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RICARDO PINEDA MARTINEZ,

Petitioner,

v.

WARDEN of Folkston D. Ray ICE Processing
Center;

GEORGE STERLING, Field Office Director
of Enforcement and Removal Operations,
Atlanta Field Office (ERO Atlanta);

TODD M. LYONS, Senior Official Performing
the Duties of Director, Immigration and
Customs Enforcement;

DAREN K. MARGOLIN, Director, Executive
Office For Immigration Review (EOIR);

KRISTI NOEM, Secretary, U.S. Department
of Homeland Security (DHS); and

PAMELA BONDI, U.S. Attorney General; in
their official capacities,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Mr. Ricardo Pineda Martinez, a national of Mexico who entered the United States without inspection over twenty-two (22) years ago. Mr. Pineda Martinez was apprehended by immigration authorities after a traffic stop on or about February 20, 2026. The Respondents have detained Mr. Pineda Martinez at the Folkston ICE Processing Center in Folkston, Georgia.

2. Mr. Pineda Martinez is a member of a nationwide class of noncitizens who are in immigration detention and being denied access to a bond hearing based on the government's allegation that they entered the United States without admission or inspection (colloquially referred to as "entered without inspection" or "EWI").

3. On November 25, 2025, the U.S. District Court for the Central District of California granted declaratory relief to the entire class in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.),¹ (*See, Exhibit. 1*) holding that the government is unlawfully subjecting them to mandatory (meaning no-bond) detention and that class members are eligible for release on bond under the immigration laws. Under the Court's order, class members should be able to request a bond hearing in immigration court before an immigration

¹ On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs holding that the government's policy is inconsistent with the plain language of the *Immigration and Nationality Act* ("INA"), and that petitioners are properly subject to § 1226(a); and on November 25, 2025, , the Court certified a nationwide class and expressly "extend[ed] the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole." *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *9, 11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment). The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

1 judge (IJ) who must consider whether they are suitable for release on bond while their removal
2 proceedings are pending.

3 4. Because the Department of Homeland Security (DHS) and the Executive Office
4 for Immigration Review (EOIR) have refused to abide by the declaratory judgment issued on
5 behalf of the certified class in *Maldonado Bautista v. Santacruz*, Mr. Pineda Martinez is likely to
6 face many additional months in detention. Mr. Pineda Martinez has no other option but to bring
7 this petition for a writ of habeas corpus to enforce his rights a member of the Bond Eligible Class
8 certified in *Maldonado Bautista v. Santacruz, id.*

9 5. Mr. Pineda Martinez also seeks relief from this Court, as a detainee under INA §
10 1226(a), independent of any claim to class membership, because his continued, lengthy
11 immigration related detention is anyhow unconstitutional due to the violation of his
12 constitutional right to due process under the Fifth Amendment, the violation of the
13 *Administrative Procedure Act* (APA) unlawful denial of bond, and the violation of statutory
14 rights under the INA for unlawful denial of bond hearings

15 6. Accordingly, to vindicate Mr. Pineda Martinez' rights, as a member of the Bond
16 Eligible Class in *Maldonado Bautista*, as well as under the Constitution of the United States, and
17 his statutory rights under INA, this Court should grant the instant petition for a writ of habeas
18 corpus.

19 7. Therefore, the Court should order Mr. Pineda Martinez' release unless
20 Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

21 JURISDICTION

22 8. This action arises under the Constitution and the *Immigration and Nationality Act*,
23 8 U.S.C. § 1101 *et seq*

1 9. This Court has jurisdiction under 28 U.S.C. § 2241 (the general grant of habeas
2 authority to the district court); 28 U.S.C. § 1331 (federal question), and Article I, section 9,
3 clause 2 of the United States Constitution (the Suspension Clause) as Mr. Ricardo Pineda
4 Martinez is presently in custody at the Folkston ICE Processing Center under or by color of the
5 authority of the United States, and such custody is in violation of the U.S. Constitution, laws, or
6 treaties of the United States.

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

9 11. Federal district courts have jurisdiction to hear habeas claims by non-citizens
10 challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678 (2001).

11 12. Federal courts also have federal question jurisdiction, through the *Administrative*
12 *Procedure Act* (APA), to “hold unlawful and set aside agency action” that is “arbitrary,
13 capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. 706(2)(A).

14 VENUE

15 13. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
16 500 (1973), venue lies in the United States District Court for the Southern District of Georgia,
17 the judicial district in which Petitioner currently is detained.

18 14. Venue is also properly in this Court pursuant to 228 U.S.C. § 2241(c)(3) and 8
19 U.S.C. § 1391(b)(2) and 1391(e) because the Petitioner is in the physical custody of Respondents
20 and Immigration and Customs Enforcement, an agency within the Department of Homeland
21 Security Petitioner. Mr. Pineda Martinez is detained at the Folkston ICE Processing Center in
22 Folkston, Georgia and is under the direct control of Respondents and their agents.

1 15. Furthermore, Respondents are employees, officers, and agencies of the United
2 States, and because a substantial part of the events or omissions giving rise to the claims
3 occurred and continue to occur at the Atlanta Field Office of ICE's Enforcement and Removal
4 Operations division (ERO Atlanta) within the Southern District of Georgia's District and
Waycross Division.

5 **REQUIREMENTS OF 28 U.S.C. § 2243**

6 16. The federal habeas corpus statute provides that "[a] court, justice or judge
7 entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the
8 respondent to show cause why the writ should not be granted, unless it appears from the
application that the applicant or person detained is not entitled thereto." 28 U.S.C. § 2243.

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

16 18. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests, and this Court
17 should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already
18 been resolved for class members in *Maldonado Bautista*.

19 19. However, if pursuant to Section 2243, this Court issues an order to show cause
20 (OSC), it must direct the respondents to file a return showing why the petition for a writ of
21 habeas corpus filed by Mr. Pineda Martinez pursuant to 28 U.S.C. § 2241 should not be granted.

1 20. As provided by Section 2243, the writ or order to show cause must be returned by
2 the respondents “within *three days* unless for good cause additional time, not exceeding twenty
3 days, is allowed.” *28 U.S.C. § 2243* (emphasis added).

4 21. Nonetheless, giving the Respondents additional time to respond is inappropriate
5 in this case because Mr. Pineda Martinez faces unjustified detention for an extended period of
6 time without being able to challenge his detention at a bond hearing in immigration court while
7 the immigration proceedings are pending. It is important to note, that should Mr. Pineda
8 Martinez continue to fight his case, respondents will not offer the opportunity for pre-removal
9 release.

1 22. Thus Mr. Pineda Martinez’s period of detention is uncertain and can also increase
2 because of the backlog in the immigration courts. Mr. Pineda Martinez ongoing, and prolonged
3 detention carries the separation from his family and those close to him. Additionally, the
4 harshness of detention could not only affect his physical health or expose him to psychological
5 trauma, but it could also be used to pressure him to accept abandon any claims of immigration
6 relief and accept deportation.

7 23. Absent a grant of this petition for writ of habeas corpus or an issuance of an Order
8 to show cause, the respondents will cause irreparable harm to Mr. Pineda Martinez by subjecting
9 him to an indefinite deprivation of his liberty and other fundamental rights.

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PARTIES

1 24. Mr. **RICARDO PINEDA MARTINEZ** is a citizen of Mexico that has resided in
2 the United States since on or about 2004. Mr. Pineda Martinez was arrested during a traffic stop
3 and has been in immigration detention since February 2026. After his detention, Mr. Pineda

1 Martinez was transferred to the Folkston ICE Processing Center. No bond hearing has been
2 provided to Mr. Pineda Martinez.

3 25. Respondent, **WARDEN** of Folkston ICE Processing Center, on information and
4 belief, is an employee of The Geo Group, a private corporation which runs the Folkston ICE
5 Processing Center in Folkston, Georgia where Petitioner is detained. He has immediate physical
6 custody of Mr. Pineda Martinez. He is sued in his official capacity.

7 26. Respondent, Mr. **GEORGE STERLING**, Field Office Director of Enforcement
8 and Removal Operations, is the Director of the, Atlanta Field Office of ICE's Enforcement and
9 Removal Operations division (ERO Atlanta). As such, Mr. Sterling, Field Office Director of
10 Enforcement and Removal Operations, is Petitioner's immediate custodian and is responsible for
11 Petitioner's detention and removal. He is named in his official capacity.

12 27. Respondent, **TODD M. LYONS**, is the Senior Official Performing the Duties of
13 Director of the U.S. Immigration Customs Enforcement, is the federal agency responsible for
14 custody decisions relating to non-citizens charged with being removable from the United States,
15 including the arrest, detention, and custody status of non-citizens. Mr. Lyons has responsibility
16 for the administration of the immigration laws pursuant to 8 U.S.C. § 1103 and is a legal
17 custodian of Mr. Pineda Martinez. He is sued in his official capacity.

18 28. Respondent, **DAREN K. MARGOLIN**, is the Director of the Executive Office
19 for Immigration Review (EOIR), is the federal agency responsible for implementing and
20 enforcing the INA in removal proceedings, including for custody redeterminations in bond
21 hearings.

22 29. Respondent, **KRISTI NOEM**, is the Secretary of the Department of Homeland
23 Security. She is responsible for the implementation and enforcement of the Immigration and
24

1 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
2 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

3 30. Respondent, **PAMELA BONDI**, is the Attorney General of the United States.
4 She is responsible for the Department of Justice, of which the Executive Office for Immigration
5 Review and the immigration court system it operates is a component agency. She is sued in her
6 official capacity.

7 **STATEMENT OF FACTS**

8 31. Mr. Ricardo Pineda Martinez is a 42-year-old man who was born in Mexico who
9 left his country in pursuit of a better life.

10 32. Mr. Pineda Martinez entered the United States without inspection (EWI) in 2004.

11 33. Mr. Pineda Martinez has worked in construction for over 12 years with Sosa
12 Construction, and has no violent criminal history.

13 34. On or about February 2026, Mr. Pineda Martinez was pulled over while driving
14 and was taken into custody by DHS officials.

15 35. Mr. Pineda Martinez is in the physical custody of Respondents at the Folkston
16 ICE Processing Center in Folkston, Georgia.

17 36. Mr. Pineda Martinez is a member of the second group of people who members of
18 the Bond Eligible Class, as he:

19 a. **Does not have lawful status in the United States** and is currently detained at the
20 Folkston ICE Processing Center.

21 b. Mr. Pineda Martinez is purported to have **entered the United States without**
22 **inspection** over 22 years ago and **was not apprehended upon arrival**, *cf. id.*; and

23 c. **is not subject nor detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.**

1 37. After taking Mr. Pineda Martinez into custody on or around February 2026, DHS
2 then transferred to the Folkston ICE Processing Center.

3 38. Mr. Pineda Martinez has two minor children that were born in the United States.

4 39. Mr. Pineda Martinez has other family members (partner and children) living in the
5 United States.

6 40. However, DHS seems to be detaining Mr. Pineda Martinez as being inadmissible
7 under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

8 41. Mr. Pineda Martinez is scheduled to have a Master Hearing, which is merely the
9 commencement of the removal proceedings, on April 16, 2026, at 9:00 a.m. It is important to
10 note that the Executive Office for Immigration Review and its subagency the Immigration Court
11 and the Department of Homeland Security (DHS) have blatantly refused to abide by the
12 declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be
13 released on bond.

14 42. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full
15 “force and effect of a final judgment.” 28 U.S.C. § 2201(a). Nevertheless, Respondents continue
16 to flagrantly defy the judgment in that case and continue to subject Mr. Pineda Martinez to
17 unlawful detention despite his clear entitlement to consideration for release on bond as a Bond
18 Eligible Class member.

19 43. With this in mind, it is of extreme urgency that this Court issue a decision as early
20 as practicable. This will allow the undersigned attorney to effectively argue for Mr. Pineda
21 Martinez’ release and ensure that the IJ afford Mr. Pineda Martinez a bond hearing as ordered in
22 the judgment in *Maldonado Bautista* and in accordance with his due process right.

23 44. Therefore, the Court should expeditiously grant this petition.

LEGAL FRAMEWORK

A. HABEAS CORPUS

45. “Habeas relief is available when a person is ‘in custody in violation of the Constitution or laws or treaties of the United States.’” *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, at *3 (E.D. Mich. Aug. 29, 2025) (quoting 28 U.S.C. § 2241(c)(3)).

46. The right to file a petition for a writ of habeas corpus is intended to, at a minimum, provide “a means of reviewing the legality of Executive detention.” *Rasul v. Bush*, 542 U.S. 466, 474 (2004) (quoting *INS v. St. Cyr*, 533 U.S. 289, 301 (2001)).

47. In the context of immigration, there are two main sources of authority for habeas corpus petition. The first, is the civil habeas statute, 28 U.S.C. § 2241. It provides that:

(a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions. The order of a circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

(c) The writ of habeas corpus shall not extend to a prisoner unless—

(1) He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof; or

...

(3) He is in custody in violation of the Constitution or laws or treaties of the United States . . . 28 U.S. Code § 2241 - Power to grant writ.

48. The second basis of jurisdiction is the Suspension Clause of the U.S. Constitution, also known as the Great Writ. *See* U.S. Const. art. I, § 9, cl. 2 (“The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.”).

B. DUE PROCESS CLAUSE, US CONSTITUTION

1 49. The Fifth Amendment of the U.S. Constitution protects every person from
2 being “deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V §
3 2.

4 50. In the immigration context, the Supreme Court extended these constitutional
5 protections to all noncitizens within the United States, including those who entered unlawfully,
6 declaring that “[noncitizens] who have once passed through our gates, even illegally, may be
7 expelled only after proceedings conforming to traditional standards of fairness encompassed in
8 due process of law.” *See, Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953);
9 *see also Mathews v. Diaz*, 426 U.S. 67, 77 (1976) (There are literally millions of aliens within the
10 jurisdiction of the United States. The Fifth Amendment, as well as the Fourteenth Amendment,
11 protects every one of these persons from deprivation of life, liberty, or property without due
12 process of law.); *Plyler v. Doe*, 457 U.S. 202, 215 (1982) (holding that unlawfully present aliens
13 were entitled to both due process and equal protection under the Fourteenth Amendment).

14 51. The Court reasoned that noncitizens physically present in the United States,
15 regardless of their legal status, are recognized as persons guaranteed due process of law by the
16 Fifth and Fourteenth Amendments. *Plyler*, 457 U.S. at 210 (citing *Mezei*, 345 U.S. at 212; *Wong*
17 *Wing v. United States*, 163 U.S. 228, 238 (1896); *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886)).
18 Thus, the Court determined, [e]ven one whose presence in this country is unlawful, involuntary,
19 or transitory is entitled to that constitutional protection. *Mathews*, 426 U.S. at 77; see also
20 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (explaining that the Due Process Clause applies to
21 all ‘persons’ within the United States, including aliens, whether their presence here is lawful,
22 unlawful, temporary, or permanent). “The Due Process Clause extends to all ‘persons’ regardless
23 of status, including non-citizens (whether here lawfully, unlawfully, temporarily, or
24

1 permanently)." *Lopez-Campos*, 2025 WL 2496379, at *9 (citing *Zadvydas v. Davis*, 533 U.S.
2 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S.
3 292, 306 (1993)).

4 52. Accordingly, notwithstanding Congress's indisputably broad power to regulate
5 immigration, fundamental due process requirements notably constrained that power with respect
6 to aliens within the territorial jurisdiction of the United States. *See Kwong Hai Chew*, 344 U.S.
7 590, 596–97 (1953) (explaining that a lawful permanent resident may not be deprived of his life,
8 liberty or property without due process of law, and thus cannot be deported without notice of the
9 nature of the charge and a hearing at least before an executive or administrative tribunal).

10 53. This fundamental due process protection applies to all noncitizens, including both
11 removable and inadmissible noncitizens. *See Zadvydas v. Davis*, 533 U.S. 678, 721 (2001)
12 (Kennedy, J., dissenting) ("[B]oth removable and inadmissible [noncitizens] are entitled to be
13 free from detention that is arbitrary or capricious"). It also protects noncitizens who have been
14 ordered removed from the United States and who face continuing detention, *Diouf v. Napolitano*,
15 634 F.3d 1081, 1086–87 (9th Cir. 2011), as well as those noncitizens deemed "arriving" under the
16 INA, *Jennings v. Rodriguez*, 138 S.Ct. 830, 862 (2018). (Breyer, J., dissenting) (stating that
17 "arriving" noncitizens enjoy due process protections against prolonged detention because they
18 are "are held within the territory of the United States at an immigration detention facility" (citing
19 *Wong Wing v. United States*, 163 U.S. 228, 238 (1896)); *see also Kwai Fun Wong v. United*
20 *States*, 373 F.3d 952, 973–74 (9th Cir. 2004) (concluding that the "entry fiction" does not
21 preclude substantive constitutional protection for noncitizens considered "arriving").

22 54. As a matter of context, in the last two decades, the Supreme Court has
23 addressed several challenges to the immigration detention scheme. For instance, in *Zadvydas v.*

1 *Davis*, 533 U.S. 678, 721 (2001), the Supreme Court explained that “Freedom from
2 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
3 the heart of the liberty” that the Due Process Clause protects. *Id.* at 690. The Supreme Court then
4 held that the government must demonstrate that a noncitizen’s removal is reasonably likely to
5 occur if the noncitizen remains detained for six months after the removal period specified in 8
6 U.S.C. § 1231(a)(6). 533 U.S. at 701. In doing so, the Court recognized a presumption that
7 detention longer than six months following a noncitizen’s removal period violates that
8 noncitizen’s due process right to liberty. *Id.*

9 55. In *Demore v. Kim*, 538 U.S. 510, 523 (2003), the Supreme Court upheld the
10 mandatory detention of a noncitizen under 8 U.S.C. § 1226(c) based on the petitioner’s
11 concession of deportability and the Court’s understanding that detention under § 1226(c) is
12 typically “brief.” *Demore*, 538 U.S. at 522 n.6, 528. Nevertheless, the Supreme Court’s decision
13 in *Demore* did not foreclose a noncitizen’s right to challenge prolonged detention that does not
14 provide protections that permit a noncitizen to challenge continued confinement.

15 56. To guarantee against such arbitrary detention and to guarantee the right to
16 liberty, due process requires “adequate procedural protections” that ensure the government’s
17 asserted justification for a noncitizen’s physical confinement “outweighs the individual’s
18 constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690
19 (internal quotation marks omitted).

20 57. Following *Zadvydas* and *Demore*, circuit court of appeals that confronted the
21 issue found either that the INA or due process require a bond hearing or release for noncitizens
22 subject to unreasonably prolonged detention pending removal proceedings. *See, e.g., Sopo v. U.S.*
23 *Attorney Gen.*, 825 F.3d 1199 (11th Cir. 2016), *vacated as moot*, 890 F.3d 952 (11th Cir. 2018);

1 *Reid v. Donelan*, 819 F.3d 486 (1st Cir. 2016); *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015);
2 *Rodriguez v. Robbins (Rodriguez III)*, 804 F.3d 1060 (9th Cir. 2015); *Diop v. ICE/Homeland*
3 *Sec.*, 656 F.3d 221 (3d Cir. 2011); *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003).

4 58. Later, in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court held
5 that the Ninth Circuit erred by interpreting 8 U.S.C. §§ 1226(c) and 1225(b) to require bond
6 hearings as a matter of statutory construction. The Supreme Court concluded that §§1225(b),
7 1226(a), and 1226(c) do not give detained [noncitizens] the right to periodic bond hearings
8 during the course of their detention. Because the Ninth Circuit had not decided whether the
9 Constitution itself requires bond hearings in cases of prolonged detention, the Court remanded
10 for the Ninth Circuit to address the issue. *Id.* at 851. The Court's majority opinion did not express
11 any views on the constitutional question and left it to the lower courts to address the issue in the
12 first instance.

1 59. In his dissent, Justice Breyer expressed that "to hold a [person] without bail is
2 to deprive him of bodily "liberty..." "...where there is no bail proceeding, there has been no
3 bail-related "process" at all." citing *United States v. Salerno*, 481 U. S. 739 –751 (1987). Justice
4 Breyer also mentioned that "[f]reedom from bodily restraint has always been at the core of the
5 liberty protected by the Due Process Clause from arbitrary governmental action."
6 citing *Foucha v. Louisiana*, 504 U. S. 71, 80 (1992); *Demore v. Kim*, 538 U. S. 510, 532 (2003)
7 (Kennedy, J., concurring); *Zadvydas*, 533 U. S., at 718 (Kennedy, J., dissenting). To Justice
8 Breyer "[t]he Due Process Clause foresees eligibility for bail as part of due process" because
9 "[b]ail is basic to our system of law." *Jennings*, at 862, (citing *Salerno*, *supra*, at
10 748–751; *Schilb v. Kuebel*, 404 U. S. 357, 365 (1971); *Stack v. Boyle*, 342 U. S. 1, 4 (1951)).

1 60. Since the Supreme Court's *Jennings* decision, lower courts have expressed that
2 "...any statute that allows for arbitrary prolonged detention without any process is
3 unconstitutional or that those who founded our democracy precisely to protect against the
4 government's arbitrary deprivation of liberty would have thought so." *See. e.g., Rodriguez v.*
Marin, 909 F.3d 252, 256 (9th Cir. 2018).

5 61. In immigration cases, civil detention has been found to only permissible where
6 it bears a "reasonable relation to the purpose for which the individual was committed." *Jackson*
7 *v. Indiana*, 406 U.S. 715, 738 (1972). As concluded in *Zadvydas v. Davis*, 533 U.S. at 690, due
8 process thus requires "adequate procedural protections" to ensure that the government's asserted
9 justification for a noncitizen's physical confinement "outweighs the individual's constitutionally
10 protected interest in avoiding physical restraint." *Id.* at 690 (internal quotation marks omitted).

1 62. Also, and relevant here, in the immigration context, the Supreme Court has
2 recognized only two valid purposes for civil detention: to mitigate the risks of danger to the
3 community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. The government may not detain a
4 noncitizen based on any other justification.

5 63. Thus, where the government detains a noncitizen for a prolonged period or
6 where the noncitizen pursues a substantial defense to removal or claim to relief, due process
7 requires an individualized hearing before a neutral decisionmaker to determine whether such a
8 significant deprivation of liberty is reasonably related to its purpose. *Demore*, 538 U.S. at 532
9 (Kennedy, J., concurring) (stating that an "individualized determination as to [a noncitizen's] risk
10 of flight and dangerousness" may be warranted "if the continued detention became unreasonable
or unjustified"); *cf. Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the "initial
commitment" requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-

1 50 (1972) (noting that “lesser safeguards may be appropriate” for “short-term confinement”);
2 *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (observing, in Eighth Amendment context, that
3 “the length of confinement cannot be ignored in deciding whether [a] confinement meets
constitutional standards”).

4 64. To determine if the prolonged detention of a noncitizen is reasonable, Courts
5 have applied a reasonableness test, which involves three main factors. First, courts have
6 evaluated whether the noncitizen has raised a “good faith” challenge to removal—that is, the
7 challenge is “legitimately raised” and presents “real issues.” *Chavez-Alvarez v. Warden York Cty.*
8 *Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Second, reasonableness is a “function of the length of
9 the detention,” with detention presumptively unreasonable if it lasts six months to a year. *Id.* at
10 477-78; *accord Sopo*, 825 F.3d at 1217-18. In assessing the length of detention, delay attributable
11 to the government weighs against finding the detention reasonable. *Sopo*, 825 F.3d at 1218.
12 Third, courts consider the likelihood that detention will continue pending future proceedings.
13 *Chavez-Alvarez*, 783 F.3d at 478 (finding detention unreasonable after ninth months of detention,
14 when the parties could “have reasonably predicted that Chavez-Alvarez’s appeal would take a
15 substantial amount of time, making his already lengthy detention considerably longer”); *Sopo*,
16 825 F.3d at 128; *Reid*, 819 F.3d at 500.

1 65. Due process also requires certain minimal bond hearing procedures. First, the
2 government must bear the burden of proof by clear and convincing evidence to justify continued
3 detention. Second, the decisionmaker must consider available alternatives to detention. Finally, if
4 the government cannot meet its burden, a decisionmaker must assess a noncitizen’s ability to pay
5 a bond must when determining the appropriate conditions of release.

1 66. The requirement that the government bear the burden of proof by clear and
2 convincing evidence is also supported by application of the three-factor balancing test from
3 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Under the *Mathews* test, Courts consider (1)
4 “the private interest that will be affected by the official action.” (2) “the risk of an erroneous
5 deprivation of such interest,” and (3) “the Government’s interest, including the function involved
6 and the fiscal and administrative burdens that the additional or substitute procedural requirement
7 would entail.” *Mathews v. Eldridge*, 424 U.S. at 335.

8 67. Due process also requires that a neutral decisionmaker consider alternatives to
9 detention. A primary purpose of immigration detention is to ensure a noncitizen’s appearance
10 during removal proceedings. Detention is not reasonably related to this purpose if there are
11 alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S.
12 520, 538 (1979).

1 68. Courts have ruled that automatically stayed release from detention is a violation
2 of the Fifth Amendment. *See, e.g., Mohammed H. v. Trump*, 781 F. Supp. 3d 886, 895 (D. Minn.
3 2025) (finding that it “does not require any showing of dangerousness or flight risk. Nor is it
4 subject to immediate review by an immigration judge. It operates by fiat and has the effect of
5 prolonging detention even after a judicial officer has determined that release on bond is
6 appropriate. That mechanism’s operation here—in the absence of any individualized
7 justification—renders the continued detention arbitrary as applied. Cf. *Zadvydas*, 533 U.S. at
8 699–700, 121 S.Ct. 2491.

9 69. The “recent shift to use the mandatory detention framework under Section
10 1225(b)(2)(A) is not only wrong but also fundamentally unfair. In a nation of laws vetted and
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1 implemented by Congress, we don't get to arbitrarily choose which laws we feel like following
2 when they best suit our interests.” *Lopez-Campos*, 2025 WL 2496379, at *10.

3 70. It is important to consider that detention is often lengthy and that immigration
4 detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down
5 facilities, with limited freedom of movement and access to their families: “the circumstances of
6 their detention are similar, so far as we can tell, to those in many prisons and jails.” *Jennings*,
7 138 S. Ct. at 861 (Breyer, J., dissenting); accord *Chavez-Alvarez*, 783 F.3d at 478; *Ngo v. INS*,
8 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo*, 825 F.3d at 1218, 1221. “And in some cases[,] the
9 conditions of their confinement are inappropriately poor.” *Jennings*, 138 S. Ct. at 861 (Breyer, J.,
10 dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), *DHS*
11 *OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities*
12 (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, *e.g.*,
13 indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case
14 of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

15 71. These conditions and obstacles only further underscore the serious due process
16 concerns that prolonged immigration detention entails for Mr. Pineda Martinez. Upon weighing
17 the *Matthews* factors this Court should find that the Government’s interest in fewer bond
18 hearings (the efficient processing on noncitizens for removal) is diminished. Additionally, since
19 Mr. Pineda Martinez’ detention will continue pending future immigration proceedings, this Court
20 should find that the Government’s interest in denying him the opportunity for a bond hearing
21 does not outweigh Mr. Pineda Martinez’ liberty interest and it will also create a high risk of
22 erroneous deprivation to said right.

72. The government's decision that all noncitizens, like the Mr. Pineda Martinez, are to be mandatorily detained is arbitrary and affords to individuals like him no process, let alone due process. Therefore, it should be unconstitutional. *See Mathews v. Eldridge*, 424 U.S. 319 (1976).

C. The Immigration and Nationality Act of 1952 ("INA")

73. The Immigration and Nationality Act of 1952 ("INA"), codified in Chapter 12 of Title 8 of the United States Code, governs all aspects of immigration law. *See* 8 U.S.C. §§ 1101 *et seq.* Forming the basis of current immigration laws of the United States, the INA addresses issues of admission qualifications for noncitizens, naturalization and loss of nationality, refugee assistance, and removal procedures for noncitizen terrorists. *Id.* *See also* Margaret C. Jasper, *The Immigration and Nationality Act of 1952*, Legal Almanac: The Law of Immigration (2012).

74. Sections 8 U.S.C. §§ 1225, 1226 of the *Immigration and Nationality Act* ("INA") govern how the executive branch evaluates inadmissible noncitizens. Logically speaking, inspection or apprehension of the noncitizen is a necessary precondition of removal. Only after a noncitizen is identified as inadmissible can removal proceedings happen.² The Supreme Court has already distinguished these two provisions in *Jennings v. Rodriguez*. *See* 583 U.S. 281, 289 (2018). The *Jennings* Court determined that the government may "detain certain aliens seeking admission into the country" under § 1225(b) while § 1226 "authorizes the

² *See also, Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al.* 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). Amended Order Consolidating The Court's Orders On Motion For Partial Summary Judgment, Class Certification, And Application For Reconsideration Or Clarification.

1 Government to detain certain aliens *already in the country* pending the outcome of removal
2 proceedings.” *Id.* (emphasis added).

3 75. Under § 1225, an “applicant for admission” is a noncitizen “present in the United
4 States who has not been admitted or who arrives in the United States.” 8 U.S.C. § 1225(a)(1).
5 “[A]dmission” and “admitted” are defined as “the lawful entry of the alien into the United States
6 after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A).

7 76. Section 1225(b)(1) of INA authorizes expedited removal for certain
8 “applicants for admission” in two categories. First, noncitizens “arriving in the United States”
9 that are determined by an immigration officer to be inadmissible due to misrepresentation or
10 failure to meet documents requirements. *Id.* at § 1225(b)(1)(A)(i); *see also id.* at § 1182(a)(6)(C),
11 (a)(7).

12 77. Second, noncitizens that (a) are inadmissible because of misrepresentation or
13 failure to meet documents requirements; (b) have not “been admitted or paroled into the United
14 States”; (c) have not “affirmatively shown, to the satisfaction of an immigration officer, that
15 [they have] been physically present in the United States continuously for the 2-year period
16 immediately prior to the date of the determination of inadmissibility”; and (d) have been
17 designated by the Attorney General for expedited removal. *Id.* at § 1225(b)(1)(A)(iii).

18 78. These two categories of noncitizens subject to § 1225(b)(1) are subject to
19 mandatory detention “until certain proceedings have concluded.” *Jennings*, 583 U.S. at 297.
20 Individuals that fall into § 1225(b)(1) are “normally ordered removed ‘without further hearing or
21 review’ pursuant to an expedited removal process” unless claiming asylum or a fear of
22 persecution. *Jennings*, 53 U.S. at 287 (first quoting § 1225(b)(1)(A)(i); then citing §
23 1225(b)(1)(A)(ii)).

79. Noncitizens who are “seeking admission” and not covered by the expedited removal provisions in § 1225(b)(1) are subject to Section 1225(b)(2). *See id.* at 287. This category would include, for example, noncitizens who are arriving in the United States, seek admission, and are inadmissible for some reason other than misrepresentation or failure to meet documents requirements. *See* 8 U.S.C. § 1182(a)(2)–(3).

80. Section 1225(b)(2)(A) governs mandatory detention of applicants for admission. Subject to limited exceptions, Section 1225(b)(2) provides that such noncitizens “shall be detained” for full removal proceedings under § 1229a “if the examining immigration officer determines” that the noncitizen “is not clearly and beyond a doubt entitled to be admitted.” *Id.* at § 1225(b)(2)(A).³

81. On the other hand, Section 1226(a) “provides the general process for arresting and detaining aliens who are present in the United States and eligible for removal.” This Section provides for discretionary detention. 8 U.S.C. § 1226(a). *See, e.g., Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022).

82. Under § 1226(a), a noncitizen “may be arrested and detained” “[o]n a warrant issued by the Attorney General” if their removal proceedings are pending, 8 U.S.C. § 1226(a).⁴

³ (b) Inspection of applicants for admission

(2) Inspection of other aliens

(A) In general

Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title. 8 U.S.C. § 1225(b)(2)(A).

⁴ (a) Arrest, detention, and release

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. Except as provided in subsection (c) and pending such decision, the Attorney General—

(1) may continue to detain the arrested alien; and

(2) may release the alien on—

1 Detention pursuant to § 1226(a) is not mandatory. If the noncitizen was not charged with,
 2 arrested for, or convicted of certain criminal offenses enumerated in § 1226(c),⁵ the government
 3 has discretion to release them on “bond of at least \$1,500 with security approved by, and
 4 containing conditions prescribed by, the Attorney General; or ... conditional parole.” *Id.* at §
 1226(a)(2)(A)–(B).

5 83. Beyond how noncitizens are identified as inadmissible, the one key distinction
 6 between these two Sections is that noncitizens detained under § 1226(a) are entitled to receive
 7 bond hearings at the outset of detention. 8 C.F.R. §§ 236.1(d)(1). *See also Jennings v. Rodriguez*,
 583 U.S. 281, 306 (2018).

8 84. Not only does § 1226(a) provide several layers of review of the agency’s initial
 9 custody determination, but it also confers “an initial bond hearing before a neutral
 10 decisionmaker, the opportunity to be represented by counsel and to present evidence, the right to
 11 appeal, and the right to seek a new hearing when circumstances materially change.” *See, e.g.,*
 12 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022) (observing that § 1226(a) and its
 13 implementing regulations “provide extensive procedural protections that are unavailable under
 14 other detention provision”).

1 (A) bond of at least \$1,500 with security approved by, an containing conditions
 2 prescribed by the Attorney General... 8 U.S.C. § 1226(a).

3 ⁵ Known as the *Laken Riley Act*, subsection (c) of § 1226, provides for mandatory detention of
 4 noncitizens found inadmissible or deportable under certain provisions and who have been “charged with,”
 5 “arrested for,” “convicted of,” or admit “having committed” certain listed crimes. 8 U.S.C. § 1226(c).
 6 “[N]oncitizens arrested and detained under § 1226 have a right to request a custody redetermination (i.e.,
 7 a bond hearing) before an Immigration Judge.” *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL
 8 2496379, at *4 (citing 8 C.F.R. 1236.1(c)(8), (d)(1)). “The IJ evaluates whether there is a risk of
 9 nonappearance or danger to the community.” *Id.* (citing *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA
 10 2006)).

1 85. For decades the DHS had applied § 1226(a) and its discretionary release and
 2 review of detention “to the vast majority of noncitizens allegedly in this country without valid
 3 documentation”—a practice codified by regulation. *See, e.g., Salcedo Aceros*, 2025 WL
 4 2737503, at *3. However, last year the Government upended this long-held understanding of the
 5 law.

6 86. First, on July 8, 2025, U.S. Immigration and Customs Enforcement (“ICE”) issued an interim guidance memo stating that anyone who entered without inspection was
 7 ineligible for release on bond and could not challenge their detention at a bond hearing in
 8 immigration court, regardless of how long an individual has lived in the United States.⁶ As
 9 result, DHS attorneys started arguing, and some IJs started finding, that such individuals were
 10 not eligible for bond hearings in immigration court.

11 87. Then, on September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a precedential decision binding on all IJs, holding that an IJ had no authority to consider
 12 bond requests for any person who entered the United States without inspection. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The BIA determined that such individuals are
 13 subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for
 14 release on bond. In practice, DHS is not exercising this authority. As a result, thousands of
 15 people are facing months or years in detention without any individualized consideration for
 16 whether they should be detained.

17 88. As discussed above, mandatory detention of applicants for admission applies
 18 after an immigration officer has determined that they will not be entitled to admission if the

19 ⁶ *See*, AILA Doc. No. 25071607, accessible through
 20 <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission> (last accessed on Friday, January 16, 2026 at 6:27 pm.)

1 examining immigration officer determines that [a noncitizen] seeking admission is not clearly
2 and beyond a doubt entitled to be admitted. 8 U.S.C. § 1225(b)(2)(A). But the Government is
3 now contending that anyone who entered without inspection remains an “applicant for
4 admission” who is “seeking admission” and thus subject to mandatory detention under Section
5 1225(b)(2). *See e.g., Rodriguez Vasquez v. Bostock, et al.* 3:25-CV-05240-TMC, 2025 WL
6 2782499 (W.D. Wash. Sept. 30, 2025) (citing *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020)).

7 89. In regard to this new interpretation, as of late 2025, several district courts have
8 held that the Government’s new, and more expansive interpretation of mandatory detention under
9 the INA is either incorrect or likely incorrect on the basis that this reading of the statute would
10 render 1226(c) inoperable or moot. Several Courts have then rejected the government’s position
11 and have held that such individuals are subject to § 1226(a) and thus eligible for a bond hearing.
12 *See also e.g., Rodriguez Vasquez v. Bostock, et al.* 3:25-CV-05240-TMC, 2025 WL 2782499
13 (W.D. Wash. Sept. 30, 2025); *See e.g., Aguilar Merino v. Ripa*, 25-23845-CIV, 2025 WL
14 2941609 (S.D. Fla. Oct. 15, 2025), and *J.Y.L.C., v. Bostock, et al.*, 3:25-cv-02083-AB, (D. Or.
15 Nov. 12, 2025) (collecting cases rejecting *Matter of Yajure Hurtado*).

16 90. One of those recent cases where the Court rejected the government’s position,
17 and relevant here, is *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.
18 *Supp. 3d* ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). On November 20, 2025, the District
19 Court granted partial summary judgment for the four petitioners, holding that the government’s
20 policy is inconsistent with the plain language of the *Immigration and Nationality Act* (“INA”),
21 and that petitioners are properly subject to § 1226(a). *See e.g., J.A.M. v. Streeval*, No.
22 4:25-CV-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No.
23 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

1 91. Then, on November 25, 2025, the Court certified all noncitizens in the United
 2 States without lawful status who (1) have entered or will enter the United States without
 3 inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be
 4 subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department
 5 of Homeland Security makes an initial custody determination as “the Bond Eligible Class.” and
 6 expressly “extend[ed] the same declaratory relief granted to Petitioners to the Bond Eligible
 7 Class as a whole.” *Id.* at *9 (emphasis added).

8 92. As expressed above, Mr. Pineda Martinez is a member of the second group of
 9 people who are members of the *Maldonado Bautista* Bond Eligible Class.

10 **D. THE ADMINISTRATIVE PROCEDURE ACT (APA), 5 U.S.C. § 706(2)(A)**

11 93. Section 706(2)(A) of the APA commands a reviewing court to “hold unlawful
 12 and set aside agency action, findings, and conclusions” that are found to be “arbitrary,
 13 capricious, . . . or otherwise not in accordance with law.” § 706(2)(A) (emphasis added).

14 94. APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial
 15 review of agency action under the APA may proceed by “any applicable form of legal action,
 16 including actions for declaratory judgments or writs of prohibitory or mandatory injunction or
 17 habeas corpus”). The APA affords a right of review to a person who is “adversely affected or
 18 aggrieved by agency action.” 5 U.S.C. § 702.

19 95. Respondents’ continued detention of Mr. Pineda Martinez for an prolong or
 20 otherwise indefinite period of time without a review of his custody or a bond hearing is adversely
 21 and severely affecting his liberty and freedom.

22 **E. EXHAUSTION**

1 96. Section 706(2)(A) of the APA commands a reviewing court to “hold unlawful
2 *and set aside* agency action, findings, and conclusions” that are found to be “arbitrary,
capricious, . . . or otherwise not in accordance with law.” § 706(2)(A) (emphasis added).

3 97. Under the doctrine of exhaustion of administrative remedies, ‘a party may not
4 seek federal judicial review of an adverse administrative determination until the party has first
5 sought all possible relief within the agency itself.’” *Howell v. INS*, 72 F.3d 288, 291 (2d Cir.
1995) (quoting *Guitard v. U.S. Sec’y of Navy*, 967 F.2d 737, 740 (2d Cir. 1992)).

6 98. However, a party need not exhaust administrative remedies, however, when the
7 available remedies would “provide no genuine opportunity for adequate relief” or when
8 “administrative appeal would be futile.” *Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003)
(Sotomayor, J.) (quoting *Able v. United States*, 88 F.3d 1280, 1288 (2d Cir. 1996)). *See also*
9 *McCarthy v. Madigan*, 503 U.S. 140, 146-49 (1992), *superseded by statute on other grounds as*
10 *stated in Booth v. Churner*, 532 U.S. 731 (2001) (noting that traditional exceptions include where
exhaustion would cause “undue prejudice to subsequent assertion of a court action” or
“irreparable harm” to the petitioner, where there is “some doubt as to whether the agency was
11 empowered to grant effective relief,” or where it would be futile because “the administrative
12 body is shown to be biased or has otherwise predetermined the issue before it”) (internal
quotation marks omitted).

1 99. In the context of immigration, Congress has not explicitly mandated exhaustion.
2 Where Congress has not explicitly spoken, requiring the exhaustion of administrative remedies
3 lies within “sound judicial discretion.” *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). In
exercising that discretion, the Supreme Court has stated that “federal courts must balance the
4 interest of the individual in retaining prompt access to a federal judicial forum against

1 countervailing institutional interests favoring exhaustion.” *Id.* at 146. Those institutional interests
2 are “protecting administrative agency authority and promoting judicial efficiency.” *Id.* at 145.

3 100. The *McCarthy* Court also identified situations in which the interest of the
4 individual weighs heavily against the institutional interests. *See id.* at 146–49. Relevant here, “an
5 administrative remedy may be inadequate where the administrative body . . . has otherwise
6 predetermined the issue before it.” *Id.* at 148 (citing *Gibson v. Berryhill*, 411 U.S. 564, 575, n.14
7 (1973)).

8 101. As mentioned above, on July 8, 2025, the U.S. Immigration and Customs
9 Enforcement (“ICE”) was instructed, via an interim guidance memo, that anyone who entered
10 without inspection (EWIs) is ineligible for release on bond. Then, on September 5, 2025, the
11 Board of Immigration Appeals (“BIA”) held that “[b]ased on the plain language of section
12 235(b)(2)(A) of the [INA], Immigration Judges lack authority to hear bond requests or to grant
13 bond to aliens who are present in the United States without admission.” *See Matter of Yajure*
14 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

15 102. In accordance with the July 8, 2025 interim guidance memo and the Board of
16 Immigration Appeals (BIA) decision in *Matter of Yajure Hurtado*, DHS’ attorneys have the
17 practice of arguing, and Immigration Court IJs throughout the country, including those stationed
18 at Folkston ICE Processing Center have started finding that individuals such as Mr. Pineda
19 Martinez could not challenge their detention at a bond hearing in immigration court, regardless
20 of how long an individual has lived in the United States. As result, individuals, such as Mr.
21 Pineda Martinez are denied bond hearings in immigration court.

22 103. Since the Board of Immigration Appeals (BIA) is an administrative body located
23 in the DOJ, which, of course, is part of the executive branch of the government. Its members are
24

1 appointed by the Attorney General, and its decisions are binding on all immigration judges,
2 *Yajure Hurtado* thus precludes an IJ from finding jurisdiction over noncitizens like Mr. Pineda
3 Martinez to hold a custody redetermination hearing. As such, this Court should find that the
4 agency's position is already set and recourse to administrative remedies is very likely futile.

5 104. Additionally, Immigration Judges have informed class members in bond hearings
6 that they have been instructed by "leadership" that the declaratory judgment in *Maldonado*
7 *Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound
8 to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA
9 2025).

10 105. Since the government has already predetermined that anyone who entered without
11 inspection (EWIs) is ineligible for release on bond, established a no-bond for EWIs policy, and
12 has resorted to an across-the-board application of § 1225(b)(2), Mr. Pineda Martinez had to
13 proceed directly to filing this petition for writ of habeas corpus based on *Maldonado Bautista*
14 class membership and for the violation to his statutory and constitutional rights.

15 106. Requiring exhaustion, in this case, would not further the ends of judicial
16 efficiency and protecting administrative authority because it would simply delay the resolution of
17 Mr. Pineda Martinez' legal questions. It is important to consider that in detention cases, appeals
18 to the Board of Immigration Appeals (BIA) can take months or years. Thus, requiring habeas
19 petitioners, such as Mr. Pineda Martinez, to appeal to the BIA to prudentially exhaust is not
20 efficient, would cause irreparable harm by continuing to deprive him of his liberty. Thus, Mr.
21 Pineda Martinez' individual interest in having prompt access to this forum outweighs any
22 institutional interests at stake.

1 107. Therefore, the Court should consider the merits of the Petition. This Court
2 intervention, to enjoin the Respondents from preventing Mr. Pineda Martinez from having a
3 bond hearing pursuant to the holding in *Hurtado*, is necessary to enable him to avail himself of
his administrative remedies.

4 **CLAIM FOR RELIEF**

5 **COUNT 1: REQUEST FOR RELIEF PURSUANT**
6 **TO MALDONADO BAUTISTA**

7 108. Petitioner, Mr. Pineda Martinez, repeats, re-alleges, and incorporates by reference
each and every allegation in the preceding paragraphs as if fully set forth herein.

8 109. As a member of the Bond Eligible Class, Mr. Pineda Martinez is entitled to
consideration for release on bond under 8 U.S.C. § 1226(a).

9 110. The Order granting partial summary judgment in *Maldonado Bautista* holds that
Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class
1 members.

0 111. The Order granting class certification in *Maldonado Bautista* further orders that
1 “[w]hen considering this determination with the MSJ Order, the Court extends the same
declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”

1 112. Respondents are parties to *Maldonado Bautista* and bound by the Court’s
1 declaratory judgment, which has the full “force and effect of a final judgment.” 28 U.S.C.
2 § 2201(a).

1 113. By denying Mr. Pineda Martinez a bond hearing under § 1226(a) and wrongly
1 asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Mr.

1 Pineda Martinez' statutory rights under the INA and the Court's judgment in *Maldonado*
2 *Bautista*.

3 **COUNT 2: UNCONSTITUTIONAL DETENTION IN**
4 **VIOLATION OF THE FIFTH AMENDMENT**

5 114. Petitioner, Mr. Pineda Martinez, repeats, re-alleges, and incorporates by reference
6 each and every allegation in the preceding paragraphs as if fully set forth herein.

7 115. "Freedom from imprisonment—from government custody, detention, or other
8 forms of physical restraint—lies at the heart of the liberty that [the] Clause protects." *Zadvydas v.*
9 *Davis*, 533 U.S. 678, 690 (2001).

10 116. Civil immigration detention is only permissible where it bears a "reasonable
11 relation to the purpose for which the individual was committed." *Jackson v. Indiana*, 406 U.S.
12 715, 738 (1972); *Zadvydas*, 533 U.S. at 690. Those purposes are limited: preventing flight and
13 protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

14 117. Mr. Pineda Martinez' immigration proceedings are at an early stage, and he could
15 raise a "good faith" challenge to removal. There is no removal order. His removal is not
16 imminent or reasonably foreseeable.

17 118. Mr. Pineda Martinez' continued and prolonged detention does not bear a
18 reasonable relation to the purpose for which it was committed until the government satisfies its
19 burden of proof to show by clear and convincing evidence that community protection or flight
20 risk concerns apply to him. This can only happen in a bond hearing, which the Respondents are
21 not affording to Mr. Pineda Martinez. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972);
22 *Zadvydas*, 533 U.S. at 690.

1 119. Furthermore, the mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
2 apply to noncitizens, such as Mr. Pineda Martinez, residing in the United States who are subject
3 to the grounds of inadmissibility only because they previously entered the country without being
admitted.

4 120. Petitioner, Mr. Pineda Martinez, is detained under § 1226(a) and is not subject to
5 another detention provision, such as 1225(b)(1), § 1226(c), or § 1231.

6 121. However, in accordance with the BIA decision in *Matter of Yajure Hurtado*, DHS
7 attorneys have the practice of arguing and IJs throughout the country, including those stationed
8 the Folkston ICE Processing Center have started finding that individuals, such as Mr. Pineda
9 Martinez, could not challenge their detention at a bond hearing in immigration court, regardless
of how long an individual has lived in the United States. As result, individuals such as, Mr.
Pineda Martinez, are denied bond hearings in immigration court.

1 122. These cumulative actions render his detention even more constitutionally suspect,
as they reflect punitive conduct rather than civil processing.

0 123. Respondents lack statutory authority to detain Mr. Pineda Martinez under Section
1 1225(b)(2) because that statute does not apply to noncitizens in his circumstances. Accordingly,
1 Mr. Pineda Martinez' continued detention constitutes a deprivation of liberty without due process
of law. The Court should order his release.

1
2 **COUNT 3: VIOLATION OF INA AND ITS
IMPLEMENTING REGULATIONS; 8 U.S.C. § 1226(A)
UNLAWFUL DENIAL OF BOND HEARINGS**

1 124. Petitioner, Mr. Pineda Martinez, herein incorporates all allegations and facts set
3 forth in the paragraphs above.

1 125. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to
2 noncitizens, such as Mr. Pineda Martinez, residing in the United States who are only subject to
3 the grounds of inadmissibility because they previously entered the country without being
admitted.

4 126. Mr. Pineda Martinez is detained under § 1226(a) and is not subject to the any
5 detention provisions proscribed in 1225(b)(1), § 1226(c), or § 1231.

6 127. The government's no-bond for EWIs policy and the incorrect, willful, and
7 capricious application of § 1225(b)(2) to Mr. Pineda Martinez violates the *Immigration and*
Nationality Act.

8 **COUNT 4: UNLAWFUL DENIAL OF BOND HEARING IN**
VIOLATION OF EIGHTH AMENDMENT RIGHT TO BAIL

9 128. Petitioner, Mr. Pineda Martinez, re-alleges and incorporates by reference the
paragraphs above.

1 129. The Eighth Amendment of the United States Constitution prohibits "cruel and
0 unusual punishments." U.S. Const. amend. VIII cl. 4.2.

1 130. Bail is "basic to our system of law." It not only "permits the unhampered
1 preparation of a defense," but also "prevent[s] the infliction of punishment prior to conviction."
1 *Jennings*, at 862, (Breyer, J., dissenting) citing *Salerno, supra*, at 748–751; *Schilb v. Kuebel*, 404
1 U. S. 357, 365 (1971); *Stack v. Boyle*, 342 U. S. 1, 4 (1951).

2 131. The government's categorical, incorrect, willful, and capricious application of §
1 1225(b)(2) to Mr. Pineda Martinez and continued detention without a bond hearing results in
1 indefinite and unconstitutional imprisonment which surmounts to a cruel and unusual
3 punishment in violation of the Eighth Amendment

1 132. For these reasons, Mr. Pineda Martinez' ongoing and prolonged detention without
2 a bond hearing violates the Eighth Amendment.

3 **COUNT 5: CONTINUED DETENTION WITHOUT BOND**
4 **HEARING IN VIOLATION OF THE ADMINISTRATIVE**
5 **PROCEDURE ACT, 5 U.S.C. § 706(2)(A)**

6 133. Petitioner, Mr. Pineda Martinez, herein incorporates all allegations and facts set
7 forth in the paragraphs above.

8 134. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to
9 noncitizens, such as Mr. Pineda Martinez, residing in the United States who are only subject to
10 the grounds of inadmissibility because they originally entered the United States without
11 inspection. Such noncitizens are detained under § 1226(a), unless they are subject to another
12 detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

13 135. Mr. Pineda Martinez is detained under § 1226(a) and is not subject to the any
14 detention provisions proscribed in 1225(b)(1), § 1226(c), or § 1231.

15 136. Nonetheless, IJs stationed at Folkston ICE Processing Center have a policy and
16 practice of applying § 1225(b)(2) and denying bond hearings to detainees, such as Mr. Pineda
17 Martinez.

18 137. Respondents continue to keep Mr. Pineda Martinez detained under the wrong
19 provision of INA. Such action against Mr. Pineda Martinez is arbitrary, capricious, and not in
20 accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

21 **PRAYER FOR RELIEF**

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

- 23 a. Assume jurisdiction over this matter;

- 1 b. Issue an Order prohibiting the Respondents from transferring Petitioner from the
2 district without the court's approval;
- 3 c. Issue a declaration that Respondents are detaining Petitioner in violation of the
4 declaratory judgment issued in *Maldonado Bautista*;
- 5 d. Issue a Writ of Habeas Corpus requiring that within one day, Respondents release
6 Petitioner; on his own recognizance, under parole, or on low bond or any other
7 reasonable conditions of supervision;
- 8 e. Alternatively, issue a Writ of Habeas Corpus, hold a hearing before this Court if
9 warranted to determine if the Petitioner should be subject to mandatory detention
10 under 8 U.S.C. § 1225(b)(2); require Respondents to release Petitioner unless they
11 provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- 12 a. Issue a declaration that Petitioner's ongoing prolonged detention violates the Due
13 Process Clause of the Fifth Amendment and the Eighth Amendment.
- 14 a. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
15 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
16 law; and
- 17 b. Grant any other and further relief that this Court deems just and proper.

1 Respectfully submitted,

2 /s/ Michael Urbina

1 Michael Urbina

michael@urbina.law

3 Counsel for Petitioner

1 Dated: March 19, 2026

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

I represent Petitioner, Ricardo Pineda Martinez, 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 19th day of March, 2026.

/s/Michael Urbina

Michael Urbina

Counsel for Petitioner

michael@urbina.law

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: [REDACTED]
Event No: [REDACTED]

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED] FINS: [REDACTED] File No: [REDACTED]

In the Matter of:

Respondent: RICARDO PINEDA MARTINEZ currently residing at:

3026 GA-252 E Folkston, GEORGIA 31537
(Number, street, city, state and ZIP code) (Area code and phone number)

- ☐ You are an arriving alien.
- ☒ You are an alien present in the United States who has not been admitted or paroled.
- ☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of MEXICO and a citizen of MEXICO;
3. You entered the United States at or near unknown place, on or about unknown date;
4. You were not then admitted or paroled after inspection by an Immigration Officer. OR At that time you arrived at a time or place other than as designated by the Attorney General.
5. You are an immigrant not in possession of a valid unexpired immigrant visa, See Continuation Page Made a Part Hereof

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

- ☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- ☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

146 CCA RD PO BOX 248, LUMPKIN, GEORGIA 31815. STEWART IMMIGRATION COURT
(Complete Address of Immigration Court, including Room Number, if any)

on March 12, 2026 at 9:00 am to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.

J4808 DEMOURA - SDDO
(Signature and Title of Issuing Officer)

Date: February 21, 2026

Charleston, SC
(City and State)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an Immigration judge and request my hearing be scheduled.

Before:

(Signature of Respondent)

Date: _____

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on February 21, 2026, in the following manner and in compliance with section 239(a)(1) of the Act.

☒ in person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail
☐ Attached is a credible fear worksheet.

Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

Refused to sign
(Signature of Respondent if Personally Served)

Ryan Crowe
(Signature and Title of officer)
RYAN CROWE - Deportation officer

Witness: Ryan Hays, DO7334

Privacy Act Statement

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/opcl/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

U.S. Department of Homeland Security

Continuation Page for Form I-862

Alien's Name PINEDA MARTINEZ, RICARDO	File Number  Event No: 	Date 02/21/2026
THE SERVICE ALLEGES THAT YOU: ----- reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act; ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW: ----- 212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, 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 required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.		
Signature J4808 DEMOURA		Title SDDO

4 of 4 Pages

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—
GENERAL

Case No. 5:25-cv-01873-SSS-BFM Date November 20, 2025

Title *Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al.*

Present: The Honorable SUNSHINE S. SYKES, UNITED STATES DISTRICT JUDGE

Irene Vazquez

Deputy Clerk

Not Reported

Court Reporter

Attorney(s) Present for Petitioner(s):

None Present

Attorney(s) Present for Respondent(s):

None Present

**Proceedings: (IN CHAMBERS) ORDER GRANTING PETITIONERS’
MOTION FOR PARTIAL SUMMARY JUDGMENT AND
DENYING REQUEST TO ENTER FINAL JUDGMENT
[DKT. NO. 42]**

Before the Court is Petitioners Lazaro Maldonado Bautista, Ananias Pasqual, Ana Franco Galdamez, and Luiz Alberto de Aquino de Aquino’s (collectively, “Petitioners”) Motion for Partial Summary Judgment as to their First Amended Complaint seeking class relief. [Dkt. No. 42, “Motion”; Dkt. No. 15, “First Amended Complaint” or “FAC”]. Respondents Ernesto Santacruz Jr., Todd Lyons, Krista Noem, Pamela Bondi, and Feriti Semaia (“Respondents”) have filed their Opposition to this Motion. [Dkt. No. 60, Opposition or “Opp.”]. Petitioners filed their Reply on September 19, 2025. [Dkt. No. 62, “Reply”]. For the following reasons, Petitioners’ Motion is **GRANTED**.

I. FACTUAL AND PROCEDURAL BACKGROUND

On June 6, 2025, a series of coordinated immigration raids began across Southern California, resulting in the arrest and detainment of around 2,000

individuals per day that week.¹ This case centers around individuals directly affected by those events.

The Petitioners. Among the arrested were Petitioners, each of whom are foreign nationals arrested pursuant to warrants issued by Homeland Security Investigations (“HSI”) and/or Immigration and Customs Enforcement (“ICE”) agents on June 6, 2025, in downtown Los Angeles, California. [Dkt. No. 1 at 5–6; Dkt. No. 5-2 at 4, 8, 12, 17].² On the day of their arrests, Petitioners were each charged with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), or as being present without admission in the United States. [Dkt. No. 1 ¶¶ 43, 48, 53, 58].

Each of the Petitioners requested bond hearings, all of which were denied by an Immigration Judge (“IJ”) between July 15, 2025, and July 22, 2025. [*Id.* ¶ 5; Dkt. No. 5-2, Exs. E, F, G, H, “Bond Orders”]. In each of the Bond Orders, the IJ cited to Section 235(b) of the INA (*i.e.*, 8 U.S.C. § 1225) as grounds for lack of jurisdiction. [*Id.*]. The Bond Orders were based in a recent change in policy by the Department of Homeland Security (“DHS”).

The Policy Change. On July 8, 2025, the Department of Homeland Security (DHS) instituted a notice titled “Interim Guidance Regarding Detention Authority for Applicants for Admission.” [Dkt. No. 5-2 at 45–46, “DHS Guidance Notice” or “DHS Policy”]. The Notice communicated DHS’s choice, in coordination with the Department of Justice (“DOJ”) to “revisit[] its legal position on detention and release authorities,” determining that Section 235 of the Immigration and Nationality Act (“INA”) would serve as the applicable immigration detention authority rather than Section 236 for all “applicants for admission.” [*Id.*]. In other words, the change in policy requires ICE employees to consider anyone arrested in the United States and charged with being inadmissible as an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A). Under § 1225(b)(2)(A), “applicants for admission” are subject to mandatory detention for proceedings under 8 U.S.C. § 1229(a) and not entitled to the due process protections found within § 1226(a).

¹ See Department of Homeland Security, *DHS Releases Statement on Violent Rioters Assaulting ICE Officers in Los Angeles, CA and Calls on Democrat Politicians to Tone Down Dangerous Rhetoric About ICE*, (June 7, 2025) [<https://perma.cc/RJE5-PACW>].

² Petitioner Franco Galdamez was arrested by Border Control agents around June 19, 2025, in Los Angeles during an ICE operation. [Dkt. No. 1 at 6].

Petitioners Seek Relief. Because of the new DHS Policy, Petitioners were denied bond hearings and remained in detention at the Adelanto Detention Center in Adelanto, California.

On July 23, 2025, Petitioners filed a Petition for Writ of Habeas Corpus raising several challenges against the DHS change in policy, including violations of 8 U.S.C. § 1226(a), the Fifth Amendment Right to Due Process, and the Administrative Procedure Act (“APA”). [Dkt. 1 at 20–21]. That same day, Petitioners filed an Application for a Temporary Restraining Order. [See Dkt. 5-1, Application for Temporary Restraining Order or “App.”]. Petitioners requested that the Court enjoin Respondents from detaining Petitioners unless they are provided with individualized bond hearings before an IJ. [App. at 3]. Petitioners additionally sought an order to prohibit Respondents from relocating Petitioners outside this District pending final resolution of this litigation. [*Id.*]. This Court granted the application on July 28, 2025. [Dkt. No. 1; Dkt. No. 14, “TRO Order”].

Events Following the TRO. In granting the TRO, the Court ordered Respondents to provide Petitioners with an individualized bond hearing or release Petitioners from detention. [*Id.* at 13]. On the same day the Court granted Petitioners’ *ex parte* application for a TRO, Petitioners amended their complaint to include class allegations and requests for declaratory relief as to the legality of Respondents’ policies relating to denying bond hearings. [See generally FAC].

Respondents then filed a response to the Court’s order to show cause on August 8, 2025. [Dkt. 40]. This response provided evidence that each of the Petitioners was provided with an individualized bond hearing and subsequently released on bond. [See *id.*].

Current Posture. On August 11, 2025, Petitioners filed this Motion, seeking to declare the new DHS Policy as unlawful. Respondents filed their opposition on September 12, 2025, to which Petitioners have filed a response. [See generally Opp.; Dkt. No. 62, “Reply”].

Given the number of threshold issues in this matter, the Court first addresses concerns raised by Respondents regarding justiciability. The Court then considers the issues of statutory interpretation underlying the parties’ disputes pertaining to the legality of the DHS Policy and its bearing on Petitioners.

II. JUSTICIABILITY

Article III “requires a federal court to satisfy itself of its jurisdiction over the subject matter before it considers the merits of a case.” *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999). Once again, Respondents argue that provisions of the Immigration and Nationality Act (“INA”) bar this Court from reviewing this matter. [Opp. at 18–20; *see also* Dkt. No. 8 at 6–11].

Moreover, ensuring subject-matter jurisdiction is an “independent obligation” on all courts, even in the absence of a challenge from any party. *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 501 (2006). Thus, the Court considers *sua sponte* any questions of the applicability of mootness.

A. Statutory Restrictions on Judicial Review

Respondents’ Opposition argues that the INA “entrusts the Executive branch to remove inadmissible and deportable [noncitizens]³ and to ensure that [noncitizens] who are removable are in fact removed from the United States.” [Opp. at 17]. The Court has no doubts that the INA confers the executive branch with the powers to faithfully execute the statute’s aim. Indeed, Congress expressly precluded judicial review of certain matters within the INA. *See e.g.*, 8 U.S.C. §

³ This Order uses the term “noncitizenship” in place of “alienage” and “noncitizen” in place of “alien.” The Court follows the U.S. Supreme Court and Ninth Circuit, where the use of the term “noncitizen” has become a common practice. *See Patel v. Garland*, 596 U.S. 328 (2022) (Barrett, J.); *United States v. Palomar-Santiago*, 593 U.S. 321 (2021) (Sotomayor, J.); *Barton v. Barr*, 590 U.S. 222, 226 n.2, (2020) (Kavanaugh, J.) (“This opinion uses the term ‘noncitizen’ as equivalent to the statutory term ‘alien.’” (citing 8 U.S.C. § 1101(a)(3))); *Avilez v. Garland*, 69 F.4th 525 (9th Cir. 2023); *Arce v. United States*, 899 F.3d 796 (9th Cir. 2018). Additionally, this Court thinks it is prudent to “avoid language that reasonable readers might find offensive or distracting—unless the biased language is central to the meaning of the writing.” *Chicago Manual of Style Online* 5.253, <https://www.chicagomanualofstyle.org/book/ed17/part2/ch05/psec253.html>. As noted by the Ninth Circuit, “[t]he word alien can suggest ‘strange,’ ‘different,’ ‘repugnant,’ ‘hostile,’ and ‘opposed[.]’” *Avilez*, 69 F.4th at 527 n.1 (citing *Alien, Webster’s Third New International Dictionary* 53 (2002)). Accordingly, because the word “noncitizen” is synonymous and does not encompass such negative connotations, the Court finds “noncitizen” is a better word choice. *See Alien and Noncitizen, American Heritage Dictionary of English Language* 44, 1198 (5th ed. 2011).

1252(a)(2), § 1252(b)(9), § 1252(e)(3)(A). However, the issues presented in this case fall outside the areas in which the INA has stripped courts of jurisdiction.

The Court examines each subsection raised by Respondents in turn.

1. Section 1252(a) and Section 1252(b)(9)

Respondents argue that when reading § 1252(a) and § 1252(b)(9) together, the INA divests district courts of jurisdiction to review both direct and indirect challenges to removal orders. [Opp. at 19].⁴ This is incorrect as to each of the sections of the INA read individually as well as read together.

As discussed in the TRO Order, Section 1252, titled “Judicial Review of Orders of Removal,” contains a provision detailing “[m]atters not subject to judicial review.” See 8 U.S.C. § 1252, § 1252(a)(2). Section 1252(a)(2) contains four subsections, which outlines 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 to § 1225(b)(2)(A) or § 1226(a), which are the two statutory provisions that the Parties agree are at the heart of this matter. Thus, it remains that no part of § 1252 deprives this Court of jurisdiction.

Similarly, Respondents’ jurisdictional challenge based in § 1252(b)(9) presents no new circumstances from the previous challenge raised in its opposition to Petitioners’ TRO. [Opp. at 18–19]. As of the date of this Order, nothing in the record indicates that any orders of removal have been issued for any of the Petitioners. Consistent with this Court’s TRO Order, § 1252(b)(9) channels review of “*final orders of removal*” to federal courts of appeals. [Reply at 5 (emphasis added); see also TRO Order at 4–5]. Without an order of removal, § 1252(b)(9)

⁴ In doing so, Respondents cite to *J.E.F.M. v. Lynch* for the proposition that “[t]aken together, § 1252(a)(5) and § 1252(b)(9) mean that *any* issue—whether legal or factual—arising from *any* removal-related activity can be reviewed *only* through the PFR process.” [Opp. at 18 (citing *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016))]. However, this fails to acknowledge the next sentence of that very opinion cites to another Ninth Circuit opinion that clarifies that “jurisdiction over removal proceedings is limited to review of final orders of removal.” *J.E.F.M.*, 837 F.3d 1031 (citing *Viloria v. Lynch*, 808 F.3d 764, 767 (9th Cir. 2015)).

alone does not bar this Court from reviewing Petitioners' Motion for Partial Summary Judgment regarding the legality of the new DHS Policy.

Therefore, these two sections of the INA do not independently nor jointly preclude judicial review.

2. Section 1252(e)(3)(A)

Finally, Respondents suggest § 1252(e)(3)(A) operates as a bar to review by this Court. [Opp. at 19–20]. Section 1252(e)(3)(A) provides that “[j]udicial review of determinations under section 1225(b) of this title and its implementation is available in an action instituted in the United States District Court for the District of Columbia” and limits challenges to the constitutionality of a section or regulation, or whether certain regulations, policies, or procedures are inconsistent with the INA or violates other laws. *See* § 1252(e)(3)(A).

According to Respondents, because Petitioners “challenge an alleged policy of detaining applicants for admission under § 1225(b),” any challenges must be brought within the District Court for the District of Columbia. [Opp. at 20]. Petitioners correctly argue that this argument misunderstands Petitioners' claims, as they maintain they are detained under § 1226 and are therefore entitled to receive bond hearings rather than remain in mandatory detention. [Reply at 6].

Because the premise of Petitioners' claim is that the proper governing authority over their detention is § 1226 rather than § 1225, the Court does not find § 1252(e)(3)(A) to strip this Court of jurisdiction.

B. Mootness

Moreover, ensuring subject-matter jurisdiction is an “independent obligation” on all courts, even in the absence of a challenge from any party. *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 501 (2006). Thus, the Court considers *sua sponte* any questions of the applicability of mootness to Petitioners' Motion.

The doctrine of mootness applies “when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.” *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 90 (2013). A case that becomes moot no longer presents a case or controversy, and thus cannot be properly before a federal court.

Respondents previously suggested Petitioners' Motion, as well as the entire case, is moot because Petitioners lost their stake in this litigation when they received bond hearings. [Dkt. No. 69 at 3–4]. Specifically, Respondents suggest

Petitioners' reliance on *Nielson v. Preap*, 586 U.S. 392, is improper. [*Id.* at 5–6]. According to Respondents, because Justices Thomas and Gorsuch declined to join in the jurisdictional portion of the majority opinion, this renders *Preap*'s mootness discussion as a non-binding discussion by a plurality. [*Id.* at 5].

But *Preap* presents little relevance here. In *Preap*, the parties disputed mootness where the district court had certified a class that comprised of individuals in the district subject to mandatory detention under 8 U.S.C. § 1226(c). *Preap*, 586 at 400. Because the named plaintiffs had received relief, the Government argued in *Preap* that the class action was mooted. *Id.* at 403–04.

Here, the Court has not yet considered Petitioners' class certification motion. Thus, *Preap*'s discussion of mootness presenting jurisdictional barriers there does not provide clear guidance here. Rather, the portion of *Preap* that resonates here is that some of the plaintiffs in *Preap* “faced the threat of re-arrest and mandatory detention.” *Preap*, 586 U.S. at 403.

Before this Court are exclusively the legal issues presented by the named Petitioners regarding the legality of the new DHS Policy. The focus of the mootness inquiry is on whether Petitioners present a live controversy—not the Petitioners' relationship to the putative class.

Petitioners in this case have not received complete relief due to the real risk of re-arrest and mandatory detention. [Dkt. No. 63 at 9]. Petitioners cite to four instances since their Motion in which Respondents have again arrested and re-detained similarly situated individuals and subjected them to mandatory detention. [*Id.*]. Moreover, it has now become binding precedent in immigration courts that the DHS Policy is lawful. *See Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025),

This Court finds Petitioners still maintain a live controversy, by virtue of the exceptions to the mootness doctrine, namely, concerns regarding voluntary cessation. *See Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc.*, 528 U.S. 167, 189 (2000).

Respondents suggest Petitioners cannot establish any exception to mootness because any threat of re-detention is “completely speculative and premised on the assumption that [Respondents] will violate this Court's order.” [Dkt. No. 69 at 7]. The underlying basis for Respondents' argument is self-defeating. As Respondents will have it, the threat of Petitioners' re-detention is “speculative,” even though

Petitioners cite to cases indicating the exact circumstances from which they seek relief, because those cases are “distinct” in that those individuals “should have been subject to mandatory detention under § 1225(b)(2).” [*Id.* at 6–7]. But Respondents argue in their Opposition for that exact proposition: that “Petitioners are subject to detention under § 1225(b)(2) because they are applicants for admission.” [Opp. at 20]. At Respondents’ perhaps involuntary admission, these facts present a prototypical example of voluntary cessation.

As the Supreme Court stated, “a defendant cannot automatically moot a case simply by ending its unlawful conduct once sued.” *Already*, 568 U.S. at 91. This doctrine supports the premise that “a party should not be able to evade judicial review, or to defeat a judgment, by temporarily altering questionable behavior.” *City News & Novelty, Inc. v. City of Waukesha*, 531 U.S. 278, 284 n.1 (2001). By seeking to view this case as moot ignores the reality that Respondents have acted upon and maintain their position that Petitioners are applicants for admission, and thus should be subject to mandatory detention under § 1225(b)(2). This case is very much still live, as Respondents have not demonstrated there is no reasonable expectation that Petitioners will not be re-arrested and re-detained.

* * *

Having established no jurisdictional barriers exist to adjudicating this Motion, the Court now considers Petitioners’ Motion for Partial Summary Judgment.

III. LEGAL STANDARD

Summary judgment is appropriate when “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). A fact is material if the dispute over that fact may affect the outcome of the lawsuit under governing law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A court need not consider irrelevant and unnecessary factual disputes. *Id.* A dispute is genuine if a reasonable jury could return a verdict for the non-moving party based on the evidence. *Id.* The movant bears the initial burden of demonstrating the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

To do so, the moving party must present evidence that either negates an essential element of the non-movant’s case or demonstrates the non-movant does not have evidence sufficient to support its case. *Id.* If the movant has met its burden, the non-movant must set forth specific facts showing there is a genuine

issue for a trial. *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986). In deciding a summary judgment motion, a court must believe the non-movant's evidence and draw all justifiable inferences in its favor. *Anderson*, 477 U.S. at 255.

IV. DISCUSSION

Petitioners' Motion for Partial Summary Judgment seeks to declare the new DHS Policy unlawful, and asks the Court to enter final judgment pursuant to Rule 54(b). [*See generally* Motion].⁵ Respondents' Opposition argues, beyond the jurisdictional issues already discussed, Petitioners are not entitled to summary judgment where Congress has directed Petitioners and those similarly situated to be subject to mandatory detention. [Opp. at 20–30].

Because the parties appear to agree that there are no genuine disputes as to any material facts⁶, the Court focuses on whether Petitioners are entitled to judgment as a matter of law. As reflected in the briefings, this is a question of statutory interpretation.

Before examining the statutory text at issue, the Court first provides a primer regarding the statutes, relevant developments to the statutes, and how they operate. Such background provides necessary context to evaluating the text of the statutory provisions. *See Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (“The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole.”).

A. The INA and IIRIRA

The Immigration and Nationality Act of 1952 (“INA”), codified in Chapter 12 of Title 8 of the United States Code, governs all aspects of immigration law. *See* 8 U.S.C. §§ 1101 *et seq.* Forming the basis of current immigration laws of the United States, the INA addresses issues of admission qualifications for noncitizens,

⁵ The Motion further argues that prudential exhaustion is not required in this scenario. [*See* Motion at 36–41]. Respondents do not raise any objection to this argument, and the Court finds that prudential exhaustion may be waived for the same reasons discussed in its TRO Order. [*See* TRO Order].

⁶ *See* Dkt. No. 60-1 (reflecting that Respondents only raises disputes to immaterial facts or “to the extent Plaintiffs make any mischaracterization of the law”).

naturalization and loss of nationality, refugee assistance, and removal procedures for noncitizen terrorists. *Id.* See also Margaret C. Jasper, *The Immigration and Nationality Act of 1952*, LEGAL ALMANAC: THE LAW OF IMMIGRATION (2012).

As reflected in the subchapters of the INA, immigration law involves the interplay between the manifold issues arising from any noncitizen's arrival, stay, departure, or removal from the United States. See e.g., § 1181(c) (cross-referencing the admission of refugees with the admission of immigrants); § 1201(b) (differentiating registration requirements for noncitizens based on classes enumerated in § 1101); § 1229(a) (cross-referencing grounds of inadmissibility as affecting removal proceedings); § 1301 (conditioning the issuance of visas in accordance with § 1201).

In 1996, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), which "substantially amended" portions of the INA's judicial review scheme with a "new (and significantly more restrictive) one." *Nken v. Holder*, 556 U.S. 418, 424 (2009). Along with its changes to the availability of judicial review, IIRIRA added § 1225 to the INA, which outlines expedited removal of a certain class of noncitizens. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 109 (2020). See also *Biden v. Texas*, 597 U.S. 785, 804 (2022). In contrast, the predecessor to the current language of § 1226 existed in the original INA. See INA of 1952, Pub. L. No. 414 (66 Stat. 200) (current version at 8 U.S.C. § 1226). Recently, Congress amended portions of § 1226 through the passage of the Laken Riley Act. Pub. L. No. 119-1, January 29, 2025, 139 Stat. 3 (2025).

B. Evaluating Inadmissible Noncitizens

8 U.S.C. § 1225 and § 1226 govern how the executive branch evaluates inadmissible noncitizens. Logically speaking, inspection or apprehension of the noncitizen is a necessary precondition of removal. Only after a noncitizen is identified as inadmissible can removal proceedings happen.

Indeed, the Supreme Court has already differentiated these two sections, distinguishing their application by the category of noncitizens to which their provisions apply. See *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). *Jennings* held the Government may "detain certain [noncitizens] seeking admission into the country" under § 1225(b) while § 1226 "authorizes the Government to detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings." *Id.* (emphasis added).

In particular, the statutory language of § 1225 details the process by which immigration officers inspect noncitizens arriving in the United States, refer them for hearings, and initiate procedures for expedited removal. *See* § 1225(a) (defining the categories of individuals that immigration officers are to inspect and statements these individuals may provide at inspection); § 1225(b) (detailing the process for conducting inspections, including screening, interviews, and referrals); § 1225(c) (providing grounds for expedited removal involving security concerns); § 1225(d) (outlining immigration officers' authority relating to inspection). On the other hand, § 1226 describes how noncitizens may be apprehended and detained. *See* § 1226(a) (supplying an exhaustive list of scenarios noncitizens may face pending a removal decision, including being released on bond); § 1226(b) (describing the Attorney General's authority to revoke bond or parole); § 1226(c) (detailing the category of noncitizens that the Attorney General must take into custody); § 1226(d) (directing the Attorney General to create a system to identify criminal noncitizens); § 1226(e) (limiting judicial review of the Attorney General's discretionary decisions).

Beyond *how* noncitizens are identified as inadmissible, another distinction between these two sections is that noncitizens detained under § 1226(a) are entitled to receive bond hearings at the outset of detention. 8 C.F.R. §§ 236.1(d)(1). *See also Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018). As articulated by the Ninth Circuit, "§ 1226(a) stands out from the other immigration detention provisions in key respects." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th Cir. 2022) (observing that § 1226(a) and its implementing regulations "provide extensive procedural protections that are unavailable under other detention provision"). Not only does § 1226(a) provide several layers of review of the agency's initial custody determination, but it also confers "an initial bond hearing before a neutral decisionmaker, the opportunity to be represented by counsel and to present evidence, the right to appeal, and the right to seek a new hearing when circumstances materially change." *Id.*

Based on the undisputed facts, Petitioners were not inspected by immigration officers when arriving in the United States, and were already in the United States at the time of their arrest and being charged as inadmissible. [Dkt. No. 60-1 ¶¶ 18, 25, 26, 34, 42, 48].

Maintaining the position underlying their TRO, Petitioners argue that § 1226(a)—not § 1225(b)(2)—applies to them and those similarly situated.

[Motion at 23–36]. Respondents again argue that § 1225(b)(2) is the governing authority for “applicants for admission”, which includes Petitioners. [Opp. at 20–29]. In simpler terms, the parties dispute whether Petitioners are “applicants for admission,” a category dispositive of whether Petitioners are subject to mandatory detention pending their removal proceedings. If Petitioners are “applicants for admission,” § 1225 governs, and they would not be entitled to bond hearings under § 1226(a).

But who is an “applicant for admission,” and is that phrase relevant as to Petitioners?

C. Plain Language of the INA

Both parties assert that the plain language of the INA supports their interpretation. [Motion at 23, 29–30; Opp. at 20–21; Reply at 13]. Petitioners state the application of § 1226(a) “does not turn on whether someone has been previously admitted,” and affords access to bond to noncitizens that are inadmissible. [Motion at 23]. Moreover, Petitioners argue that the text of § 1225 “reflects a limited temporal scope.” [*Id.* at 29]. Because § 1225(b)(2)(A) requires an “active construction” of the phrase “seeking admission” for “applicants for admission,” it cannot apply to Petitioners. [*Id.* at 30].

In response, Respondents argue Petitioners are “applicants for admission” because § 1225(b)(2) is a “catchall provision” that applies to all applicants for admission not covered by § 1225(b)(1). [Opp. at 21, (citing *Jennings*, 583 U.S. at 287)]. According to Respondents, “applicants for admission” “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” [Opp. at 21 (citing *Jennings*, 583 U.S. at 297)]. Such an argument relies on the assumption that “applicants for admission” encompasses *all* noncitizens coming into and already in the United States. If this assumption is true, then Respondents are correct. But this cannot be correct.

Respondents’ argument is at odds with the plain language of the INA. Neither party contends with the definition section of the INA, which readily resolves this dispute over statutory interpretation.

1. The INA’s Definition Section

The preeminent canon of statutory interpretation requires courts to “presume that [the] legislature says in a statute what it means and means in a statute what it says there.” *Connecticut Nat. Bank v. Germain*, 503 U.S. 249, 253–54 (1992).

Thus, even where the parties have advanced various arguments to support their competing interpretations, the Court must “begin[] with the statutory text, and ends there as well if the text is unambiguous.” *BedRoc Ltd., LLC v. United States*, 541 U.S. 176, 183 (2004). Barring unusual cases, “[s]tatutory definitions control the meaning of statutory words.” *Lawson v. Suwannee Fruit & S.S. Co.*, 336 U.S. 198, 201 (1949).⁷

Found in § 1101 is the INA’s definition section. *See* § 1101(a)–(h). Relevant here, the INA defines “[noncitizen]” as “any person not a citizen or national of the United States”; “application for admission” as “the application for admission into the United States and not to the application for the issuance of an immigrant or nonimmigrant visa”; and “admission” and “admitted” as “the lawful entry of the [noncitizen] into the United States after inspection and authorization by an immigration officer. *See* §§ 1101(a)(3), (a)(4), (a)(13)(A).⁸

Later in the INA, § 1225(a)(1) provides that “[a noncitizen] present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission.” § 1225(a)(1). “Applicants for admission”—when replacing “admitted” with its definition from § 1101(a)(13)(A)—are noncitizens who have not “lawful[ly entered] into the United States *after inspection and authorization by an immigration officer.*” *See* § 1101(a)(13)(A) (emphasis added); § 1225(a)(1).

In suggesting § 1225(b)(2) nevertheless encompasses Petitioners as “applicants for admission,” Respondents ignore a crucial portion of *Jennings*. [Opp. at 21]. It is true that § 1225(b)(2) applies to “other [noncitizens]” who “is an applicant for admission, if the examining immigration officer determines that [a

⁷ The Court’s holding would not create “obvious incongruities in the [statutory] language” or erase from the statute an entire subsection. *See Lawson*, 336 U.S. at 201. In fact, the Court’s interpretation of the INA effectuates the provisions of *both* § 1225 and § 1226, where Respondents’ position would render the latter superfluous.

⁸ *Torres v. Barr* has already clarified that “applicant for admission” and “application for admission” are not interchangeable. *Torres v. Barr*, 976 F.3d 918, 926–27 (9th Cir. 2020). The Ninth Circuit concurred with the BIA, which had held that “the term ‘applicant for admission’ in the deeming provision of § 1225(a)(1) ‘merely’ determines [a noncitizen’s] legal status for purposes of removal proceedings.” *Id.* at 929.

noncitizen] seeking admission is not clearly and beyond a doubt entitled to be admitted.” § 1225(b)(2). But *Jennings* considered § 1226 as existing in harmony with § 1225(b)(2), where § 1226(a) “authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings.” 583 U.S. at 289.

Individuals who have not been inspected and authorized by an immigration officer lack the trait to be categorized as “applicants for admission.” The statutory language of § 1225(b)(2) contemplates a determination by an “examining immigration officer” regarding a noncitizen’s admissibility. *See* § 1225(b)(2). Nowhere in the record supports the existence of an examining immigration officer or a requisite determination of inadmissibility that would result in mandatory detention, as Respondents insist. When considering the statutory definitions of the INA and the plain text of § 1225, it is unambiguous that “applicants for admission” do not include noncitizens already in the United States like Petitioners—individuals that were not determined inadmissible by an “examining immigration officer.”

This is further supported by the heading under which § 1225(a)(1) falls. This subsection falls under § 1225, which addresses “[i]nspection by immigration officers; expedited removal of inadmissible arriving [noncitizens]; referral for hearing.” § 1225.

What category, then, do Petitioners fall under? Individuals who are present in the United States and have not been inspected and authorized by an immigration officers are merely part of the broadly defined term “[noncitizen]”: any person not a citizen or national of the United States. § 1101(a)(4). As the plain language of § 1226(a) supports Petitioners’ interpretation, and “no insuperable textual barrier” hinders this reading, the Court finds that § 1226(a) is the appropriate governing authority over Petitioners’ detention. *See Utility Air Regulatory Group v. E.P.A.*, 573 U.S. 302, 321 (2014).

2. The INA’s Statutory Scheme

Where neither § 1225 nor § 1226 are ambiguous, only Petitioners’ interpretation of these statutes “produces a substantive effect that is compatible with the rest of the law.” *United Sav. Ass’n of Texas v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 372 (1988). “[R]easonable statutory interpretation must account for both ‘the specific context in which . . . language is used’ and the ‘broader context of the statute as a whole.’” *Utility Air Regulatory Group*, 573

U.S. at 321 (citing *Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997)). The Ninth Circuit previously recognized that INA is a “dense statute” that is to be read “against the backdrop of our constitutional principles, administrative law, and international treaty obligations.” *Torres v. Barr*, 976 F.3d 918, 923 (9th Cir. 2020) (citations omitted).

Petitioners argue that § 1225 and § 1226 are distinct regimes meant to address separate categories of noncitizens. The latter provides the “default detention authority” for all persons detained pending a removal decision, while the former has a limited temporal scope that concerns “inspection” and “expedited removal of inadmissible arriving [noncitizens]”. [Motion at 24–29]. *See also Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499 at *17 (W.D. Wash. Sept. 30, 2025) (concluding that a “plain reading of [section 1226] implies that default discretionary bond procedures in section 1226(a) apply to noncitizens who . . . are ‘present in the United States without being admitted or paroled’ under section 1182(a)(6)(A) but *have not been* implicated in any crimes as set forth in section 1226(c).”). *See id.* (evaluating the language of § 1226 as “lend[ing] strong textual support that ‘inadmissible’ noncitizens . . . are included within section 1226”).

Meanwhile, Respondents endorse an interpretation of § 1225 that effectively removes § 1226 from existence. Respondents attempt to downplay the consequences of their proposed position, stating that § 1226 is a mere redundancy in statutory drafting, or that it is “‘congressional effort to be doubly sure’ that such unlawful [noncitizens] are detained.” [Opp. at 28]. Not so. If the Court were to accept Respondents’ position that all noncitizens already in the country (regardless of whether they were inspected and authorized by an immigration officer) were “applicants for admission,” then there would be no possible set of noncitizens to which § 1226(a) would apply. Put in another way, Respondents’ proposed interpretation requires that any and all inadmissible noncitizens are also “applicants for admission.” Such a premise cannot be harmonized with other portions of the INA. *See United States v. Castleman*, 572 U.S. 157, 178, (2014) (Scalia, J., concurring in part and concurring in the judgment) (explaining that the “presumption against ineffectiveness” means “that Congress presumably does not enact useless laws”). *See also* Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 174–79 (2012) (regarding the rule against surplusage).

There must be an appreciable or meaningful distinction between § 1225 and § 1226.⁹ The text of these subsections reveals a crucial difference in their treatment of detention. Detention under § 1226 is permissive; detention under § 1225 is mandatory. The Ninth Circuit previously concluded “permissive and mandatory descriptions are in harmony, as they apply to different situations.” *Fifty-Six Hope Rd. Music, Ltd. v. A.V.E.L.A., Inc.*, 778 F.3d 1059, 1081 (9th Cir. 2015).

Thus, Respondents’ expansive interpretation of “applicants for admission” would effectively nullify a portion of the INA through the DHS’s legislative or interpretive exercise of power. Neither is appropriate under the separation of powers. *See Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 386 (2024) (establishing that “[t]he views of the Executive Branch could inform the judgment of the Judiciary, but [do] not supersede it.”). Meanwhile, Petitioners’ interpretation—that § 1226(a) is the governing authority and that they are not “applicants for admission—is not contrary to the statutory scheme of the INA. *See generally* § 1226. Nowhere in § 1226 is the phrase “applicants for admission,” “admission,” or “admitted” used in the context raised in § 1225.

Absent Congressional action that repeals and revises § 1226(a), the directive that the Attorney General must either continue to detain the noncitizen or release the noncitizen on bond or parole persists. Respondents unacceptably collapse § 1226 into nonexistence under a wide-reaching interpretation of “applicants for admission.” [See Reply at 8 (arguing Respondents’ view would render § 1226(a) meaningless in despite a recent legislative amendment)].

Where statutory language is unambiguous and “the statutory scheme is coherent and consistent,” the Court must end its inquiry. *United States v. Ron Pair Enterprises, Inc.*, 489 U.S. 235, 240 (1989). Because the Court finds the

⁹ The Court acknowledges certain other district courts disagree with this Court’s interpretation. *Barrios Sandoval v. Acuna, et al.*, No. 6:25-CV-01467, 2025 WL 3048926 (W.D. La. Oct. 31, 2025) (holding that the “plain text” of § 1225(a)(1) includes “any [noncitizen] physically present in the United States who has not been admitted”). *Cirrus Rojas v. Olson, et al.*, No. 25-CV-1437-BHL, 2025 WL 3033967 (E.D. Wis. Oct. 30, 2025) (same); *Vargas Lopez v. Trump*, No. 8:25CV526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) (same). *See also Chavez v. Noem*, No. 3:25-CV-02325-CAB-SBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (denying a preliminary injunction on those grounds).

statutory provisions to be unambiguous and consistent with only Petitioners' interpretation, there is no need to engage with canons of construction, legislative history and intent, implementing regulations, or agency practice. [See Motion at 32–42; Opp. at 25–29].¹⁰

Accordingly, the Court **GRANTS** Petitioners' Motion for Partial Summary Judgment.

V. PETITIONER'S REQUEST FOR FINAL JUDGMENT

Petitioners also request the Court to enter final judgment pursuant to Rule 54(b). [Motion at 40–41]. Although the Opposition does not provide argument as to this request, the Court **DENIES** this request.

Rule 54(b) provides that “[w]hen an action presents more than one claim for relief . . . the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay.” Fed. R. Civ. Proc. 54(b). Because Petitioners have filed a pending motion for class certification, the Court finds final judgment would be inappropriate. [See Dkt. No. 41].

VI. CONCLUSION

Consistent with the discussion above, Petitioners' Motion for Partial Summary Judgment is **GRANTED**. [Dkt. No. 42]. The Court further **DENIES** Petitioners' Request to enter final judgment.

IT IS SO ORDERED.

¹⁰ Even if the Court were to consider the parties' alternative arguments, Petitioners' interpretation still presents more meritorious arguments. *See Rodriguez v. Bostock*, 2025 WL 2782499 at *21–26 (considering arguments regarding canons of construction, legislative history, and agency practice and concluding the same).

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—
GENERAL

Case No. 5:25-cv-01873-SSS-BFM Date December 18, 2025

Title Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr et al

Present: The Honorable SUNSHINE S. SYKES, UNITED STATES DISTRICT JUDGE

<u>Irene Vazquez</u>	<u>Not Reported</u>
Deputy Clerk	Court Reporter

Attorney(s) Present for Plaintiff(s):
None Present

Attorney(s) Present for Defendant(s):
None Present

**Proceedings: (IN CHAMBERS) ORDER GRANTING IN PART AND
DENYING IN PART PETITIONERS' EX PARTE
APPLICATION FOR RECONSIDERATION OR
CLARIFICATION [DKT. NO. 87]**

Before the Court is Plaintiff Petitioners Lazaro Maldonado Bautista, Ananias Pasqual, Ana Franco Galdamez, and Luiz Alberto de Aquino de Aquino's (collectively, "Petitioners") Ex Parte Application for Reconsideration or Clarification regarding the Court's Prior Order on their Motion for Class Certification. [Dkt. No. 87, "Application" or "App."; *see also* Dkt. No. 41, "Motion for Class Certification"; Dkt. No. 82, "Class Certification Order"]. Defendant Respondents Ernesto Santacruz Jr., Todd Lyons, Krista Noem, Pamela Bondi, and Feriti Semaia ("Respondents") have filed their Opposition to this Motion. [Dkt. No. 90, Opposition or "Opp."]. Petitioners filed their Reply on December 12, 2025. [Dkt. No. 91, "Reply"].

I. FACTUAL AND PROCEDURAL BACKGROUND

For sake of brevity, the Court incorporates the factual background from the Prior Order on the Motion for Partial Summary Judgment, the Amended Class Complaint, and the pleadings related to this Application. [See Dkt. No. 15,

“Amended Class Complaint” or “ACC”; Dkt. No. 81, “MSJ Order”; *see also* App.; Opp.; Reply].

On November 20, 2025, the Court granted Petitioners’ Motion for Partial Summary Judgment but denied their request to enter final judgment due to the pending class certification motion. [See MSJ Order]. The following week, on November 25, 2025, the Court granted Petitioners’ Motion for Class Certification pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure. [See generally Class Certification Order]. The certified class was defined as:

- **Bond Eligible Class:** All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

[*Id.* at 15].

Petitioners now bring this Application seeking clarification to “eliminate any doubt regarding [Defendant Respondents’] legal obligations and ensure [their] compliance.” [App. at 3].

For the following reasons, the Court **GRANTS IN PART** and **DENIES IN PART** Petitioners’ Application.

II. LEGAL STANDARD

Courts in this judicial district consistently utilize Local Rule 7-18 to adjudicate motions for reconsideration in civil and criminal matters. *E.g., Feltzs v. Cox Comme’n Cal., LLC*, 562 F. Supp. 3d 535, 539 (C.D. Cal. 2021); *United States v. Biden*, No. 2:23-CR-599, 2024 WL 3892452, at *2–3 (C.D. Cal. Aug. 19, 2024); *In re Pioneer Corp.*, No. 2:18-CV-4524, 2018 WL 4963126, at *2 (C.D. Cal. Aug. 27, 2018) (applying Local Rule 7-18 to a motion for reconsideration of an order authorizing discovery); *Patrick Collins, Inc. v. Does*, No. 8:12-CV-977, 2012 WL 12893290, at *5 (C.D. Cal. Dec. 14, 2012).

A. Local Rule 7-18

Local Rule 7-18 requires that a motion for reconsideration be made within fourteen days after the entry of the subject order and based only on the grounds of:

(a) a material difference in fact or law from that presented to the Court that, in the exercise of reasonable diligence, could not have been known to the party moving for reconsideration at the time the Order was entered, or (b) the emergence of new material facts or a change of law occurring after the Order was entered, or (c) a manifest showing of a failure to consider material facts presented to the Court before the Order was entered.

L.R. 7-18.

B. Federal Rule of Civil Procedure 60

Federal Rule of Civil Procedure 60 provides grounds for relief from a judgment or order. *See generally* Fed. R. Civ. P. 60. There are two separate categories under Rule 60 that allow for relief: (1) non-substantive corrections of clerical mistakes; and (2) substantive corrections for grounds enumerated in Rule 60(b)(1)–(6). *Id.*

1. Rule 60(a)

Under Federal Rule of Civil Procedure 60(a), a court may correct clerical mistakes or mistakes arising from an oversight or omission whenever one is found in a judgment or order. But Rule 60(a) does not permit substantive changes. *See Blanton v. Anzalone*, 813 F.2d 1574, 1577 n.2 (9th Cir. 1987). In other words, Rule 60(a) allows a court to clarify an order to correct a failure to memorialize part of its decision, to reflect necessary implications of the original order, to ensure the court’s purpose is fully implemented, or to permit enforcement. *Tattersalls, Ltd. v. DeHaven*, 745 F.3d 1294, 1298 (9th Cir. 2014) (“The touchstone of Rule 60(a) . . . is fidelity to the intent behind the original judgment.”) (citation modified). Rule 60(a) does not allow a court to make corrections under the guise of mere clarification that “reflect a new and subsequent intent because it perceives its original judgment to be incorrect.” *Garamendi v. Henin*, 683 F.3d 1069, 1080 (9th Cir. 2012).

2. Rule 60(b)

In contrast, Rule 60(b)(5) “encompasses the traditional power of a court of equity to modify its decree in light of changed circumstances.” *Frew v. Hawkins*, 540 U.S. 431, 441 (2004) (citing *Rufo v. Inmates of Suffolk Cnty. Jail*, 502 U.S. 367, 380 (1992)). Rule 60(b) permits parties to be relieved from “a final judgment, order, or proceeding” when “the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable.” *See* Fed. R. Civ. P. 60(b)(5). Among the reasons to relieve a party from a final judgment, order, or proceeding in Rule 60(b) is a catchall provision of “any other reason that justifies relief.” Rule 60(b)(6).

III. DISCUSSION

Petitioners’ Application requests the following from the Court: (1) appoint additional class counsel under Federal Rule of Civil Procedure 23(g), (2) reconsider the MSJ Order or clarify the Class Certification Order as to final or binding classwide declaratory relief, (3) direct entry of final judgment pursuant to Federal Rule of Civil Procedure 54(b), and (4) expressly confirm that the MSJ Order both declared *and vacated* the challenged agency actions. [App. at 3–4].

Respondents oppose the Application, arguing that the requested issues for reconsideration and/or clarification are inappropriate where no final judgment has been entered, or where the requested relief is either premature or cannot be granted on a classwide basis. [Opp. at 3–9]. The Opposition makes no mention nor argument against including additional class counsel.

As the various grounds for reconsideration and clarification vary, the Court takes each in turn.

A. Inclusion of Appointed Class Counsel

Petitioners’ request to include additional class counsel is simple and uncontested. [Reply at 3, 9]. Petitioners included in their Motion for Class Certification the following class counsel: Northwest Immigrant Rights Project, American Civil Liberties Union Foundation (“ACLU”) Immigrants’ Rights Project, ACLU Foundation of Southern California, and USC Gould School of Law Immigration Clinic. [Dkt. No. 41 at 36]. The Court evaluated the adequacy of each counsel in the Class Certification Order; however, the full order inadvertently

excluded the proposed class counsel from the ACLU Immigrants' Rights Project and ACLU Foundation of Southern California. [Class Certification Order at 15].

To correct this oversight, the Court clarifies pursuant to Rule 60(a) that the initial order intended to include each counsel noted by Petitioners in the Motion for Class Certification.

The Class Certification Order is hereby **AMENDED** to include My Khanh Ngo, Judy Rabinovitz, Michael K.T. Tan, and Noor Zafar of the ACLU Immigrants' Rights Project and Eva Bitran of the ACLU of Southern California as additional class counsel.

B. Clarification of MSJ Order's Application to APA Claims

Petitioners' Application includes a request to clarify whether the MSJ Order extended to its Administrative Procedure Act ("APA") claims. [App. at 11–12].

Respondents raise three objections to this request for clarification, each of which suggests the requested relief is premature and overbroad: (1) Petitioners seek relief distinct from what was requested in the Amended Class Complaint, (2) the Court has not resolved whether classwide vacatur relief is appropriate, and (3) Petitioners' Application is contrary to the Court's directive for a status conference.¹ [Opp. at 9–12].

Upon the Court's review of Respondents' briefing, there is only one argument carrying merit: that the MSJ Order does not apply to vacatur of *Yajure Hurtado*. Petitioners failed to include any request to vacate the BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

The Court recognizes the BIA issued the decision in *Yajure Hurtado* weeks after Petitioners filed their Motion for Partial Summary Judgment. Petitioners could not have included a request to vacate the decision in their Amended Class Complaint or their Motion for Partial Summary Judgment. However, as Respondents indicate, Petitioners never amended their request for relief through a Second Amended Class Complaint after the BIA issued *Yajure Hurtado*. [Opp. at 9].

¹ The Court does not discuss here Respondents' argument that Petitioners' request goes against the Court's directive for resolving pending issues, but instead incorporates its reasoning in Part III.C regarding the grounds for reconsideration. [See Opp. at 12]. See *infra* Part III.C.2.

Even though the Amended Class Complaint contains allegations that Respondents have violated the APA through unlawful policies, there are no allegations that those unlawful policies include the decision in *Yajure Hurtado*. To tack on a new subject of relief without proper amendment would bypass Federal Rule of Civil Procedure 15. The proper mechanism for Petitioners to seek relief against the decision in *Yajure Hurtado* is to amend the Amended Class Complaint, not through an Application for Reconsideration.

The Court, therefore, **DENIES** Petitioners' Application to Reconsider relief pertaining to *Yajure Hurtado*. Nevertheless, the Court observes that the core holding of *Yajure Hurtado* cannot be squared with the MSJ Order. *See Yajure-Hurtado*, 29 I. & N. Dec. at 220–28 (subjecting noncitizens present in the United States without inspection to § 1225 and denying them bond hearings for lack of jurisdiction). In spite of *Yajure Hurtado*, this Court determined that Petitioners and those similarly situated are not “applicants for admission,” and therefore not subject to mandatory detention under § 1225. [MSJ Order at 12–17]. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 398–99 (2024) (requiring courts “to ignore, not follow, ‘the reading the court would have reached’ had it exercised its independent judgment”). Although the MSJ Order does not grant vacatur of *Yajure Hurtado* under the APA, *Yajure Hurtado* is no longer controlling; the legal conclusion underlying the decision is no longer tenable.

The Court now addresses the other relief at issue in the Application. Because vacatur is a necessary consequence of declaring an agency action unlawful, vacatur of the DHS Policy is within the scope of the MSJ Order. Detailed reasoning and discussion of potential jurisdictional issues are discussed in the Amended Consolidated Order to be issued shortly after this Order. Accordingly, the Court **GRANTS** Petitioners' Application to clarify that the MSJ Order encompassed Count III of the Amended Class Complaint and granted classwide vacatur of the unlawful DHS policy.²

² Respondents also argue that “a court cannot grant declaratory relief prior to the entry of a final judgment.” [Opp. at 6 (citing *Doran v. Salem Inn, Inc.*, 422 U.S. 922, 931 (1975))]. Because the Court reconsiders its decision that previously denied entry of final judgment, there is no reason to consider this argument. *See infra* Part III.C.

C. Entry of Final Judgment

With the scope of the MSJ Order and Class Certification Order clarified, the Court now considers whether it should revisit its previous decision to deny entry of final judgment.³

Previously, the Court declined to enter final judgment pursuant to Rule 54(b) “[b]ecause Petitioners [had] filed a pending motion for class certification.” [MSJ Order at 17]. At the time of denying Petitioners’ request for entry of final judgment on November 20, 2025, the Court had yet to decide whether class certification was appropriate.

The Court had sequenced the motions in this manner, as the Motion for Partial Summary Judgment required the Court to consider a single question of law while the Motion for Class Certification entailed a wider scope of issues for claims in the Amended Class Complaint. *See Wright v. Schock*, 742 F.2d 541, 543–44 (9th Cir. 1984) (recognizing a district court’s discretion to rule on a motion for summary judgment before class certification “[u]nder the proper circumstances—where it is more practicable to do so and where the parties will not suffer significant prejudice”). Because the MSJ Order did not enter final judgment, Respondents would face no significant, if any, prejudice.

Petitioners now request that the Court reconsider its initial decision to decline entry of final judgment. [App. at 7, 11–12]. Referencing Local Rule 7-18, Petitioners present new material facts that warrant reconsideration. [*Id.* at 11]. Namely, the Application provides numerous declarations indicating Respondents’ failure to comply with the Court’s orders by continuing to deny bond hearings for class members and/or Respondents’ issuing guidance to disregard the Court’s declaratory judgment. [*Id.* at 8–9].

Respondents’ Opposition asserts that the status conference set for January 16, 2026, is more appropriate to resolve outstanding issues because “a final declaratory judgment will not simplify the complex issues presented” and “will cause substantial confusion as well as overlapping and inconsistent legal obligations.” [Opp. at 2–3]. In doing so, Respondents argue that “[w]ithout

³ The parties’ respective arguments as to the binding effect of the MSJ Order and the Class Certification Order are no longer relevant given the Court’s decision to enter final judgment by granting the Application. [Opp. at 4–5; Reply at 4–5]. The Court finds no need to address these arguments.

preclusive effect, a declaratory judgment is little more than an advisory opinion.”
[*Id.* at 4].

The Court examines as a threshold matter whether reconsideration is proper.

1. Requirements for a Motion for Reconsideration

Local Rule 7-18 requires parties to base a motion for reconsideration on one of three grounds: (1) a material difference in fact or law from that presented to the Court that not known to the moving party at the time the Order was entered; (2) new material facts or a change of law occurring after the Order was entered; or (3) a manifest showing of a failure to consider material facts presented to the Court before the Order was entered. L.R. 7-18.

Indeed, circumstances have changed since the Court’s MSJ Order, something Respondents do not contest in the Opposition. The record now reflects the Court’s rulings on both Petitioners’ Motion for Partial Summary Judgment and Motion for Class Certification, the consequences of which present an altered landscape to that of Respondents’ conduct at the time this matter was initiated.

With this in mind, the Court also notes that the Application also presents grounds for reconsideration due to newly emerged facts that fall under two categories.

New Facts Pertaining to IJ’s Lack of Compliance. The Application details that Respondents have “persisted in denying class members bond hearings in two ways.” [App. at 8]. The various supporting exhibits attached to the Application confirm that immigration judges (“IJs”) continue to deny bond hearings for members of the Bond Eligible Class despite the Court’s determination that the DHS Policy is unlawful. [*Id.*; see e.g., Dkt. No. 87-2 at 5–8, 11–12, 14–15; Dkt. No. 87-5 at 6–7; Dkt. No. 87-7 at 4–7; Dkt. No. 87-8 at 5–8; Dkt. No. 87-9 at 5–6; Dkt. No. 87-11 at 3–4; Dkt. No. 87-12 at 3–4; Dkt. No. 87-13 at 4–5; Dkt. No. 87-14 at 4–5; Dkt. No. 87-15 at 3–4; Dkt. No. 87-16 at 3–4; Dkt. No. 87-17 at 3–4]. This is the case in at least ten other states. [*Id.*].

In these determinations, IJs have cited to this Court’s order, choosing to disregard the declaratory relief granted because it did not enter final judgment or due to some misunderstanding on part of the IJs as to the effect or nature of the Court’s orders. [Dkt. No. 87-2 at 11 (suggesting this Court “did not issue a class-wide declaratory judgment”); Dkt. No. 87-2 at 14 (same); Dkt. No. 87-5 at 6 (same); Dkt. No. 87-7 at 4, 6 (same); Dkt. No. 87-8 at 5 (same); Dkt. No. 87-9 at 3

(same); Dkt. No. 87-12 at 3 (same); Dkt. No. 87-14 at 3 (same); Dkt. No. 87-15 at 3 (same); Dkt. No. 87-16 at 3 (same)].

This uniform practice by IJs might be attributed to the nature of Petitioners' motion being a "Motion Partial Summary Judgment," the Court's phrasing in its MSJ Order and/or Class Certification Order, or the Court's decision to deny the request for entry of final judgment in the MSJ Order. In any event, the Court finds that the subsequent developments affecting the Bond Eligible Class members in this matter are material, which warrant reconsideration of whether to enter final judgment.

New Facts Pertaining to Respondents' Policies. Similarly, and perhaps more troubling, is the emergence of the Respondents' direction to IJs that they should *disregard* this Court's orders. [App. at 9]. Petitioners have provided evidence that the Office of Immigration Litigation issued a memorandum instructing IJs to "hold the position that *Yajure Hurtado* remains good law." [Dkt. No. 87-3 at 2; *see also* Dkt. No. 87-2 at 11 (adhering to *Yajure Hurtado*); Dkt. No. 87-2 at 14 (reasoning that *Yajure-Hurtado* is an independent ground for denying a bond hearing); Dkt. No. 87-5 at 6 (denying bond for lack of jurisdiction pursuant to *Yajure Hurtado*); Dkt. No. 87-7 at 4, 6 (same); Dkt. No. 87-8 at 5 (stating it was the "position of the [DOJ]" to continue heeding *Yajure Hurtado*); Dkt. No. 87-9 at 3 (adhering to *Yajure Hurtado*); Dkt. No. 87-14 at 3 (same); Dkt. No. 87-15 at 3 (same); Dkt. No. 87-16 at 3 (same)].

Because the Court has now decided both the Motion for Partial Summary Judgment and Class Certification Motion, and considering the newly emerged facts as to noncompliance, the posture of this case presents materially different circumstances that would compel reconsideration.

Consistent with the discussion above, the Court finds the Application has provided adequate grounds for this Court's reconsideration under Local Rule 7-18. For the reasons discussed below, the Court finds it appropriate to enter final judgment as to the claims encompassed within the MSJ Order: Counts I, II, and III.⁴

⁴ Claims IV and V of the Amended Class Complaint remain in this action, as they were not included within the scope of the Partial Motion for Summary Judgment.

2. Entry of Final Judgment

Rule 54(b) allows a court to direct final judgment “when an action presents more than one claim for relief or when multiple parties are involved.” Fed. R. Civ. Proc. 54(b). Such entry is appropriate “as to one or more, but fewer than all, claims or parties *only if* the court expressly determines that there is no just reason for delay.” *Id.* (emphasis added).

Moreover, Rule 54(b) acknowledges that “any order . . . that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties . . . may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties’ rights and liabilities.” Fed. R. Civ. P. 54(b). This is an exercise of a Court’s inherent authority and power to modify its own interlocutory orders. *City of Los Angeles, Harbor Div. v. Santa Monica Baykeeper*, 254 F.3d 882, 888 (9th Cir. 2001).

A request from a party for a court to exercise this authority generally comes in the form of a motion for reconsideration. *See e.g., Moore v. Grundman*, No. 11-CV-1570-DMS-WMc, 2012 WL 1252711, at *1 (S.D. Cal. April 13, 2012); *Baldwin v. United States*, 823 F. Supp. 2d 1087, 1098 (D.N. Mariana Islands 2011); *Whitsit v. Walker*, No. C-09-2387-JL, 2009 WL 5125858, at *1 (N.D. Cal. Dec. 21, 2009); *Rhodes v. Robinson*, No. 1:02-CV-05018-LJO-DLB, 2008 WL 1766975, at *1 (E.D. Cal. Apr. 17, 2008); *Network Signatures, Inc. v. ABN-AMRO, Inc.*, No. 8:06-CV-00629-JVS-RNBx, 2007 WL 760187,1 at *1 (C.D. Cal. Apr. 10, 2007).

When a Court chooses to modify, the only requirement for the exercise of this power is that the court “has not been divested of jurisdiction over the order.” *Baykeeper*, 254 F.3d at 888. The Court confirms that it still possesses jurisdiction over the MSJ Order and Class Certification Order, as no interlocutory appeal or certification of appeal under Rule 23(f) has been filed.

Because the Court still has jurisdiction, it must articulate sufficient cause for the modification. *See Moses H. Cone Memorial Hosp. v. Mercury Const. Corp.*, 460 U.S. 1, 13 n.14 (1983). To determine whether there is “any just reason for delay,” the Court must consider “judicial administrative interests as well as the equities involved.” *Curtiss-Wright Corp. v. Gen. Elec. Co.*, 446 U.S. 1, 8 (1980). The Ninth Circuit has found “Rule 54(b) certification is proper if it will aid expeditious decision of the case.” *Texaco, Inc. v. Ponsoldt*, 939 F.2d 794, 797 (9th Cir. 1991) (citation modified). Whether to make an express determination under

Rule 54(b) is “exclusively within the District Court’s discretion.” *Atterbury v. Carpenter*, 310 F.2d 126, 126 (9th Cir. 1962).

Indeed, entry of final judgment here will likely aid expeditious decision of the case. As discussed above, the Court is in a posture distinct from where it stood on November 20, 2025. On November 20, 2025, the Court declined entry of final judgment, reasoning final judgment was not appropriate due to the pending motion for class certification. [MSJ Order at 17]. The impact of class certification on the nature of the case provided adequate justification for delay in the entry of final judgment. The Court then issued its Class Certification Order on November 25, 2025. [See Class Certification Order].

Because of that change in procedural posture, the Court finds that the previous reasons supporting delay in entry of final judgment pursuant to Rule 54(b) no longer exist. Furthermore, because new facts indicate Respondents have counseled the noncompliance with the Court’s orders as discussed in Part III.B.1. Evidence of these circumstances present exigent circumstances that may cause irreparable harm to those detained without a bond hearing, where they are otherwise entitled to one. *See* Fed. R. Civ. P. 54(b). [See also Reply at 9 (detailing the harm that Bond Eligible Class members face in light of Respondents’ policies)].⁵

Finding no just reason for delay, the Court **GRANTS** Petitioners’ Application to Reconsider as to the previous denial of final judgment. The Court hereby **ENTERS** final judgment in this action as to Counts I, II, and III of the Amended Class Complaint.

IV. CONCLUSION

Accordingly, the Court hereby **GRANTS IN PART** and **DENIES IN PART** Petitioners’ Application for Reconsideration and Clarification as follows:

- the Application is **GRANTED** as to the additional class counsel;
- the Application is **DENIED** as to including vacatur of *Matter of Yajure Hurtado* in the judgment;

⁵ The Court’s decision here moots Respondents’ arguments regarding the tentative nature of the declaratory relief and its preclusive effect. [Opp. at 2–3, 4].

- the Application is **GRANTED** as to the clarification that the MSJ Order declared the DHS Policy unlawful and granted vacatur under the APA; and
- the Application is **GRANTED** as to the prior request to enter final judgment. The Court hereby **ENTERS** final judgment as to Counts I, II, and III.

An Amended Order consolidating the MSJ Order and Class Certification Order, clarifying the issues encompassed in this Motion, and detailing the judgment will be issued separately.⁶

IT IS SO ORDERED.

⁶ Consistent with Rule 60(a), the clarifications in this Order make no substantive corrections to the effect of its prior orders. The portion of this Amended Order incorporating the Court's reconsideration of its prior denial to enter final judgment and subsequent entry of final judgment is the only substantive change. Such changes are permissible and governed by Rule 60(b)(6).