

Erica Sanchez, Of Counsel
Shefer Law Firm, P.A.
800 SE 4th. Ave #803
Hallandale Beach, Florida 33009
Telephone: (480) 866-1111
erica@shefer.legal
Arizona Bar #027107
Attorney for Petitioner

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Fabian Gomez-Arambula,
Petitioner,

v.

Kristi Noem, Secretary of the United States
Department of Homeland Security, in her official
capacity; **Sirce Owen**, Acting Director of Executive
Office for Immigration Review, in her official capacity;
Eric Rokosky, Warden of the Eloy Detention Center,
in his official capacity,
Respondents.

Case No.

Agency No. 

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

INTRODUCTION

The Respondents are unlawfully detaining Petitioner Fabian Gomez-Arambula, at the Eloy Detention Center, due to the Department of Homeland Security (DHS) recently changed its long-standing position with regard to the status of mandatory detention. *See*, ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission filed herewith as Exhibit 1. The Board of Immigration Appeals (BIA) issued a precedential decision on September 5, 2025, holding that all

1 noncitizens present in the United States without admission – no matter how long they
2 have resided here – are still “applicants for admission” under 8 U.S.C. § 1225(a) and
3 not entitled to bond hearings because they are subject to mandatory detention under §
4 1225(b)(2)(A). *See, Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025) filed
5 herewith as Exhibit 2.
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7 But this interpretation of the Immigration and Naturalization Act (INA) violates
8 both procedural and substantive Fifth Amendment protections, ignores the plain
9 statutory language of both § 1225 and § 1226, and is contrary to numerous recent Federal
10 Court decisions in this District that have rejected these exact arguments. *See e.g.*
11 10/3/2025 Order entered in *Francisco Echevarria v. Pam Bondi, et al.*, CV-25-03252-
12 PHX-DWL (ESW), (D. Ariz. 10/3/2025), filed herewith as Exhibit 3.
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15 Here, Respondents’ reliance on *Yajure-Hurtado* to justify Petitioner’s continued
16 detention without a bond hearing is legally and factually misplaced. Petitioner has lived
17 in the United States continuously since July 7, 2019 and is not a recent entrant or arriving
18 alien. *See* Petitioner’s Notice to Appear, filed herewith as Exhibit 5.
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20 Further, when Respondents initiated removal proceedings, the Notice to Appear
21 classified Petitioner as an “alien present in the United States,” rather than as an “arriving
22 alien,” notwithstanding that option being available on the form. *Id.* This designation is
23 consistent with the government’s own treatment of Petitioner as a non-arriving
24 noncitizen subject to detention under § 1226, not mandatory detention under § 1225.
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1 In addition to BIA decisions not being binding precedent upon this Court, the
2 Supreme Court decision last year in *Loper Bright Enterprises v. Raimondo*, 603 U.S.
3 369, 400 (2024), made clear that federal courts must independently interpret statutes and
4 no longer defer under so-called “Chevron deference.” This Court is therefore in the best
5 position to determine whether the Respondents are misinterpreting the relevant federal
6 statutes and improperly denying alien detainees bond hearings on the grounds that they
7 are all subject to mandatory detention under § 1225(b)(2)(A). The petition for writ of
8 habeas corpus should be granted.
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11 JURISDICTION & CUSTODY

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13 1. Petitioner Fabian Gomez-Arambula, is in the physical custody of
14 Respondents and Immigration and Customs Enforcement (ICE), an agency within the
15 Department of Homeland Security.
16

17 2. Petitioner is currently detained at Eloy Detention Center and is under
18 the direct control of Respondents and their agents.

19 3. This action arises under the Constitution of the United States and 8
20 U.S.C. § 1101 et seq.
21

22 4. This Court has jurisdiction under 28 U.S.C. § 2241, Art. I § 9, cl. 2 of
23 the United States Constitution, 28 U.S.C. § 1331, and the common law. This Court may
24 grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. §
25 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.
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5. Congress has preserved judicial review of challenges to immigration detention. *See Jennings v. Rodriguez*, 583 U.S. 122, 130-131 (2018) (holding that 8 U.S.C. §§ 1226(e) and 1252(b)(9) do not bar review of challenges to prolonged immigration detention).

6. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 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.*

7. The Court has inherent power to release the petitioner pending review of his petition. *See Martin v. Solem*, 801 F.2d 324, 329 (8th Cir. 1986).

VENUE

8. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in this Court, the federal judicial district in which Petitioner is currently in custody.

9. Venue is also properly in this Court pursuant to 18 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States.

PARTIES

10. Petitioner Fabian Gomez-Arambula was born on [REDACTED] in Mexico. Petitioner is currently detained by ICE at the Eloy Detention Center. *See*, ICE Online Detainee Locator, filed herewith as Exhibit 6.

1 11. Respondent Kristi Noem is the Secretary of the U.S. Department of
2 Homeland Security ("DHS"). In this capacity, Respondent Noem is a legal custodian of
3 Petitioner. Respondent Noem is sued in her official capacity.
4

5 12. Respondent DHS is a federal executive agency responsible for, among
6 other things, enforcing federal immigration laws and overseeing lawful immigration to
7 the United States. Respondent DHS is a legal custodian of Petitioner.
8

9 13. Respondent Eric Rokosky is the Warden of the Eloy Detention Center.
10 Respondent Rokosky is a legal custodian of Petitioner. Respondent Rokosky is sued in
11 his official capacity.
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13 14. Respondent Sirce Owen is the Acting Director of the Executive Office
14 for Immigration Review (EOIR), a federal agency within the U.S. Department of Justice.
15 Respondent EOIR is responsible for the administration of immigration courts, and
16 acceptance of forms and petitions related to adjudication of immigration claims, as well
17 as motions for bond. Respondent Sirce Owen is sued in her official capacity.
18

19 **STATEMENT OF FACTS**

20 15. Petitioner Fabian Gomez-Arambula was born on  in
21 Mexico.
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23 16. Petitioner entered the U.S. near El Paso, Texas, on or about July 7, 2019,
24 and was not admitted or paroled after inspection. *See* Notice to Appear, filed herewith as
25 Exhibit 5.
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1 17. Respondents issued Respondent a notice to appear on March 4, 2026.
2 *Id.* DHS charged Petitioner with being subject to removal under Section 212(a)(6)(A)(i)
3 of the Immigration and Nationality Act. *Id.* This placed him in full removal proceedings
4 under section 240 of the Act.
5

6 18. The Notice to Appear identified him as an “alien present in the United
7 States” even though “arriving alien” was an alternate option. *Id.* Notably, his Notice to
8 Appear (NTA) indicates it was issued after an asylum officer found he demonstrated a
9 credible fear of persecution or torture. *Id.*
10

11 19. Petitioner will seek relief from removal, including asylum, by filing
12 Form I-589 in these proceedings.
13

14 20. Petitioner is detained at the Eloy Detention Center where he remains
15 in custody. *See* ICE Online Detainee Locator Printout, filed herewith as Exhibit 6.
16

17 21. Based on a review of the record, Petitioner has no criminal history.
18 *See*, Declaration of Counsel in Support of Petition for Writ of Habeas Corpus, filed
19 herewith as Exhibit 7.
20

21 22. Petitioner has not been afforded an individualized bond hearing at
22 which he could demonstrate that he is neither a flight risk nor a danger to the community.
23

24 LEGAL FRAMEWORK

25 23. The length of time that a petitioner has been living in the United States
26 is a constitutionally relevant consideration, because “once an alien enters the country,
27 the legal circumstance changes, for the Due Process Clause applies to all ‘persons’
28

1 within the United States, including aliens, whether their presence here is lawful,
2 unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). It
3 is therefore reasonable to read these statutes “against [that] backdrop.” *See Hewitt v.*
4 *United States*, 145 S. Ct. 2165, 2173 (2025).

6 24. Due process thus requires “adequate procedural protections” to ensure
7 that the government’s asserted justification for a noncitizen’s physical confinement
8 “outweighs the individual’s constitutionally protected interest in avoiding physical
9 restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

11 25. In the immigration context, the Supreme Court has recognized only
12 two valid purposes for civil detention: to mitigate the risks of danger to the community
13 and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. The government may not detain a
14 noncitizen based on any other justification.

16 26. Congress has granted the Attorney General discretion to decide
17 whether to detain or release certain noncitizens pending a removal decision. *See* 8 U.S.C.
18 § 1226(a). The Attorney General has delegated that authority to IJs. 8 C.F.R. §§ 1003.19,
19 1236.1.

21 27. On July 8, 2025, DHS adopted a new policy on mandatory detention
22 for noncitizens who have been residing in the United States. *See*, ICE Memo: Interim
23 Guidance Regarding Detention Authority for Applications for Admission filed herewith
24 as Exhibit 1.
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1 28. On September 5, 2025, the BIA entered the precedential decision
2 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), filed herewith as Exhibit 2,
3 which holds that all noncitizens who enter without inspection are “applicants for
4 admission” under 8 U.S.C. § 1225(a) and therefore subject to mandatory detention under
5 § 1225(b)(2), without regard for the length of time they have lived in the United States.
6

7 29. The Ninth Circuit has held that § 1226(a) is the “default” detention
8 statute for aliens in removal proceedings “[8 U.S.C. §1226(a) (“Subsection A”)] is the
9 default detention statute for noncitizens in removal proceedings and applies to
10 noncitizens “[e]xcept as provided in [Subsection C].” 8 U.S.C. § 1226(a).” *Avilez v.*
11 *Garland*, 69 F. 4th 525, 529-530 (9th Cir. 2022). *Accord, Rodriguez Diaz v. Garland*,
12 83 F. 4th 1177, 1179 (9th Cir. 2023); *Sarr v. Scott*, 765 F. Supp. 3d 1091, 1095 (WD
13 Wash. 2025); *Prieto-Romero v. Clark*, 534 F.3d 1053, 1057 (9th Cir. 2008). *Casas-*
14 *Castrillon v. DHS*, 535 F.3d 942 (9th Cir. 2008).
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18 30. In 1997, after Congress amended the INA through the Illegal
19 Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), EOIR and
20 the then-Immigration and Naturalization Service issued an interim rule to interpret and
21 apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and
22 Detention of Aliens,” the agencies explained that:
23

24 Despite being applicants for admission, aliens who are
25 present without having been admitted or paroled (formerly
26 referred to as aliens who entered without inspection) ***will be***
27 ***eligible*** for bond and bond redetermination.
28

1 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that
2 individuals who had entered without inspection *were* eligible for consideration for
3 bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing
4 regulations.
5

6 31. Thus, for almost 30 years, all participants in the immigration system
7 have understood that people arrested inside the United States generally fall within §
8 1226 for detention purposes and are therefore required to receive a bond hearing upon
9 request—even if they initially entered the country without permission. *See Martinez v.*
10 *Hyde*, No. 25-11613, 2025 WL 2084238, at *4 n.9 (D. Mass. July 24, 2025) (citing the
11 United States Solicitor General’s representation to the Supreme Court at oral argument
12 that “DHS’s long-standing interpretation has been that 1226(a) applies to those who
13 have crossed the border between ports of entry and are shortly thereafter apprehended”).
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16 32. This Court and numerous district courts have rejected that
17 interpretation, holding that § 1226(a) governs detention of long-present noncitizens
18 apprehended within the United States and requires access to bond hearings. *See*
19 *Echevarria v. Bondi*, No. CV-25-03252-PHX-DWL (ESW) (D. Ariz. Oct. 3, 2025)
20 (collecting cases). While a minority of courts have adopted Respondents’ position, those
21 decisions are not binding and conflict with the statutory text, legislative history, and
22 overwhelming district court authority.
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25 33. In *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM
26 (C.D. Cal. Feb. 18, 2026), the district court vacated *Matter of Yajure-Hurtado* under the
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1 Administrative Procedure Act as resting on an identical, incorrect interpretation of law.
2 *See, Maldonado Bautista*, filed herewith as Exhibit 4. The court held that EOIR and
3 DHS may not “privilege an executive agency’s legal interpretation over a federal district
4 court’s legal interpretation,” reaffirming that “[i]t is the province and duty of the judicial
5 department to say what the law is.” The court further rejected the government’s reliance
6 on rhetoric about detaining the “worst of the worst,” where the record showed detainees
7 with no criminal history and strong community ties.
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10 34. Accordingly, the court restored Immigration Judges’ jurisdiction to
11 conduct bond hearings under 8 U.S.C. § 1226(a) for individuals previously denied
12 custody redeterminations based solely on entry without inspection and ordered
13 classwide notice to ensure detainees are informed of their right to seek release on bond
14 or conditional parole.
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16
17 35. Although the Fifth Circuit recently adopted a contrary interpretation in
18 *Buenrostro-Mendez v. Bondi*, No. 25-20496, slip op. at 9 (5th Cir. Feb. 6, 2026),
19 concluding that noncitizens who entered without inspection are subject to mandatory
20 detention under 8 U.S.C. § 1225(b)(2) based on an equivalence between the terms
21 “applicant for admission” and “seeking admission,” that decision is not binding on this
22 Court and represents a minority view. Courts within this Circuit, including the court in
23 *Maldonado Bautista*, have rejected that interpretation as inconsistent with the INA’s
24 structure distinguishing border inspection under § 1225 from interior detention under §
25 1226.
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1 36. Respondents continue to misclassify long-present noncitizens under §
2 1225(b)(2) and deny access to bond hearings in violation of statutory authority, binding
3 precedent, and due process. Petitioner's continued detention without a custody
4 redetermination hearing is therefore unlawful and warrants habeas relief.

6 **CLAIMS FOR RELIEF**

7 **FIRST CLAIM FOR RELIEF**

8 **Violation of Fifth Amendment – Substantive Due Process**

9 37. Petitioner realleges and incorporates herein the allegations contained
10 in the preceding paragraphs of the petition as if fully set forth herein.

12 38. The Due Process Clause of the Fifth Amendment forbids the
13 government from depriving any “person” of liberty “without due process of law,”
14 including noncitizens. U.S. Const. amend. V.

16 39. Substantive due process asks whether a person's life, liberty, or
17 property is deprived without sufficient purpose. There is no question that Petitioner has
18 been deprived of his liberty in this case.

20 40. The government's continued detention of Petitioner is not supported
21 by any special interest or compelling justification that outweighs his liberty interest.

22 41. Petitioner's ongoing detention when so many federal courts have held
23 that he is entitled to be considered for release upon posting an appropriate bond under §
24 1226 constitutes prolonged detention and violates his substantive due process rights.

26 **SECOND CLAIM FOR RELIEF**

27 **Violation of Fifth Amendment Right - Procedural Due Process**

1 42. Petitioner realleges and incorporates herein the allegations contained
2 in the preceding paragraphs of the petition as if fully set forth herein.

3
4 43. The Due Process Clause of the Fifth Amendment guarantees Petitioner
5 the right to procedural due process in seeking a bond redetermination and the
6 government may not unreasonably restrict this right.

7
8 44. The government's knowing misclassification of Petitioner as an
9 "applicant for admission" under § 1225 in order to justify its argument for mandatory
10 detention is not supported by any special interest or compelling justification that
11 outweighs Petitioner's liberty interest.

12
13 45. The continued detention of Petitioner is not supported by any special
14 interest or compelling justification that outweighs his liberty interest.

15 **PRAYER FOR RELIEF**

16 **WHEREFORE** Petitioner Fabian Gomez-Arambula respectfully requests
17 that the Court grant the following relief:
18

- 19 1. Assume jurisdiction over this matter;
20 2. Order Respondents not to transfer Petitioner out of this District during the
21 pendency of these proceedings, to preserve jurisdiction;
22 3. Issue a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and order
23 Respondents to immediately release Petitioner from custody or, in the
24 alternative, order Respondents to provide Petitioner a bond hearing under 8
25 U.S.C. § 1226, and without regard to the holding of *Matter of Yajure Hurtado*,
26 29 I&N Dec. 216 (B.I.A. 2025), within three (3) business days;
27 4. Award Petitioner reasonable attorneys' fees and costs pursuant to the Equal
28 Access to Justice Act, 28 U.S.C. § 2412; and

5. Grant any further relief the Court deems just and proper.

Dated this 23rd day of March, 2026.

By: /s/ *Erica Sanchez*
Erica Sanchez, Esq.
Shefer Law Firm, P.A.
800 SE 4th. Ave #803
Hallandale Beach, Florida 33009
(786) 295-9077
erica@shefer.legal

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

I represent Petitioner Fabian Gomez-Arambula and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 23rd day of March, 2026.

By: /s/ *Erica Sanchez*
Erica Sanchez, Esq.

LIST OF EXHIBITS

Exhibit 1	<u>ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission</u> (last visited September 8, 2025)
Exhibit 2	<i>Matter of Yajure Hurtado</i> , 29 I&N Dec. 216 (B.I.A. 2025).
Exhibit 3	<i>Echevarria v. Bondi</i> , No. CV-25-03252-PHX-DWL (ESW), (D. Ariz. Oct. 3, 2025)
Exhibit 4	<i>Maldonado Bautista v. Santacruz</i> , No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Feb. 18, 2026)
Exhibit 5	Notice to Appear
Exhibit 6	Detainee Locator
Exhibit 7	Declaration of Counsel in Support of Petition for Writ of Habeas Corpus