

1 GREGORY P. FAY
2 AZ Bar: 035534
3 Green Evans-Schroeder, PLLC
4 130 W. Cushing Street
5 Tucson, Arizona 85701
6 Tel: (480) 588-3430
7 Email: greg@arizonaimmigration.net

8 *Attorney for Petitioner*

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

12 Jose Luis de Anda-Sanchez,

13 Petitioner,

14 v.

15 Christopher McGregor, Acting Field
16 Office Director of Enforcement and
17 Removal Operations, Phoenix Field
18 Office, Immigration and Customs
19 Enforcement;

20 Markwayne Mullin, Acting Secretary,
21 U.S. Department of Homeland Security;

22 Pamela Bondi, U.S. Attorney General;

23 Eric Rokosky, Warden, Eloy Detention
24 Center;

25 Todd Lyons, Acting Director,
26 Immigration and Customs Enforcement
27 and Removal Operations.

28 Respondents.

Case No.

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

PETITION FOR WRIT OF HABEAS CORPUS
De Anda-Sanchez v. McGregor, et al.

INTRODUCTION

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2 1. Since at least the passage of the Immigration and Nationality Act (INA) of
3 1952, noncitizens who entered the country illegally could generally be released on bond
4 while their removal proceedings were pending. Yet last year, U.S. Immigration and
5 Customs Enforcement (ICE) “revisited” its position and determined that all noncitizens
6 who are present without admission are subject to mandatory detention while in removal
7 proceedings. The Board of Immigration Appeals (BIA) recently reached the same
8 conclusion in a precedential decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA
9 2025), holding for the first time that all noncitizens who entered the country without
10 admission are categorically ineligible for bond regardless of how long they have lived in
11 the United States.
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14 2. Federal judges have issued hundreds of decisions finding the government’s
15 novel interpretation incompatible with the INA. *See infra* nn. i, ii. The provision on which
16 the government relies states that noncitizens who are “seeking admission” are subject to
17 mandatory detention while in removal proceedings. 8 U.S.C. § 1225(b)(2)(A). Congress
18 defined “admission” as “the lawful entry of the alien into the United States after inspection
19 and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A). Thus, by its plain
20 terms, the provision only applies to noncitizens who present themselves at a port of entry.
21 And in addition to disregarding the plain text of § 1225(b)(2)(A), the government’s
22 contrary interpretation renders superfluous other provisions of the INA that require the
23 mandatory detention of noncitizens who have engaged in criminal activity—including a
24 provision, § 1226(c)(1)(E), enacted this year in the Laken Riley Act.
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1 7. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
2 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

3 8. The “zipper clause” at 8 U.S.C. § 1252(b)(9), which channels “[j]udicial
4 review of all questions of law . . . including interpretation and application of constitutional
5 and statutory provisions, arising from any action taken . . . to remove an alien from the
6 United States” to the appropriate federal court of appeals, does not apply because that
7 section applies only to review of removal orders, and Petitioner does not seek review of
8 orders of removal but of custody. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-
9 SSS-BFM, 2025 U.S. Dist. LEXIS 171364, at *9-10 (C.D. Cal. July 28, 2025).
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11 9. The bar to review at 8 U.S.C. § 1252(g) strips all courts of jurisdiction to
12 hear “any cause or claim by or on behalf of any alien arising from the decision or action by
13 the Attorney General to commence proceedings, adjudicate cases, or execute removal
14 orders against any alien under this chapter.” The Supreme Court previously characterized
15 § 1252(g) as a narrow provision, applying “only to three discrete actions that the Attorney
16 General may take: her ‘decision or action’ to ‘commence proceedings, *adjudicate* cases, or
17 *execute* removal orders.’” *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471,
18 482 (1999) (emphasis in original). In doing so, the Supreme Court found it “implausible
19 that the mention of *three discrete events* along the road to deportation was a shorthand way
20 to referring to *all claims arising from* deportation proceedings.” *Id.* (emphasis added).
21 Petitioner’s challenge to his detention does not fall within these discrete actions.
22 *Maldonado Bautista*, 2025 U.S. Dist. LEXIS 171364 at *11.
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10. Subsection 2 of 8 U.S.C. § 1252(a), titled “Judicial Review of Orders of Removal,” contains four subsections, which outline categories of claims that are not subject to judicial review. § 1252(a)(2)(A)–(D). None of these subsections precluding judicial review apply to this matter, as the specified statutory provisions do not cite § 1225(b)(2)(A) or § 1226(a), which are the two provisions Petitioner challenges. Thus, no part of § 1252 deprives this Court of jurisdiction. *Maldonado Bautista*, 2025 U.S. Dist. LEXIS 171364 at *12. As such, the Court has jurisdiction over Petitioner’s challenge to his detention.

VENUE

11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for Arizona, the judicial district in which Petitioner currently is detained.

12. Venue is also properly 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 Arizona.

REQUIREMENTS OF 28 U.S.C. § 2243

13. 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, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

14. 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

15. Petitioner Jose Luis de Anda-Sanchez is a 45-year-old resident of Los Angeles, California. To wit, he last entered the United States in approximately 1989 and has remained here since. ICE charged Petitioner with removability under 8 U.S.C. § 1182(a)(6)(A)(i) as an alien in the United States without being admitted or paroled and under 8 U.S.C. § 1182(a)(7)(A)(i)(I) as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document. Exhibit C. He is presently detained at the Eloy Detention Center in Eloy, Arizona.

16. Respondent Christopher McGregor is the Acting Director of the Phoenix Field Office of ICE’s Enforcement and Removal Operations division, which oversees operations at the San Luis Detention Center. As such, Mr. McGregor is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

17. Respondent Markwayne Mullin is the Acting Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the INA,

1 and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate
2 custodial authority over Petitioner and is sued in his official capacity.

3 18. Respondent Pamela Bondi is the United States Attorney General. She is
4 responsible for the Executive Office for Immigration Review (EOIR), which is the
5 component of the U.S. Department of Justice that is responsible for implementing and
6 enforcing the INA in removal proceedings, including for custody redetermination in bond
7 hearings.

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9 19. Respondent Eric Rokosky is the warden of the Eloy Detention Center, where
10 Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his
11 official capacity.

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13 20. Respondent Todd Lyons is the Acting Director of ICE and is named in his
14 official capacity. Among other things, ICE is responsible for the administration and
15 enforcement of the immigration laws, including the removal of noncitizens. In his official
16 capacity as head of ICE, he is the legal custodian of Petitioner.

17 18 **LEGAL FRAMEWORK**

19 20 **Immigration and Nationality Act and Federal Regulations**

21 21. The INA prescribes three basic forms of detention for the vast majority of
22 noncitizens who are alleged or found to be removable from the United States.

23 22. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard
24 removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention
25 are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§
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1 1003.19(a), 1236.1(d), while noncitizens who have engaged in specified criminal and
2 terrorist activity are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

3 23. Second, the INA provides for mandatory detention of noncitizens subject to
4 expedited removal under 8 U.S.C. § 1225(b)(1) and for other noncitizens seeking
5 admission under § 1225(b)(2).
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7 24. Last, the INA also provides for detention of noncitizens who have been
8 ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C.
9 § 1231(a)–(b).
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11 25. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

12 26. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part
13 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996,
14 Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583,
15 3009–585. Section 1225(b)(2)(A) states that if an “examining immigration
16 officer determines that an alien seeking admission is not clearly and beyond a doubt
17 entitled to be admitted, the alien shall be detained for [removal proceedings].” The IIRIRA
18 also defined “admission” in 8 U.S.C. § 1101(a)(13)(A) as the “lawful entry of the alien into
19 the United States after inspection and authorization by an immigration officer.” § 301, 110
20 Stat. 3009–575.
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23 27. Consistent with these statutory provisions, federal regulations preclude
24 immigration judges from granting bond to “arriving aliens,” 8 C.F.R. §
25 1003.19(h)(1)(B)(ii), a phrase defined in relevant part as “applicant[s] for admission
26 coming or attempting to come into the United States at a port-of-entry.” 8 C.F.R. §
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1 1001.1(q). The decision to preclude immigration judges from granting bond to arriving
2 aliens—as distinct from all noncitizens who entered without admission—was the product
3 of notice and comment rulemaking in early 1997 following the enactment of the IIRIRA.

4 28. As the regulations were initially proposed, all “[i]nadmissible aliens in
5 removal proceedings” would have been ineligible for bond. *Inspection and Expedited*
6 *Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal*, 62 Fed. Reg.
7 444, 483 (Jan. 3, 1997). After receiving comments, however, the Attorney General deleted
8 the proposed provision and replaced it with one that would apply only to “[a]rriving
9 aliens.”¹ *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens;*
10 *Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10361 (March
11 6, 1997). As the Attorney General explained, “[t]he effect of this change [was] that
12 inadmissible aliens, except for arriving aliens, have available to them bond redetermination
13 hearings before an immigration judge, while arriving aliens do not.” *Id.* at 10323. In other
14 words, “aliens who are present without having been admitted or paroled (formerly referred
15 to as aliens who entered without inspection) will be eligible for bond and bond
16 redetermination.” *Id.*

17 29. Thus, in the decades that followed, most people who entered without
18 inspection and were placed in standard removal proceedings received bond hearings, unless
19 their criminal history rendered them ineligible. That practice was consistent with many
20 more decades of prior practice in which noncitizens who were not deemed “arriving” were
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¹ This provision was originally promulgated as 8 C.F.R. § 236.1(c)(5)(i) and was later transferred to 8 C.F.R. § 1003.19(h)(2)(i)(B).

30. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). Congress provided that noncitizens who entered the country without being admitted are subject to mandatory detention if they were thereafter charged with, arrested for, convicted of, or admitted committing various offenses. § 1226(c)(1)(E). As may be apparent, this provision would be superfluous if all noncitizens who were present without admission were already subject to mandatory detention under § 1225(b)(2)(A).

31. Exhaustion of administrative remedies is required “[w]here Congress specifically mandates.” *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). But where, as here “Congress has not clearly required exhaustion, sound judicial discretion governs.” *Id.* (citations omitted). Under these principles, prudential exhaustion is not required where a request for relief before the agency would be futile because the agency has “predetermined the issue before it.” *Id.* at 148. Further, “a court may waive the prudential exhaustion requirement if ‘administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.’” *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)).

32. The BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, renders prudential exhaustion futile in bond cases involving individuals who entered the United States without inspection. *Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025). Although Petitioner has just received a denial of his bond request by an immigration judge, *Matter of Yajure Hurtado* "predetermine[s]" the outcome of that appeal. *McCarthy*, 503 U.S. at 148. Prudential exhaustion is therefore unnecessary, and the Court should take jurisdiction over Petitioner's case.

33. A motion to reconsider has been filed in *Matter of Yajure Hurtado*. The motion challenges the Board's statutory analysis and asks it to withdraw its decision because (a) the underlying removal proceedings had concluded by the time the Board issued its decision, making the case moot, and (b) the decision conflicts with longstanding regulations issued by the Attorney General.²

Federal Court Decisions Regarding Detention of Individuals Who Are Present Without Admission

34. Federal judges have issued over 300 decisions finding the government's novel interpretation incompatible with the INA. *See infra* nn. i & ii. These judges have not been unsparing in their criticism of the government's newfound position. One called it a "nonstarter." *Doe v. Moniz*, No. 25-12094, 2025 WL 2576819 at *10 (D. Mass. Sept. 5, 2025). Another called it "willfully blind." *Leal-Hernandez v. Noem*, No. 25-2428, 2025 WL 2430025 at *25 (D. Md. Aug. 24, 2025). Another called it "a policy argument,

² The Board's Decision in *Matter of Yajure Hurtado* is also not entitled to deference because it contravenes the statutory language and legislative history, and it deviates from longstanding agency practice and regulations.

1 projected onto Congress.” *Romero v. Hyde*, No. 25-11631, ___ F. Supp. 3d ___, 2025 WL
2 2403827 at *28 (D. Mass. Aug. 19, 2025). And another noted that the government “could
3 not identify any federal court that has adopted their novel reading of § 1225(b)(2)(A).”
4 *Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425 at *20 (E.D. Mich Sept. 9,
5 2025).
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7 35. The district court in *Maldonado Bautista v. Santacruz*, 5:25-cv-01873 (C.D.
8 Cal. Nov. 20, 2025) (Sykes, J.), granted nationwide class certification and summary
9 judgment on this issue, though its decision is currently stayed. Specifically, the court has
10 declared illegal ICE’s policy, and the BIA’s decision in *Matter of Yajure-Hurtado*, 29 I. &
11 N. Dec. 216 (BIA 2025), requiring detention without bond of all persons who entered
12 without inspection or admission. *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM,
13 2025 U.S. Dist. LEXIS 231977, at *26 (C.D. Cal. Nov. 25, 2025) The decision has been
14 stayed by the Ninth Circuit pending the outcome in another case. *Maldonado Bautista v.*
15 *DHS*, No 26-1044, Docket 5.1 (9th Cir. Mar. 6, 2026) (order granting emergency stay)
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18 36. It is not difficult to understand why federal district courts have rejected the
19 government’s novel interpretation, as the plain text of the statutory provisions demonstrates
20 that § 1226(a), not § 1225(b), applies to people like Petitioner.
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22 37. By its terms, § 1225(b)(2)(A) only applies to noncitizens who are “seeking
23 admission,” and Congress defined “admission” as the “lawful entry of the alien into the
24 United States after inspection and authorization by an immigration officer.” §
25 1101(a)(13)(A). Accordingly, “[c]onstruing section 1225(b)(2) to apply to noncitizens
26 already residing in the country would read the word ‘entry’ out of the definitions of
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1 'admitted' and 'admission.'" *Chafila v. Scott*, No. 2:25-cv-00437-SDN, 2025 U.S. Dist.
2 LEXIS 184909, at *19 (D. Me. Sep. 21, 2025).

3 38. Accordingly, § 1225(b) applies to people arriving at U.S. ports of entry. The
4 statute's entire framework is premised on inspections at the border of people who are
5 "seeking admission" to the United States, and individuals who entered without inspection
6 and have never affirmatively applied for admission or parole do not fit within that category.
7 8 U.S.C. § 1225(b)(2)(A); *see Reyes v. Raycraft*, No. 25-cv-12546, 2025 U.S. Dist. LEXIS
8 175767, at *19 (E.D. Mich. Sep. 9, 2025) (specifically rejecting the Board's analysis of the
9 statute in *Matter of Yajure Hurtado* and concluding that it is "difficult to square a
10 noncitizen's continued presence with "seeking admission" when that noncitizen never
11 attempted to obtain lawful status"); *Vasquez-Garcia v. Noem*, No. 25-cv-02180-DMS-
12 MMP, 2025 U.S. Dist. LEXIS 171714, at *18 (S.D. Cal. Sep. 3, 2025) (rejecting DHS'
13 contention that an individual who entered the United States without inspection "is
14 automatically understood to be 'seeking admission' within the meaning of § 1225(b)(2)(A),
15 without need[ing] to affirmatively apply for admission or parole"); *see also Arrazola*
16 *Gonzalez v. Noem*, No. 5:25-cv-01789, 2025 U.S. Dist. LEXIS 158808, at *6-7 (C.D. Cal.
17 Aug. 15, 2025) (concluding that habeas petitioner showed likelihood of success on the
18 merits of argument that "[t]o ignore the 'seeking admission' language [in 8 U.S.C. §
19 1225(b)(2)(A) . . . would render the language purposeless and violate a key rule of
20 statutory construction").
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22 39. Throughout its text, 8 U.S.C. § 1225 defines its scope by reference to
23 "inspections"—a term not defined in the INA but which typically connotes an examination
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1 upon or soon after physical entry. *See* 8 U.S.C. § 1225 (titled “Inspection by immigration
2 officers; expedited removal of inadmissible arriving [noncitizens]; referral for hearing”);
3 §§ 1225(b)(1)–(2) (referring to “inspections” in their titles); § 1225(d)(1) (authorizing
4 immigration officials to search certain conveyances to conduct “inspections” where
5 noncitizens “are being brought into the United States”). Many statutory provisions, various
6 regulations and agency precedent discuss “inspection” in the context of admission
7 processes at ports of entry, further supporting the conclusion that § 1225(b) has a limited
8 temporal and geographic scope. *See, e.g.*, 8 U.S.C. §§ 1187(h)(2)(B)(i), 1225A; 8 U.S.C.
9 § 1752a; 8 C.F.R. § 235.1; *Matter of Quilantan*, 25 I&N Dec. 285 (BIA 2010)).
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12 40. Indeed, the Supreme Court has explained that this mandatory detention
13 scheme applies to noncitizens who are “arriving in the United States,” *Clark v. Martinez*,
14 543 U.S. 371, 373 (2005), “at the Nation’s borders and ports of entry, where the
15 Government must determine whether a[] [noncitizen] seeking to enter the country is
16 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).
17

18 41. As importantly, § 1226(c) subjects numerous categories of inadmissible
19 noncitizens to mandatory detention. If “the [BIA was] correct that § 1225(b)’s mandatory
20 detention provisions apply to all persons who have not been admitted into the United States,
21 that would render superfluous those provisions of § 1226 that apply to certain categories
22 of inadmissible aliens, such as § 1226(c)(1)(A), (D), and (E).” *Hasan v. Crawford*, __ F.
23 Supp. 3d __, 2025 WL 268225 at *22 (E.D. Va. Sept. 19, 2025) (Brinkema, J.). Indeed, the
24 BIA’s interpretation would “render the Laken Riley Act a meaningless amendment, since
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1 it would have prescribed mandatory detention for noncitizens already subject to it.” *Aceros*
2 *v. Kaiser*, 2025 WL 2637503 at *28 (N.D. Cal. Sept. 12, 2025).

3 42. Accordingly, the mandatory detention provision of § 1225(b)(2) does not
4 apply to people like Petitioner, who have already entered and were residing in the United
5 States at the time they were apprehended.
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7 FACTS

8 43. Petitioner Jose Luis De Anda-Sanchez is a 45-year-old resident of Los
9 Angeles, California. To wit, he last entered the United States in 1989 and has remained
10 here since.
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12 44. Petitioner is married to a US citizen, and is the beneficiary of spousal I-130.
13 Exhibit C. To wit, he is also the son of two naturalized citizen parents and father of four
14 United States citizen children aged five to nineteen.
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16 45. ICE detained Petitioner on approximately March 2, 2026 while he was at a
17 gas station near the Arizona California border, charging him with removability under 8
18 U.S.C. § 1182(a)(6)(A)(i) as an alien in the United States without being admitted or paroled
19 and under 8 U.S.C. § 1182(a)(7)(A)(i)(I) as an immigrant who, at the time of application
20 for admission, is not in possession of a valid unexpired immigrant visa, reentry permit,
21 border crossing card, or other valid entry document. Exhibit A. He is presently detained at
22 the Eloy Detention Center in Eloy, Arizona.
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24 46. Petitioner is still detained at a federal detention center in Arizona, with an
25 upcoming master calendar hearing on March 30, 2026. Exhibit B. Absent this Court’s
26 intervention, he will remain detained for the duration of his removal proceedings.
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CLAIMS FOR RELIEF

COUNT I

Violation of the INA

47. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

48. The mandatory detention provision at 8 U.S.C. § 1225(b)(2)(A) does not apply to all noncitizens residing in the United States who entered the country without being admitted. By its terms, § 1225(b)(2)(A) only applies to noncitizens who are “seeking admission.” The term “admission” is defined to require a “lawful entry” following “inspection and authorization by an immigration officer.” § 1101(a)(13)(A). Accordingly, § 1225(b)(2)(A) does not apply to noncitizens like Petitioner who were not inspected or admitted and are later apprehended outside a port of entry. Such noncitizens are instead detained under § 1226 while in removal proceedings, and are thus eligible for release on bond under § 1226(a) unless they are subject to mandatory detention under § 1226(c).

49. The application of § 1225(b)(2)(A) to Petitioner unlawfully mandates his continued detention without a bond hearing and violates the INA.

COUNT II

Violation of Federal Regulations

50. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

51. Under 8 C.F.R. § 1236.1(d)(1), immigration judges may grant bond to any noncitizen in removal proceedings who is not subject to a final order or to any of the exceptions in 8 C.F.R. § 1003.19. None of the exceptions in § 1003.19 preclude

1 immigration judges from granting bond to noncitizens simply for being present without
2 admission.

3 52. As relevant here, the regulations only preclude immigration judges from
4 granting bond to noncitizens who qualify as “arriving aliens,” § 1003.19(h)(1)(B)(ii), *i.e.*,
5 those who presented themselves for inspection at a port of entry. When these regulations
6 were initially promulgated, the Justice Department explained that “inadmissible aliens,
7 except for arriving aliens, have available to them bond redetermination hearings before an
8 immigration judge.” 62 Fed. Reg. 10312, 10323 (March 6, 1997). The Justice Department
9 thus made clear that individuals who had entered without inspection were eligible for
10 consideration for bond and bond hearings before Immigration Judges (IJs) under 8 U.S.C.
11 1226 and its implementing regulations.

12 53. Notwithstanding these regulations, the BIA held in *Matter of Yajure Hurtado*
13 that all noncitizens who are present without admission are ineligible to receive a bond from
14 IJs. Application of this decision to Petitioner unlawfully mandates his continued detention
15 without a bond hearing in violation of §§ 1236.1 and 1003.19
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20 **COUNT III**
21 **Violation of Due Process**

22 54. Petitioner repeats, re-alleges, and incorporates by reference every allegation
23 in the preceding paragraphs as if fully set forth herein.

24 55. The government may not deprive a person of life, liberty, or property without
25 due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from
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1 government custody, detention, or other forms of physical restraint—lies at the heart of the
2 liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

3 56. Petitioner has a fundamental interest in liberty and being free from official
4 restraint.

5 57. The government’s detention of Petitioner and its issuance of a precedential
6 decision precluding his release violates her right to due process.
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10 **PRAYER FOR RELIEF**

11 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 12 a. Assume jurisdiction over this matter;
- 13 b. Set this matter for expedited consideration;
- 14 c. Declare that no statute or regulation prohibits an immigration judge from
15 holding a custody redetermination hearing for Petitioner, and that Petitioner
16 is properly detained, if at all, under 8 U.S.C. 1226(a);
- 17 d. Issue a Writ of Habeas Corpus and conduct a bond hearing within 7 days, or
18 order Petitioner’s release within 7 days unless Respondents provide him with
19 a bond hearing before an immigration judge;
- 20 e. Prohibit DHS from limiting bond relief by either invoking a stay to prevent
21 bond payment or placing electronic monitoring on the Petitioner;
- 22 f. Award Petitioner attorney’s fees and costs under the Equal Access to Justice
23 Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis
24 justified under law; and
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1 g. Grant any other and further relief that this Court deems just and proper.
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5 DATED this 24th day of March, 2026.
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7 s/Gregory P. Fay

8 Gregory P. Fay

9 AZ Bar: 035534

10 Green Evans-Schroeder, PLLC

11 130 W. Cushing Street

12 Tucson, Arizona 85701

13 Tel: (480) 588-3430

14 Email: greg@arizonaimmigration.net

15 *Attorney for Petitioner*
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VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 24th day of March, 2026 in Phoenix, Arizona.

s/Gregory P. Fay

Gregory P. Fay
Attorney for Petitioner