv-01873-SSS-BFM, at p. 9 (C.D. Cal. Dec. 18,
15 2025).

16 56. A bond hearing is not available to him because all immigration judges are following *Matter*
17 *of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that "[b]ased on the plain
18 language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C.
19 § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to
20 grant bond to aliens who are present in the United States without admission."
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STATEMENT OF FACTS

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2 57. Petitioner is twenty-eight-year-old citizen of Honduras, who has been living in Idaho since
3 his entry into the United States without inspection on March 21, 2021. He has never and
4 currently does not have immigration proceedings pending.

5 58. Petitioner has a child who has been granted asylum as a derivative of the child's mother's-
6 --Petitioner's partner's---asylum case. Moss Decl. Exh. A.

7 59. Petitioner does not have an immigration hearing scheduled and has not yet been issued an
8 official Notice to Appear. Therefore, for all intents and purposes, there are no immigration
9 proceedings pending against him.

10 60. Petitioner is being held in Coeur d'Alene, Idaho, at the Kootenai County Jail or another
11 location in Idaho under either ICE or CBP custody. Moss Decl. Exh. B.

12 61. Petitioner has no known criminal history.

13 62. Federal officials have indicated that they do not intend to release Petitioner. Holds by the
14 U.S. Border Patrol typically mean that the jail will turn the detainee over to ICE for
15 detention and not release the detainee on his own recognizance. Undersigned counsel
16 verified his presence by checking the Kootenai County jail roster, which lists Petitioner as
17 a detainee with a hold by U.S. Border Patrol. Moss Decl. Exh. B.

18 **CLAIMS FOR RELIEF**

19 **COUNT I - Violation of the Immigration and Nationality Act (INA)**

20 63. Petitioner incorporates by reference the allegations of fact set forth in the preceding
21 paragraphs.

22 64. The mandatory detention provision at 8 U.S.C. section 1225(b)(2) does not apply to all
23 noncitizens residing in the United States who are subject to the grounds of inadmissibility.

1 As relevant here, it does not apply to those who previously entered the country and have
2 been residing in the United States prior to being apprehended and placed in removal
3 proceedings by Respondents. Such noncitizens are detained under section 1226(a), unless
4 they are subject to sections 1225(b)(1), 1226(c), or 1231.

5 65. The application of section 1225(b)(2) to Petitioner unlawfully mandates his continued
6 detention and violates the INA.

7 **COUNT II - Violation of Due Process**

8 66. Petitioner incorporates by reference the allegations of fact set forth in the preceding
9 paragraphs.

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

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

16 69. Petitioner has a fundamental interest in liberty and being free from official restraint.

17 70. The government's detention of Petitioner without a bond redetermination hearing to
18 determine whether he is a flight risk or danger to others violates his right to due process.

19 **PRAYER FOR RELIEF**

20 Wherefore, Petitioner respectfully requests this Court to grant the following:

21 71. Assume jurisdiction over this matter;

1 72. Issue an Order to Show Cause ordering Respondents to show cause why this Petition
2 should not be granted within three days and set a hearing on this Petition within five days
3 of the return, as required by 28 U.S.C. § 2243;

4 73. Issue a writ of habeas corpus ordering Respondents to release Petitioner immediately; or,
5 in the alternative, issue an order requiring Respondents to schedule a bond hearing within
6 20 days, wherein they will bear the burden to demonstrate by clear and convincing evidence
7 that he is a danger to the community or a flight risk, to justify his continued and currently
8 unjustified detention.

9 74. Immediately issue and order preventing the petitioner from being removed from the United
10 States;

11 75. Stay Petitioner's transportation to another jurisdiction until this Court resolves his petition
12 for a writ of habeas corpus;

13 76. Issue an Order to Show Cause ordering Respondents to show cause why this Petition
14 should not be granted within three days;

15 77. Declare that denial of Petitioner's detention under 8 U.S.C. § 1225(b) denies him his
16 statutory rights under 8 U.S.C. § 1226(a);

17 78. Declare that Petitioner's detention is unlawful;

18 79. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"),
19 as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

20 80. Grant any further relief this Court deems just and proper.

21 Respectfully submitted,

22 Dated: February 5, 2026

23 s/ Alycia T. Moss

Alycia T. Moss, ISB No. 7206

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Attorney for Petitioner
Fennemore Craig, P.C.
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Tel.: (208) 956-0140

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amos@fennemorelaw.com

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

On behalf of Mr. Cardoza Garcia, the party in custody, I verify the facts contained in this Petition for Writ of Habeas Corpus, upon information and belief, having reviewed the relevant records and pleadings. Mr. Cardoza Garcia has not verified the petition himself because he is detained.

DATED this 5th day of February, 2026.

s/ Alycia T. Moss

Alycia T. Moss

CERTIFICATE OF SERVICE

The undersigned hereby certified that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

US Attorney's Office for the District of Idaho

I also mailed physical copies to each of the defendant's addresses listed on the summons and to the Boise Main Office of the U.S. Attorney's Office at:

1290 West Myrtle Street

Ste. 500

Boise, ID 83702

Last, the attorney of record also emailed a courtesy copy of all documents to:

Bart.Davis@usdoj.gov

Christine.England@usdoj.gov

DATED this 5th day of February, 2026.

s/ Catherine M. Renshaw

Catherine M. Renshaw