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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Julio Cesar Guillen-Rosas

Petitioner,

vs.

Luis Rosa, Jr., Warden, Florence
Service Processing Center; Chris
McGregor, Acting Director of Phoenix
Field Office, U.S. Immigration and
Customs Enforcement; Todd Lyons,
Director, U.S. Immigration and
Customs Enforcement; Markwayne
Mullin, Acting Secretary of the U.S.
Department of Homeland Security;
and Pamela Bondi, Attorney General
of the United States, in their official
capacities,
Respondents.

Case No. _____

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

INTRODUCTION

1. Petitioner Julio Cesar Guillen-Rosas is a native of Mexico who has resided since 2010, has been detained by Immigration Customs Enforcement ("ICE") since March 5, 2025. He challenges his detention as a violation of the Immigration and Nationality Act

1 (“INA’) as well as a violation of the Due Process Clause of the Fifth
2 Amendment.

3 2. ICE is unlawfully subjecting Mr. Guillen-Rosas to mandatory
4 detention without the opportunity for bond based on an improper
5 reading of 8 U.S.C. § 1225(b). Mr. Guillen-Rosas is not an “alien
6 seeking admission,” making section 1225(b) inapplicable to him. As
7 such, Mr. Guillen-Rosa’s detention is a violation of his due process
8 rights as guaranteed by the Fifth Amendment.

9 3. Mr. Guillen-Rosas respectfully requests the Court to grant him a
10 Writ of Habeas Corpus and to order EOIR to schedule a bond hearing
11 within seven days. Such relief is proper under 28 U.S.C. § 2243, the
12 vehicle for challenging civil immigration detention. *See Zadvydas v.*
13 *Davis*, 533 U.S. 678, 687-88 (2002).

14 4. In the alternative, Mr. Guillen-Rosas asks the Court to order
15 Respondents to “show cause why the writ should not be granted”
16 within three days as prescribed by 28 U.S.C. § 2243. Accordingly, to
17 vindicate Petitioner’s statutory and constitutional rights, this Court
18 should grant the instant petition for a writ of habeas corpus.

19 II. CUSTODY

20 5. Mr. Guillen-Rosas is in physical custody of Respondents and is being
21 detained at Florence Correction Center in Florence, Arizona. He is
22 under the direct control of Respondent and their agents.

23 III. JURISDICTION

24 6. Jurisdiction is proper under 28 U.S.C. §§ 1331, 2241, and the
25 Suspension Clause, U.S. Const. art. I, § 9, cl. 2.

26 7. Pursuant to 28 U.S.C. § 2241, district courts have jurisdiction to
27 hear habeas petitions by noncitizens who challenge the lawfulness
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1 of their detention under federal law. *Demore v. Kim*, 538 U.S. 510,
2 516-17 (2003); *Zadvydas*, 533 U.S. at 687.

- 3 8. Venue is proper in the U.S. District Court for the District of Arizona,
4 because at least one Respondent is in the District, the Petitioner is
5 detained in this District, and the Petitioner's immediate physical
6 custodian is in this District. 28 U.S.C. § 1391(b).

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

- 8 9. The Court must grant the petition for writ of habeas corpus or issue
9 an order to show cause (OSC) to the Respondents "forthwith," unless
10 the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is
11 issued, the Court must require Respondents to file a return "within
12 three days unless for good cause additional time, not exceeding
13 twenty days, is allowed." *Id.*
- 14 10. Courts have long recognized the significance of the habeas statute in
15 protecting individuals from unlawful detention. The Great Writ has
16 been referred to as "perhaps the most important writ known to the
17 constitutional law of England, affording as it does a swift and
18 imperative remedy in all cases of illegal restraint or confinement."
19 *Fay v. Noia*, 372 U.S. 391, 400 (1963). "The writ of habeas corpus,
20 challenging illegality of detention, is reduced to a sham if the trial
21 court do not act within a reasonable time." *Jones v. Shell*, 572 F.2d
22 1278, 1280 (8th Cir. 1978).
- 23 11. Due to the nature and urgency of this proceeding, Mr. Guillen-Rosas
24 asks this Court to expedite the proceedings in the case as necessary
25 and practicable for justice.
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V. PARTIES

12. Petitioner Guillen-Rosas is a 32-year-old citizen of Mexican National who came to the United States circa 2010 and has remained in the U.S. ever since. Mr. Guillen-Rosas is being detained by the ICE in the Florence Service Processing Center.
13. Respondent Luis Rosa, Jr., Warden of the Florence Service Processing Center. The Warden is responsible for the custody of person detained at the Florence Service Processing Center, including Petitioner.
14. Respondent Chris McGregor is the Acting Field Office Director of Enforcement and Removal Operations, Pheonix Field Office, ICE.
15. Respondent Todd Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.
16. Respondent Markwayne Mullins is the Acting Secretary of the Department of Homeland Security ("DHS"). He is a legal custodian of Petituioner and is named in his official capacity.
17. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice. She has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the Board of Immigration Appeals ("BIA"). She is a legal custodian of Petitioner and is named in her official capacity.

VI. STATEMENT OF FACTS

18. Mr. Guillen-Rosas is a 32-year-old-citizen of Mexico. He supports himself since he arrived in the United States.

19. On July 21, 2025, Mr. Guillen-Rosas, filed form I-360, Petition for Amerasian, Widow(er), or Special Immigrant under the self-petitioning provisions of the Violence Against Women Act (VAWA). USCIS granted a prima facie determination on February 18, 2026.
21. On March 5, 2026, Mr. Guillen-Rosas was transferred to ICE custody, after his federal government dismissed the indictment.
22. On March 9, 2026, ICE Enforcement and Removal Operations issued Form I-862, Notice to Appear, charging Mr. Guillen-Rosas as a citizen of Mexico stating he entered the United States without admission or paroled after inspection by an immigration officer. He is being charged as “an alien present in the United States at any time or place other than as designated by the Attorney General” under 8 U.S.C. §1182(a)(6)(A)(i).

VII. LEGAL FRAMEWORK

23. Immigration proceedings, including detention and removal, are guided by multiple statutes working in tandem. Removal proceedings are carried out under 8 U.S.C. § 1229(a). There are different ways to arrive at 1229(a).
24. Title 8 U.S.C. § 1226(a) permits the Attorney General to detain noncitizens in anticipation of and while removal proceedings are ongoing. “Federal regulations provide that aliens detained under §1226(a) receive bond hearings at the outset of detention.” *Jennings v Rodriguez*, 582 U.S. 281, 306 (2018) (citing 8 CFR § 236.1(d)(1)). The purpose of a bond hearing is to determine a respondent’s flight risk or potential for danger to the community.
25. In certain instances, noncitizens are not afforded a bond hearing. §1226(c) authorizes mandatory detention for criminal behavior. 8

1 U.S.C. § 1225(b)(1)(A)(i) authorizes mandatory detention as part of
2 the “expedited removal” process. 8 U.S.C § 1225(b)(2)(A) also
3 requires detention, though only if the noncitizen is an “applicant for
4 admission,” and is “seeking admission.” *Id.*

5 26. An applicant for admission defines as “an alien present in the
6 United States who has not been admitted or who arrives in the
7 United States (whether at a designated port of arrival and including
8 an alien who is brought to the United States after having been
9 interdicted in international or United States waters). 8 U.S.C
10 §1225(a)(1).

11 27. “In sum, U.S. immigration law authorizes the Government to detain
12 certain aliens seeking admission into the country under § §1223(b)(1)
13 and (b)(2). It also authorizes the Government to detain certain aliens
14 already in the country pending the outcome of removal proceedings
15 under § § 1226(a) and (c).” *Jennings*, 583 U.S. at 289.

16 28. Under 8 U.S.C. § 1226(a), a noncitizen “may be arrested and detained
17 pending a decision on whether the alien is to be removed from the
18 United States.” Pending such decision, the Attorney General “may
19 release the alien on a bond of at least \$1,500 with security approved
20 by, and containing conditions prescribed by, the Attorney General, or
21 conditional parole...” 8 U.S.C. § 1226(a)(1)-(2).

22 29. In other words, section 1226(a) contemplated that a noncitizen who
23 is arrested and detained pending a removal decision is “generally”
24 entitled to a bond hearing. *Nielsen v. Preap*, 586 U.S. 392, 395-98
25 (2019) (“Aliens who are arrested because they are believed to be
26 deportable may generally apply for release by proving to the
27 satisfaction of a Department of Homeland Security officer or an
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1 immigration judge that they would not endanger other and would not
2 flee is release from custody... 8 U.S.C. § 1226(a) generally permits
3 an alien to seek release in this way...). This is the “default rule.”
4 *Jennings*, 583 U.S. at 288 (“Section 1226 generally governs the
5 process of arresting and detaining that group of aliens pending their
6 removal[.] Section 1226(a) sets out the default rule[.]”). *See also*
7 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 11196-97 (9th Cir. 2022)
8 (“The provision at issues in this case, 8 U.S.C. § 1226, provides the
9 general process for arresting and detaining alien who are present in
10 the United States and eligible for removal[.] Under § 1226(a) and its
11 implementing regulations, a detainee may request a bond hearing
12 before an IJ at any time before a removal order becomes final[.]
13 Additional provisions supplement § 1226’s detention scheme. Section
14 1225(b) applies to an ‘applicant for admission’...”).

- 15 30. For decades, people in this situation – who have been residing in the
16 United States, often for years – were entitled to consideration for
17 release on bond, and if not released by DHS, to bond hearing before
18 an IJ. *See Rodriguez Vazquez v. Bostock*, 779 F.Supp.1239 (W.D.
19 Wash. 2025).
- 20 31. On July 8, 2025, ICE issued a memo entitled “Interim Guidance
21 Regarding Attention Authority for Applicants for Admission,”
22 announcing that “[e]ffective immediately, it is the position of DHS”
23 that anyone “who has not been admitted” is “subject to detention
24 under [8 U.S.C. § 1225(b)] and may not be released from ICE custody
25 except by [8 U.S.C. § 1182(d)(5) parole.”
- 26 32. On September 5, 2025, the BIA issued a published decision in *Matter*
27 *of Yajure Hurtado*, 29 I &N Dec. 216 (BIA 2025). *Matter of Yajure*
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1 *Hurtado* adopts the same interpretation of the INA’s detention
2 authorities as DHS, reasoning that all noncitizens who entered
3 without admission or parole are subject to detention under
4 §1225(b)(2)(A).

5 33. The government has incorrectly applied § 1225(b)(2)(A) to Mr.
6 Guillen-Rosas. The application of 1225(b)(2)(A), instead of the
7 appropriate 1226(a), violates statutory authority and violates Mr.
8 Guillen-Rosa’s due process rights.

9 34. The Due Process Clause of the Fifth Amendment provides Petitioner
10 with important protection regarding his detention. As the Supreme
11 Court has explained, “[f]reedom from imprisonment – from
12 government custody, detention, or other forms of physical restraint
13 – lies at the heart of liberty” that the Due Process Clause protects.
14 *Zadvydas*, 533 U.S. at 690.

15 35. Since the Supreme Court’s decision in *Jennings v. Rodriguez*, the
16 Ninth Circuit has express “grave doubt” that “any statute that allows
17 for arbitrary prolonged detention without any process is
18 constitutional or that those who founded our democracy precisely to
19 protect against the government’s arbitrary deprivation of liberty
20 would have thought so.” *Rodriguez v. Marin*, 990 F.3d 252, 256 (9th
21 Cir. 2018).

22 36. To guarantee against such arbitrary detention and to guarantee the
23 right to liberty, due process requires “adequate procedural
24 protections” that ensure the government’s asserted justification for a
25 noncitizen’s physical confinement “outweighs the individual’s
26 constitutionally protected interest in avoiding physical restraint.
27 *Zadvydas*, 533 U.S. at 690.
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VII. EXHAUSTION

37. Any motion for redetermination of custody or an appeal to the BIA would be futile considering the September 5, 2025, BIA decision where the BIA adopted DHS' interpretation of the INA as mandating detention without bond for millions of aliens who reside in the U.S. *See Yajure Hurtado*, 29 I&N Dec. at 218. *Yajure Hurtado* decision held that immigration judges lack jurisdiction to hold bond hearings or grant bonds to all individuals charged with entering the country without inspection. *Id.*

38. As such, the court should find that administrative exhaustion would be futile. *See Vasquez-Rodriguez v. Garland*, 7 F.4th 888, 896 (9th Cir. 2021) ("where the agency's position appears already set and recourse to administrative remedies is very likely futile, exhaustion is not required."). BIA decisions are binding on immigration judges, and *Yajure Hurtado* thus precludes an IJ from finding jurisdiction over noncitizens like Mr. Guillen-Rosas to hold a custody redetermination. Therefore, judicial intervention enjoying Respondents from preventing the Petitioner from having a bond hearing pursuant to the holding in *Yajure Hurtado* is necessary to enable Petitioner to avail himself of administrative remedies.

39. Therefore, the court considers the merits of this petition.

IX. CLAIMS FOR RELIEF

COUNT ONE

Violation of The Immigration and Nationality Act and Implementing Regulations 8 U.S.C. § 1226(a).

40. The allegations in the above paragraph are realleged and incorporated herein.

1 afford Petitioner the opportunity to present evidence that he is not a
2 flight risk nor a danger to the community;

3 (5) Award Petitioner attorney's fees and cost under law; and

4 (6) Grant any further relief this Court deems just and proper.

5 RESPECTFULLY SUBMITTED: March 20, 2026.

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7
8 /s/ Juan L. Rocha
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VERIFICATION PURSUANT TO 28 U.S.C § 2242

I represent Petitioner, Mr. Guillen-Rosas, and submit this verification on his behalf. I hereby verify that the factual statements made in the forgoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 20th day of March 2026.

/s/ Juan L. Rocha
JUAN L. ROCHA