

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

RULAN SEMENOV,	§	
<i>Petitioner,</i>	§	
	§	
v.	§	
	§	
PAMELA BONDI, ATTORNEY	§	
GENERAL,	§	
KRISTI NOEM, SECRETARY, U.S.	§	
DEPARTMENT OF HOMELAND	§	
SECURITY,	§	
TODD M. LYONS, ACTING DIRECTOR	§	CIVIL ACTION NO. 3:26-CV-452-LS
OF IMMIGRATION AND CUSTOMS	§	
ENFORCEMENT,	§	
MARISA FLORES, DIRECTOR, EL	§	
PASO FIELD OFFICE IMMIGRATION	§	
AND CUSTOMS ENFORCEMENT, AND	§	
CURTIS TAYLOR, MAJOR GENERAL,	§	
U.S. ARMY AT CAMP BLISS,	§	
<i>Respondents.</i>	§	

**VERIFIED SUPPLEMENT TO VERIFIED PETITION FOR WRIT OF HABEAS
CORPUS**
EXPEDITED HANDLING REQUESTED

1. Petitioner, Mr. Rulan Semenov, (“Mr. Semenov”), by and through the undersigned attorney Shannon H. Hutcheson, hereby files this Verified Supplement to his Verified Petition for Writ of Habeas Corpus (“Verified Petition”) [Dkt. 1], filed February 13, 2026 in this matter.

ADDITIONAL FACTUAL ALLEGATIONS

2. As set forth in the Verified Petition, Mr. Semenov is an ethnic minority from the North Caucus region of Russia. He is also a Russian dissident who was a pro-Navalny

activist and a vocal opponent of the invasion of Ukraine, who was detained, jailed and tortured in Russia.

3. Mr. Semenov applied for asylum in the United States in or about October or November 2023. He was vetted and released by ICE. Since that time, he has appeared for every court date and ICE check-in. He worked and paid taxes. Other than this detention by ICE, he has never been arrested or convicted of any crime.

4. Beginning in October 2025, he was required to do two visits to the ISAP office (Intensive Supervision Appearance Program) and one home visit per month. He properly completed October, November, and December 2025, appearing on all scheduled reporting dates.

5. On January 12, 2026, Mr. Semenov came to his next regularly scheduled check-in at the UAP/ISAP office at 10 a.m., where three ICE officers detained him and placed him under arrest.

6. The ICE agents took his phone, all documents, and personal belongings, placed handcuffs on him hands and shackles on his legs, did not explain the reason for the arrest, did not provide a warrant, and did not allow him to call a lawyer or any relative. They advised him that everything would be provided at the ICE office.

7. He was taken to the main ICE office in Minnesota and locked in an isolated cold concrete room. Even the walls, chair, and table were concrete and painted, and there was a metal table and chair in the middle of the room. Despite it being winter in Minnesota, cold air constantly blew from the air conditioner, and it was very cold.

8. The detention conditions in Minnesota were terrible. There were approximately 27 people in a very small space. Requests to turn off the air conditioner were refused. Mr. Semenov and the other detainees were kept in this room for approximately 30 hours without movement. Some lay directly next to the toilet. The toilet was clogged and not working, and a terrible smell came from it. Guards said it would be fixed soon, but this never happened.

9. The next day at lunchtime Mr. Semenov urgently needed to use the toilet, but guards asked him to wait, saying that toilets in the building were clogged and a technician had been called. An hour later Mr. Semenov was told that he was being transferred to El Paso, Texas. He was in shock.

10. He was taken into a hall and allowed to make one call to his brother for two minutes, after which the phone was taken again. He again was refused the opportunity to speak with a lawyer or obtain any information on what was happening.

11. While in handcuffs and leg shackles, Mr. Semenov was led onto a bus. He again asked an ICE officer for permission to use the toilet because he had been holding it for a long time and his bladder hurt badly. The officer ordered Mr. Semenov to be silent. After waiting for hours and hours, Mr. Semenov could no longer hold it and urinated on himself and the bus seat. He and the others were not allowed to use the toilet until later in the day when they were placed on the airplane.

12. When he arrived in El Paso, he asked to make a phone call. The ICE officer told him that he would not be permitted a phone call until after six days.

13. The room in which he was held was very cold. On the third day, half of the people began coughing and getting sick, many had a fever. Mr. Semenov also developed symptoms and constantly slept in all his clothes to try to keep warm.

14. In addition to respiratory symptoms, Mr. Semenov began having intense pain in his kidneys, likely from being denied access to a toilet. He wrote letters to medical staff, but he was never called for a medical evaluation.

15. On the sixth day of detention, Mr. Semenov was allowed one three-minute phone call, during which he called his brother.

16. Mr. Semenov was kept inside one room for twelve days without being allowed outside. He stopped being able to tell what day it was, and whether it was day or night. After Mr. Semenov was transferred to another room, he was finally allowed outside, but only for one hour per day.

17. In total, Mr. Semenov wrote to the medical staff three times asking for an evaluation for his escalating kidney pain. After approximately one month, on February 14, 2026, he was called for examination, but was not given a proper evaluation or treatment. For his escalating kidney pain, he was simply to drink more water. Mr. Semenov continues to have severe kidney pain, in addition to other ailments.

ADDITIONAL CLAIMS FOR RELIEF

18. In addition to the Claims for Relief set forth in his Verified Petition, Mr. Semenov also asserts the following additional Claims for Relief:

COUNT THREE

Violation of the Administrative Procedure Act, 5 U.S.C. § 706

*Detaining Petitioner Pursuant to an Unlawful Interpretation of 8 U.S.C. § 1225(b)(2)
violates the Administrative Procedure Act*

19. Mr. Semenov re-alleges and incorporates by reference each allegation contained in the Verified Petition and the preceding paragraphs as if set forth fully herein.

20. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

21. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

22. 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 previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens could properly be detained under § 1226(a), but would then be eligible for release on bond unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

23. Nonetheless, the Board has adopted a policy and practice of applying § 1225(b)(2) to Petitioner and others in the same position.

24. Respondents through its recent administrative decision failed to articulate any reasoned explanations for new interpretation of the Act. The Board’s decision

represents a change in the agencies' policies and positions that negates the plain language of the Act, the will of Congress, and decades of administrative precedent.

25. The application of § 1225(b)(2) to Mr. Semenov is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

26. Moreover, both the Lyons Memo (the DHS policy statement on expanded mandatory detention under Section 1225(b)) and the BIA's decision *In re Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), which gives effect to the Lyons Memo, have both been vacated as violations of the APA. See *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Dec. 18, 2025); *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2026 WL 468284, at *10 (C.D. Cal. Feb. 18, 2026).

27. Other courts outside California have found the legal basis for mandatory detention of noncitizens residing in the U.S. "is now void." *Pacheco-Sanchez v. Holston, et al.*, No. 2:26-CV-00330-RFB-NJK, 2026 WL 483453, at *2 (D. Nev. Feb. 20, 2026); *Samayoa v. Smith, et al.*, No. 5:25-CV-190-BJB, 2026 WL 483243, at *10 (W.D. Ky. Feb. 20, 2026). While this vacatur may be appealed, "the *Bautista* final judgment remains preclusive while it's pending before the Ninth Circuit." *Samayoa*, 2026 WL 483243, at *6.

28. "As the Ninth Circuit has recently indicated, vacatur under the APA sets aside unlawful actions and 'restore[s] the status quo.'" *Id.* (citing *Nat'l TPS All. v. Noem*, No. 25-5724, 2026 WL 226573 at *17 (9th Cir. Jan. 28, 2026)). The status quo in the absence of the Lyons Memo and *Yajure Hurtado* is that "[f]or nearly three decades, Respondents consistently considered noncitizens present in the United States without having been admitted or paroled as detained under 8 U.S.C. § 1226(a), thus entitling them

to bond hearings.” *Granados v. Noem*, No. SA-25-CA-01464-XR, 2025 WL 3296314, at *4 (W.D. Tex. Nov. 26, 2025). In the absence of the Lyons Memo and *Yajure Hurtado*, these prior precedents control and prevent the application of mandatory detention to Petitioner. *Pacheco-Sanchez*, 2026 WL 483453, *2; *Samayoa*, 2026 WL 483243, *10. Accordingly, “Petitioner’s detention is unlawful, and habeas relief is proper. Petitioner must be released from detention.” *Santos*, 2026 WL 300786, at *4.

COUNT FOUR
Violation of Bond Regulations
Petitioner is Entitled to an Individualized Bond Hearing

29. Petitioner realleges and incorporates by reference each allegation contained in the Verified Petition and the preceding paragraphs as if set forth fully herein.

30. In 1997, EOIR and the then-Immigration and Naturalization Service issued an interim rule under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” explaining 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 IJs under 8 U.S.C. § 1226 and its implementing regulations.

31. Nonetheless, pursuant to *In re Yajure Hurtado*, both EOIR and ICE have a policy and practice of applying § 1225(b)(2) to individuals like Petitioner. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT FIVE
Judicial Estoppel

*Respondents Are Estopped From Asserting Petitioner Is Subject to Mandatory Detention
Under 8 U.S.C. § 1225(b)(2)(A)*

32. Petitioner realleges and incorporates by reference each allegation contained above

33. The Government is judicially estopped from asserting that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). In prior litigation, including *Jennings v. Rodriguez*, the Government successfully argued that individuals who entered without inspection and were not apprehended near the border or within 14 days were subject to discretionary detention under § 1226(a), not mandatory detention under § 1225(b)(2)(A). *See Jennings v. Rodriguez*, No. 15-1204, Tr. of Oral Arg. at 7-8 (Nov. 30, 2016). Courts accepted that position. Now, the Government reverses course and asserts the opposite interpretation to deny bond hearings. Under *New Hampshire v. Maine*, 532 U.S. 742 (2001), judicial estoppel applies where a party assumes a position, prevails, and then adopts a contrary position to gain an unfair advantage. The Government's reversal undermines the integrity of the judicial process and prejudices Petitioners who relied on the prior interpretation.

PRAYER FOR RELIEF

WHEREFORE, Mr. Semenov prays that this Court grant the following relief;

- (1) Assume jurisdiction over this matter;

- (2) Issue an Order that, while in Respondent's custody, Petitioner shall not be transferred outside of the Western District of Texas while this habeas petition is pending;
- (3) Issue an Order requiring Respondents to show cause as to why Petitioner should not be released immediately, or in the alternative afforded a bond hearing;
- (4) Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing within seven days that comports with Due Process requirements under the U.S. Constitution;
- (5) If the Court sees fit to order Petitioner's release, specified relief to ensure a safe return home, including release:
 - (a) Inside of Minnesota or to Washington state where Petitioner's brother lives;
 - (b) At a safe time and place communicated in advance to counsel; and
 - (c) With all of Petitioner's personal effects, such as driver's license, immigration papers, passport, cell phone, and keys.
- (6) Enjoin Respondents from implementing any condition of release, including ICE's "Alternatives to Detention" measures, which include ankle monitors, body-worn GPS, telephonic tracking, or use of the SmartLINK Mobile Application;
- (7) Grant any preliminary relief to which Petitioner shows himself to be entitled;
- (8) Award Petitioner attorneys' 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
- (9) Grant any other and further relief that this Court may deem just and proper.

Date: March 1, 2026

Respectfully Submitted,



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ATTORNEY FOR PETITIONER

**Verification by Someone Acting on
Petitioner's Behalf Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney and acting on Petitioner's behalf. I spoke with Petitioner's brother, who has personal knowledge of the factual assertions in this petition. I hereby verify that the statements made in the attached Supplement to Verified Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Date: March 1, 2026

/s/ Shannon H. Hutcheson

Shannon H. Hutcheson