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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Hector Alfonso RITO REANOS,

Petitioner,

v.

Christopher J. LAROSE, Senior Warden of the Otay Mesa Detention Center; Gregory J. ARCHAMBEAULT, Field Office Director of Enforcement and Removal Operations, San Diego Field Office, Immigration and Customs Enforcement; Markwayne MULLIN, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW;

Respondents.

Case No. '26CV1925 BJC DEB

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Hector Alfonso Rito Reanos is in the physical custody of Respondents at the Otay Mesa Detention Center. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have unlawfully concluded Petitioner is subject to mandatory detention.

2. Petitioner is charged with, inter alia, having entered the United States without inspection at an unknown time and at an unknown place. 8 U.S C. § 1182(a)(6)(A)(i).

3. Based on this allegation in Petitioner's removal proceeding, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e , those who entered the United States without inspection—to be an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention.

4. Indeed, the DHS policy states it was issued "in coordination with the Department of Justice (DOJ)." The policy concludes that notwithstanding Petitioner's over 20 years of residing in the United States, he is nevertheless an "applicant for admission" who is "seeking admission" and subject to mandatory detention under § 1225(b)(2)(A).

5. The reasoning adopted by DHS and the Immigration Judge is further stated in the Board's decision in *Matter of Yajure-Hurtado*, which makes clear that the government's position is that individuals who have already completed an entry into the United States without inspection are properly treated as "arriving aliens" or applicants for admission for purposes of mandatory detention under § 1225(b), notwithstanding decades of practice which have found the contrary.

6. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

7. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released from custody immediately, or in the alternative, the DHS demonstrate at a bond hearing under § 1226(a) why he should remain in custody within fourteen days.

JURISDICTION

9. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Otay Mesa Detention Center, in San Diego, California.

10. This Court has jurisdiction under 28 U.S C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

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

VENUE

1 12. Pursuant to *Braden v 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
2 500 (1973), venue lies in the United States District Court for the Southern District of California,
3 the judicial district in which Petitioner currently is detained.
4 13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
5 Respondents are employees, officers, and agencies of the United States, and because a
6 substantial part of the events or omissions giving rise to the claims occurred in the Southern
7 District of California.

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

9 14. The Court must grant the petition for writ of habeas corpus or order Respondents
10 to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an
11 order to show cause is issued, the Respondents must file a return "within three days unless for
12 good cause additional time, not exceeding twenty days, is allowed." *Id*
13 15. Habeas corpus is "perhaps the most important writ known to the constitutional
14 law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or
15 confinement." Fay v. Noia, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the
16 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
17 receives prompt action from him within the four corners of the application." Yong v. I.N.S., 208
18 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

19 **PARTIES**

20 16. Petitioner Hector Alfonso Rito Reanos is a citizen of Mexico who has been in
21 immigration detention since January 22nd, 2026, currently detained at the Otay Mesa Detention
22 Facility. He is being denied consideration for bond release under the policy of the Executive
23 Office for Immigration Review, which considers him ineligible bond consideration as an
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"applicant for admission", despite Mr. Rito's 20 years of continuous residence in the United States.

17. Respondent Christopher J. LaRose is employed by CoreCivic as the Senior Warden of the Otay Mesa Detention Facility, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

18. Respondent Gregory J. Archambeault is the Director of the San Diego Field Office of ICE's Enforcement and Removal Operations division. As such, Mr. Archambeault is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

19. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

20. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

21. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

22. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

1 **LEGAL FRAMEWORK**

2 23. The INA prescribes three basic forms of detention for the vast majority of
3 noncitizens in removal proceedings.

4 24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
5 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally
6 entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d),
7 while noncitizens who have been arrested, charged with, or convicted of certain crimes are
8 subject to mandatory detention, *see* 8 U.S C. § 1226(c).

9 25. Second, the INA provides for mandatory detention of noncitizens subject to
10 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
11 referred to under § 1225(b)(2).

12 26. Last, the INA also provides for detention of noncitizens who have been ordered
13 removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

14 27. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

15 28. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
16 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
17 104—208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section
18 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1,
19 139 Stat. 3 (2025).

20 29. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining
21 that, in general, people who entered the country without inspection were not considered detained
22 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited
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1 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
2 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

3 30. Thus, in the decades that followed, most people who entered without inspection
4 and were placed in standard removal proceedings received bond hearings, unless their criminal
5 history rendered them ineligible. That practice was consistent with many more decades of prior
6 practice, in which noncitizens who were not deemed "arriving" were entitled to a custody
7 hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep.
8 No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority
9 previously found at § 1252(a)).

10 31. On July 8, 2025, DHS, "in coordination with" DOJ, announced a new policy that
11 rejected well-established understanding of the statutory framework and reversed decades of
12 practice, while providing little legal justification for the change.

13 32. The new policy, entitled "Interim Guidance Regarding Detention Authority for
14 Applicants for Admission,"[1] claims that all persons who entered the United States without
15 inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore
16 are subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies
17 regardless of when a person is apprehended, and affects those who have resided in the United
18 States for months, years, and even decades.

19 33. On September 5, 2025, the BIA (Board of Immigration Appeals) issued a decision
20 in the *Matter of Yajure Hurtado* 9 I&N Dec. 216 (BIA 2025). That decision holds that all
21 noncitizens who entered the United States without admission or parole are considered applicants
22 for admission and are ineligible for immigration judge bond hearings. This precedential opinion
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[1] *Available at* https://www aila org/library/ice-memo-interim-guidance-regarding-detention-authority-for-
24 applications-for-admission.

formally obligating all immigration judges to follow the policy and removing any administrative relief for affected non-citizens.

34. ICE and EOIR have adopted this position even though federal courts have rejected this exact conclusion. For example, after IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion).

35. DHS's and DOJ's interpretation defies the INA. As the *Rodriguez Vazquez* court explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

36. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

37. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions,

1 the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove*
2 *Orthopedic Assocs., P.A v. Allstate Ins Co*, 559 U.S. 393, 400 (2010)).
3 38. Section 1226 therefore leaves no doubt that it applies to people who face charges
4 of being inadmissible to the United States, including those who are present without admission or
5 parole.
6 39. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
7 recently entered the United States. The statute's entire framework is premised on inspections at
8 the border of people who are "seeking admission" to the United States. 8 U.S.C.
9 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
10 applies "at the Nation's borders and ports of entry, where the Government must determine
11 whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583
12 U.S. 281, 287 (2018).
13 40. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to
14 people like Petitioner, who have already entered and were residing in the United States at the
15 time they were apprehended.
16 **FACTS**
17 41. Petitioner has resided in the United States continuously for over 25 years and
18 lives in Syracruse, Utah.
19 42. On January 22nd 2026, Petitioner was taken into custody by immigration
20 enforcement officials. Shortly after, Petitioner was transferred to the Otay Mesa Detention
21 Center, where he is currently being held.
22 43. DHS placed Petitioner in removal proceedings before the Otay Mesa, San Diego
23 Immigration Court pursuant to 8 U.S.C. § 1229a ICE has charged Petitioner with, *inter alia*,
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1 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States
2 without inspection.

3 44. Following Petitioner's arrest and transfer to the Otay Mesa Detention Center, ICE
4 issued a custody determination to continue Petitioner's detention without an opportunity to post
5 bond or be released on other conditions. Current DHS and EOIR policy does not allow Petitioner
6 to be considered for bond release, as they classify him as an "applicant for admission."

7 45. Petitioner has resided in the United States continuously for over 25 years. He has
8 lived and worked in the Salt Lake County, Utah area for many years and has a fixed address,
9 where he lives with his wife and three daughters. He has already begun the process of rectifying
10 his immigration status via a family-based I-130 petition, which was submitted on July 21st, 2021.
11 Petitioner has no history or violent or destructive behavior and has learned earnestly and
12 painfully from his past mistakes, including a conviction for impaired driving in 2017. Petitioner
13 is neither a flight risk nor a danger to the community.

14 46. On March 19, 2026, a bond hearing was conducted by Immigration Judge Mark
15 Sameit. In the hearing, Immigration Judge Sameit denied consideration of bond for the Petitioner
16 because he was determined to be an applicant for admission under INA section 235(a)(1), citing
17 *Matter of Yajure Hurtado.*

18 47. As a result, Petitioner remains in detention. Without relief from this court, he
19 faces the prospect of months, or even years, in immigration custody, separated from his family
20 and community.

21 48. Any appeal to the BIA is futile. DHS's new policy was issued "in coordination
22 with DOJ," which oversees the immigration courts. Further, as noted, the most recent
23 unpublished BIA decision on this issue held that persons like Petitioner are subject to mandatory
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detention as applicants for admission. Finally, in the *Rodriguez Vazquez* litigation, where EOIR and the Attorney General are defendants, DOJ has affirmed its position that individuals like Petitioner are applicants for admission and subject to detention under § 1225(b)(2)(A). *See* Mot. to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

50. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

51. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II

Violation of Due Process

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

53. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." Zadvydas v. Davis, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

54. Petitioner has a fundamental interest in liberty and being free from official restraint.

55. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;

c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within fourteen days;

d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

e. Grant any other and further relief that this Court deems just and proper.

DATED this 26th of March, 2026.

1 /s/ Arthur Minas /s/ Ammon Clemens
Arthur Minas, Esq. **Ammon Clemens**
2 Attorney for Petitioner Attorney for Petitioner

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