UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

MIGUEL VALERO-VECILLA,
Petitioner,

v. No. 1:26-cv-00292

KRISTI NOEM, in her official capacity as
Secretary of the Department of Homeland Security;

PAMELA BONDI, in her official capacity as
Attorney General of the United States;

TODD LYONS, in his official capacity as
Acting Director and Senior Official Performing
the Duties of the Director of U.S. Immigration and Customs
Enforcement;

MARY DE ANDA-YBARRA, in her
official capacity as Field Office Director of
U.S. Immigration and Customs Enforcement,
Enforcement and Removal Operations for
the El Paso Field Office;

MELISSA ORTIZ, in official capacity
as Warden of Torrance County Detention
Facility,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Miguel Valero-Vecilla entered the United States on or about May 7, 2023, without inspection, and has been living in the United States since then. Since that time, he has lived with his wife and applied for U-Status as a derivative beneficiary of the U-Status petition submitted by his wife. Miguel Valero-Vecilla is presently in the physical custody at the Torrance County Detention Facility in Estancia, New Mexico. He faces unlawful detention

because the U.S. Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded he is subject to mandatory detention.

2. On January 5, 2026, Miguel Valero-Vecilla was taken into federal immigration custody unlawfully and has been impermissibly held without bond.

3. U.S. Immigration and Customs Enforcement has charged Miguel Valero-Vecilla, in his removal proceedings in immigration court, with not possessing a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by, and a valid unexpired passport or other suitable travel document. § U.S.C. 1182(a)(7)(A)(i)(I).

4. On September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedential 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. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. The detention of Miguel Valero-Vecilla on this basis violates the plain language of the Immigration and Nationality Act as Section 1225(b)(2)(A), which as the title states pertains only to "Inspection of applications for admission."

6. Section 1225(b)(2)(A) does not properly apply to individuals like Miguel Valero-Vecilla who previously entered and have been residing in the United States.

7. Instead, such individuals like Miguel Valero-Vecilla are subject to a different statute, 8 U.S.C. § 1226(a), which contemplates and governs "release" whenever such noncitizens are "apprehend[ed] and det[ained]."

8. The plain language of § 1226(a) provides that "On a warrant issued by the Attorney General, an alien may be arrested and detained ***pending a decision on whether the alien is to be removed from the United States***." Critically, pending such a decision on whether the noncitizen is to be removed from the United States, the Congressionally imposed requirement allows for "the release of the alien on—(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole.".

9. Section 1226(a) expressly applies to people who, like Miguel Valero-Vecilla, are arrested and detained as a result of being charged as inadmissible for having entered the United States without inspection. Yet, the plain language of Section 1226(a) also contemplates their release "pending a decision on whether the alien is to be removed from the United States."

10. The new legal interpretation by DHS and EOIR of these federal statutes is plainly contrary to the statutory framework of the Immigration and Nationality Act and directly contradicts decades of agency practice applying § 1226(a) to people like Miguel Valero-Vecilla.

11. Because the government has improperly characterized Miguel Valero-Vecilla as being detained under § 1225(b)(2)(A), he is not able to request a bond hearing by the Immigration Judge. There are no administrative remedies available for him to exhaust—habeas is the only vehicle by which he may seek release from federal immigration custody.

12. Miguel Valero-Vecilla files this Petition for Writ of Habeas Corpus to request that he be released from his unlawful detention. In the alternative, Miguel Valero-Vecilla requests this Court to conduct a bond hearing under § 1226(a) within seven (7) days.

JURISDICTION

13. Miguel Valero-Vecilla is currently and has been in the physical custody of Respondents since January 5, 2026. He is currently detained at the Torrance County Detention Facility in Estancia, New Mexico.

14. This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

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

VENUE

16. As Miguel Valero-Vecilla is presently detained in Torrance County, venue is proper in the United States District Court for the District of New Mexico, the judicial district encompassing Torrance County, pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410

U.S. 484, 493-500 (1973); *see also United States v. Scott*, 803 F.2d 1095, 1096 (10th Cir. 1986).

17. Venue is further proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of New Mexico.

REQUIREMENTS OF 28 U.S.C. § 2243

18. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless Miguel Valero-Vecilla is not entitled to relief. *See* 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id*.

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

PARTIES

20. Petitioner **Miguel Valero-Vecilla** is alleged to be a citizen of Mexico who has been in immigration detention since July 10, 2025. After arresting him in Albuquerque, New Mexico, ICE failed to set bond for Miguel Valero-Vecilla. He is further unable to obtain review of his custody by an Immigration Judge pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

21. Respondent **Kristi Noem** is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees ICE, which is responsible for Petitioner's detention. Kristi Noem has ultimate custodial authority over Miguel Valero-Vecilla and is sued in her official capacity.

22. Respondent **U.S. Department of Homeland Security (DHS)** is the federal agency responsible for implementing and enforcing the Immigration and Nationality Act, including the detention and removal of noncitizens.

23. Respondent **Pamela Bondi** is the Attorney General of the United States of America. She is responsible for the Department of Justice, which operates the Executive Office for Immigration Review and the immigration court system. She is sued in her official capacity.

24. Respondent **Todd Lyons** is named in his official capacity as Acting Director

and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement and, as such, is a legal custodian of Miguel Valero-Vecilla.

25. Respondent **Mary De Anda-Ybarra** is named in her official capacity as the Field Office Director for the ICE El Paso Field Office. AS Field Office Director, Respondent Mary De Anda-Ybarra oversees ICE's enforcement and removal operations in West Texas and New Mexico. As such, she is a legal custodian of Miguel Valero-Vecilla.

26. Respondent **Melissa Ortiz** is the Acting Warden of the Torrance County Detention Facility where Miguel Valero-Vecilla is currently detained. She has immediate physical custody of Miguel Valero-Vecilla and is named in her official capacity.

LEGAL FRAMEWORK

27. The Immigration and Nationality Act creates three basic forms of detention for the vast majority of noncitizens in removal proceedings.

28. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge. *See* 8 U.S. C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing before the Immigration Judge, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).

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

30. Third, the Immigration and Nationality Act also provides for the detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)-(b).

31. Miguel Valero-Vecilla falls squarely within the first circumstance under 8 U.S.C. § 1226, but Respondents are seeking an impermissible end-run through an illegal application of 8 U.S.C. § 1225(b)(2).

32. Thus, this case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

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

34. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings before an Immigration Judge, unless their criminal history rendered them ineligible pursuant to 8. U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an Immigration Judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

35. On July 8, 2025, ICE, "in coordination with" the Department of Justice, announced a new policy that rejected this long-established understanding of the statutory framework and reversed decades of practice with respect to the Immigration and Nationality Act.

36. The new policy, entitled "Interim Guidance Regarding Detention Authority for

Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be subject to the mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

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

38. In the weeks and months since Respondents adopted these new policies, dozens of federal courts have already rejected their new and unprecedented interpretation of the Immigration and Naturalization Act's detention authority. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same incorrect reading of the statute as ICE.

39. Even before ICE or the BIA took these novel stances contrary to decades of practice, a U.S. federal district court had concluded that eliminating bond hearings for persons who entered the United States without inspection and have since resided here, was unlawful. The court further concluded that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon entry into the United States. *See Rodriguez Vasquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

40. Following the implementation of these policies and the instructions by ICE and the BIA to completely change the law that has governed detention for decades, courts have

[1] Available at https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

reaffirmed the long-held interpretation of the Immigration and Naturalization Act's detention authority and explicitly rejected the novel and incorrect interpretation advanced by ICE and the BIA. *See, e.g.*, *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV25-11613-BEM, -- F. Supp. 3d ---, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No. CV-25-02157-PHX-DLR (CDB) 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248- BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv- 12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25-cv-494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that

"[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

41. The vast majority of courts have rejected DHS' and the Executive Office of Immigration Review's new interpretation because it defies the Immigration and Naturalization Act. As the *Rodriguez Vasquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Miguel Valero-Vecilla.

42. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the admissibility or deportability of a[] [noncitizen]."

43. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing before an Immigration Judge under subsection (a). As the *Rodriguez Vasquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vasquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

44. Section 1226 therefore leaves no doubt that it applies to people who face charges in immigration court of being inadmissible to the United States, including those who are present without admission or parole.

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

46. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Miguel Valero-Vecilla, who entered years ago—in his case, as a child—and were residing in the United States at the time they were apprehended.

FACTUAL ALLEGATIONS

47. Miguel Valero-Vecilla has resided in the United States since 2023. At the time he was apprehended, he resided in Minneapolis, Minnesota with his wife.

48. Miguel Valero-Vecilla was arrested by ICE on January 5, 2026.

49. Currently, Miguel Valero-Vecilla is detained at the Torrance County Detention Facility in Estancia, New Mexico.

50. DHS initiated removal proceedings against Miguel Valero-Vecilla pursuant to 8 U.S.C. § 1229a. ICE has charged Miguel Valero-Vecilla with, inter alia, being inadmissible under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as someone, at the time of application for admission in to the United States, not possessing a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by the Act, and a valid unexpired passport or other suitable travel document.

51. Miguel Valero-Vecilla has no criminal history.

52. Following Miguel Valero-Vecilla's arrest and transfer to the Torrance County Detention Facility, ICE issued a custody determination to continue his detention without an opportunity to post bond or be released on other conditions. ICE bears only discretionary authority to release Miguel Valero-Vecilla from detention; no administrative exhaustion as to ICE's discretionary authority is required in habeas.

53. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is stripped of jurisdiction to consider any bond request by Miguel Valero-Vecilla.

54. As a result, Miguel Valero-Vecilla remains in detention without opportunity to seek individualized review for release based on lack of flight risk or danger to the community. Without relief from this court, he faces the prospect of months, or even years, in immigration custody where he remains separated from his wife and residence in Minnesota.

CLAIMS FOR RELIEF

COUNT I

Violation of the Immigration Nationality Act

55. Petitioner incorporates by reference all previous allegations as though fully set forth herein.

56. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) 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 entered the country long ago 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.

57. The application of § 1225(b)(2) to Miguel Valero-Vecilla's custody status is

unlawful and results in his continued detention in direct violation of the Immigration and Naturalization Act.

COUNT II
Violation of the Bond Regulations

58. Petitioner incorporates by reference all previous allegations as though fully set forth herein.

59. In 1997 after Congress amended the Immigration and Naturalization Act through IIRIRA, the Executive Office of Immigration Review and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) **will be eligible for bond and bond redetermination**." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before immigration judges under 8 U.S.C. § 1226 and its implementing regulations.

60. Nonetheless, pursuant to *Matter of Yajure Hurtado*, the Executive Office of Immigration Review has a policy and practice of unlawfully applying § 1225(b)(2) to individuals like Miguel Valero-Vecilla.

61. The application of § 1225(b)(2) to Miguel Valero-Vecilla unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, and 1003.19.

COUNT III
Violation of Due Process

62. Petitioner incorporates by reference all previous allegations as though fully set forth herein.

63. The United States government may not deprive a person of life, liberty, or property without due process of law. *See* 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 the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

64. Miguel Valero-Vecilla has a fundamental interest in liberty and being free from official restraint.

65. The government's detention of Miguel Valero-Vecilla, through Respondents, without a bond redetermination hearing before an Immigration Judge to determine whether he is a flight risk or danger to others violates his right to due process under the law under the Fifth Amendment to the United States Constitution.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Miguel Valero-Vecilla prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order that Petitioner Miguel Valero-Vecilla shall not be transferred outside the District of New Mexico while this habeas petition is pending;

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

d. Issue a Writ of Habeas Corpus requiring that the Respondents release Petitioner on

his own recognizance.

e. In the alternative, conduct a bond hearing for Petitioner pursuant to 8 U.S.C. § 1226(a) within seven days;

f. Declare that Petitioner's detention is unlawful;

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

h. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted,
THE LAW OFFICE OF RYAN J. VILLA

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CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2026, I filed the foregoing pleading electronically through the CM/ECF system which caused all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

/s/ Daniel Chadborn
Daniel C. Chadborn