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8 Attorney for Petitioner JESUS VALLEJO NOLASCO

9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

11 VALLEJO NOLASCO, Jesus  
12 Petitioner,  
13 v.  
14 CHRISTOPHER J. LAROSE, Senior  
15 Warden, Otay Mesa Detention Center, San  
16 Diego, California in his official capacity;  
17 Gregory J. ARCHAMBEAULT, Field  
18 Office Director of San Diego Office of  
19 Detention and Removal, U.S. Immigration  
20 and Customs Enforcement; U.S.  
21 Department of Homeland Security;  
22 TODD M. LYONS, Acting Director, U.S.  
23 Immigration and Customs Enforcement,  
24 U.S. Department of Homeland Security, in  
25 his official capacity;  
26 DAREN K. MARGOLIN, Director for  
27 Executive Office for Immigration Review,  
28 in his official capacity;  
29 MARKWAYNE MULLIN, Secretary of  
30 U.S. Department of Homeland Security, in  
31 his official capacity;  
32 and  
33 TODD BLANCHE, Attorney General of  
34 the United States, in her official capacity,  
35 Respondents.

Case No.: '26CV2115 CAB AHG

**PETITION FOR WRIT OF HABEAS  
CORPUS AND ORDER TO SHOW  
CAUSE WITHIN THREE DAYS;  
COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

Challenge to Unlawful Incarceration  
Under Color of Immigration Detention  
Statutes; Request for Declaratory and  
Injunctive Relief

**Agency Doc. No.**



1 Petitioner Jesus VALLEJO NOLASCO (“Petitioner” or “Mr. VALLEJO  
2 NOLASCO”), by and through his attorney, Valerie Sigmani, petitions this Court for a writ  
3 of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents’ detaining him  
4 unlawfully, and states as follows:  
5

6 **INTRODUCTION**  
7

8 Petitioner Jesus VALLEJO NOLASCO (“Mr. VALLEJO NOLASCO” or  
9 “Petitioner”), by and through his undersigned counsel, files this petition for writ of habeas  
10 corpus and complaint for declaratory and injunctive relief to compel his immediate release  
11 from immigration detention where he has been held by the U.S. Department of Homeland  
12 Security (“DHS”) since being detained on March 21, 2026. Mr. VALLEJO NOLASCO is  
13 in the physical custody of Respondents at the Otay Mesa Detention Center in San Diego,  
14 California.  
15

16  
17 Mr. VALLEJO NOLASCO is unlawfully detained. DHS and the Executive Office  
18 for Immigration Review (“EOIR”) have improperly concluded that Mr. VALLEJO  
19 NOLASCO, despite being physically present within the interior of and residing in the U.S.,  
20 and having been arrested in Escondido, California, should be deemed to be seeking  
21 admission to the U.S. and therefore subject to mandatory detention under 8 U.S.C.  
22

23 § 1225(b)(2)(A).  
24

25 DHS has placed Mr. VALLEJO NOLASCO in removal proceedings under 8 U.S.C.  
26 § 1229a and has charged Mr. VALLEJO NOLASCO with being present in the United  
27

28

1 States without admission and therefore removable under 8 U.S.C. §  
2 1182(a)(6)(A)(i). *Exhibit E*.

3  
4 Based on the charge of removability, DHS has denied Mr. VALLEJO NOLASCO's  
5 release from immigration custody. This denial is largely based upon a new DHS policy  
6 issued on July 8, 2025, instructing all Immigration and Customs Enforcement ("ICE")  
7 employees to consider anyone inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) - i.e., present  
8 without admission - to be an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and  
9 therefore subject to mandatory detention during the removal hearing process.  
10

11  
12 Mr. VALLEJO NOLASCO has not sought a bond hearing before an immigration  
13 judge ("IJ") because requesting bond is futile.

14 On September 5, 2025, the Board of Immigration Appeals ("BIA") issued *Matter of*  
15 *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which defies decades of precedent and  
16 practice by Respondents, stating that the plain language of 8 U.S.C. § 1225(b)(2)(A) divests  
17 jurisdiction from immigration judges to redetermine the custody of noncitizens who are  
18 present in the United States without admission.  
19  
20

21 Both before and since the issuance of *Matter of Yajure Hurtado*, judges in other  
22 district courts have overwhelmingly concluded that persons similarly situated to Mr.  
23 VALLEJO NOLASCO, present and residing within the United States, are not "applicants  
24 for admission" who are "seeking admission" and subject to mandatory detention under  
25 § 1225(b)(2)(A).  
26  
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28

1 Mr. VALLEJO NOLASCO's detention on this basis violates the plain language of  
2 the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq. Section  
3 1225(b)(2)(A) does not apply to persons like Mr. VALLEJO NOLASCO who previously  
4 entered and are now present and residing in the United States. Instead, such persons are  
5 subject to a different statute or provision, § 1226(a), that allows for release on conditional  
6 parole or bond. That provision expressly applies to people like Mr. VALLEJO NOLASCO  
7 who are charged as removable for having entered the United States without inspection and  
8 being present without admission.  
9  
10

11 The BIA's and Respondents' new legal interpretation of the INA is plainly contrary  
12 to the statutory framework and decades of agency practice applying § 1226(a) to persons  
13 like Mr. VALLEJO NOLASCO who are present within the United States. The new  
14 interpretation also conflicts with Ninth Circuit and U.S. Supreme Court precedent. *See*  
15 *Jennings v. Rodriguez*, 583 U.S. 281, 288, 301 (2018); *United States v. Gambino-Ruiz*, 91  
16 F.4th 981, 989 (9th Cir. 2024); and *Torres v. Barr*, 976 F.3d 918, 926 (9th Cir. 2020).  
17  
18  
19

20 In addition to Mr. VALLEJO NOLASCO's statutory right to a bond hearing under  
21 § 1226(a), persons within the United States have constitutional rights. "[T]he Due Process  
22 Clause applies to all 'persons' within the United States, including aliens, whether their  
23 presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S.  
24 678, 693 (2001).  
25  
26  
27  
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1 Accordingly, Mr. VALLEJO NOLASCO seeks a writ of habeas corpus requiring  
2 that he be released, or, at a minimum, an order that an IJ conduct a bond hearing and that  
3 Respondents adhere to any bond that may be granted.  
4

### 5 JURISDICTION

6 Jurisdiction is proper and relief is available under 28 U.S.C. § 1331 (federal  
7 question), 28 U.S.C. § 1346 (original jurisdiction), 5 U.S.C. § 702 (waiver of sovereign  
8 immunity), 28 U.S.C. § 2241 (habeas corpus jurisdiction), and Article I, Section 9, clause  
9 2 of the U.S. Constitution (the Suspension Clause).  
10

11 This Court may grant relief under 28 U.S.C. § 2241, the Declaratory Judgment Act,  
12 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.  
13

### 14 VENUE

15 Under *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500  
16 (1973), venue lies in this judicial district, the one in which Mr. VALLEJO NOLASCO is  
17 currently detained.  
18

19 Venue is also properly in this Court under 28 U.S.C. § 1391(e) because Respondents  
20 are employees, officers, and agents of the United States, and a substantial part of the events  
21 or omissions giving rise to the claims occurred in the Southern District of California.  
22

### 23 PARTIES

24 Petitioner Jesus VALLEJO NOLASCO (“Petitioner” or “Mr. VALLEJO  
25 NOLASCO”) is a 58-year-old-Mexican national who most recently entered the U.S. in  
26 March 2005 without inspection. *Exhibit A*.  
27  
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1 After arresting Mr. VALLEJO NOLASCO, ICE did not set a bond. Under *Matter of*  
2 *Yajure Hurtado*, it would be futile for Mr. VALLEJO NOLASCO to request a bond before  
3  
4 the IJ. Mr. VALLEJO NOLASCO is currently in Respondents' legal and physical custody  
5 at the Otay Mesa Detention Center in San Diego, California. That facility is operated by  
6 CoreCivic, Inc., a Maryland corporation.

7  
8 Respondent Christopher LAROSE is the Warden of the Otay Mesa Detention Center  
9 where Mr. VALLEJO NOLASCO is being held. He oversees the day-to-day operations of  
10 the Otay Mesa Detention Center and acts at the Direction of Respondents  
11 ARCHAMBEAULT, LYONS, and MULLIN. Respondent LAROSE is a custodian of Mr.  
12 VALLEJO NOLASCO and is named in his official capacity.

13  
14 Respondent Gregory J. ARCHAMBEAULT is the Acting Field Office Director of  
15 ICE in San Diego, California, and is named in his official capacity. ICE is the component  
16 of DHS that is responsible for detaining and removing noncitizens according to  
17 immigration law and oversees custody determinations. In his official capacity, he is Mr.  
18 VALLEJO NOLASCO's legal custodian.

19  
20  
21 Respondent Todd M. LYONS is the Acting Director of ICE and is named in his  
22 official capacity. Among other things, ICE is responsible for the administration and  
23 enforcement of the immigration laws, including the removal of noncitizens. In his official  
24 capacity as head of ICE, he is the legal custodian of Mr. VALLEJO NOLASCO.

25  
26 Respondent Daren K. MARGOLIN is the Director of EOIR and has ultimate  
27 responsibility for overseeing the operation of the immigration courts and the Board of  
28

1 Immigration Appeals, including bond hearings. EOIR is the federal agency responsible for  
2 implementing and enforcing the INA in removal proceedings, including for custody  
3 redeterminations in bond hearings. He is sued in his official capacity.  
4

5 Respondent Markwayne MULLIN is the Secretary of the DHS and is named in his  
6 official capacity. DHS is the federal agency encompassing ICE, which is responsible for  
7 the administration and enforcement of the INA and all other laws relating to the  
8 immigration of noncitizens. In his capacity as Secretary, Respondent MULLIN has  
9 responsibility for the administration and enforcement of the immigration and naturalization  
10 laws under Section 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116  
11 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a). Respondent MULLIN is the  
12 ultimate legal custodian of Mr. VALLEJO NOLASCO.  
13  
14

15 Respondent Todd BLANCHE is the Attorney General of the United States and the  
16 most-senior official in the U.S. Department of Justice (“DOJ”), and is named in his official  
17 capacity. He has the authority to interpret immigration laws and adjudicate removal cases.  
18 The Attorney General delegates this responsibility to the Executive Office for Immigration  
19 Review (“EOIR”), which administers the immigration courts and the BIA.  
20  
21

### 22 LEGAL FRAMEWORK

23 The INA prescribes three basic forms of detention for the vast majority of  
24 noncitizens in removal proceedings conducted under 8 U.S.C. § 1229a.  
25

26 First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in § 1229a removal  
27 proceedings before an IJ. Persons covered by § 1226(a) detention are generally entitled to  
28

1 a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while  
2 noncitizens who have been arrested, charged with, or convicted of certain crimes are  
3 subject to mandatory detention. *See* 8 U.S.C. § 1226(c).  
4

5 Second, the INA provides for mandatory detention of noncitizens subject to an  
6 expedited removal order imposed under 8 U.S.C. § 1225(b)(1) and for other noncitizen  
7 applicants for admission to the U.S. who are deemed not clearly entitled to be admitted.  
8 *See* 8 U.S.C. § 1225(b)(2).  
9

10 Lastly, the INA provides for detention of noncitizens who have been ordered  
11 removed, including persons in withholding-only proceedings. *See* 8 U.S.C. §§ 1231(a)-(b).  
12 This case concerns the detention provisions in 8 U.S.C. §§ 1225(b)(2) and 1226(a).  
13 The detention provisions in §§ 1225(b)(2) and 1226(a) were enacted as part of the Illegal  
14 Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No.  
15 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section  
16 1226(a) was most recently amended in early 2025 by the Laken Riley Act, Pub. L. No.  
17 119-1, 139 Stat. 3 (2025).  
18  
19  
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21 Following the enactment of the IIRIRA, EOIR drafted new regulations applicable to  
22 proceedings before immigration judges, explaining that, in general, people who entered the  
23 country without inspection – also referred to as being “present without admission” – were  
24 not considered detained under § 1225 and that occurred instead under § 1226(a). *See*  
25 *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct*  
26 *of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).  
27  
28

1 Thus, in the decades that followed, most people who entered without inspection and were  
2 placed in standard § 1229a removal proceedings received bond hearings before IJs, unless  
3 their criminal history rendered them ineligible. That practice was consistent with many  
4 decades of earlier practice, in which noncitizens who were not deemed “arriving” were  
5 entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)  
6 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply  
7 “restates” the detention authority previously located in § 1252(a)).  
8

9  
10 This practice both pre- and post-enactment of IIRIRA is consistent with the truism  
11 that noncitizens present within the United States – instead of noncitizens present at a border  
12 and seeking admission – have constitutional rights. “[T]he Due Process Clause applies to  
13 all ‘persons’ within the United States, including aliens, whether their presence here is  
14 lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.  
15

16  
17 On July 8, 2025, ICE “in coordination with” the Department of Justice, announced  
18 a new policy that rejected the well-established understanding of the statutory framework  
19 and reversed decades of practice.  
20

21 The new policy, entitled “Interim Guidance Regarding Detention Authority for  
22 Applicants for Admission,” claims that all noncitizens present within the United States who  
23 entered without inspection shall now be deemed “applicants for admission” under 8 U.S.C.  
24 § 1225, and therefore are subject to mandatory detention under § 1225(b)(2)(A). The policy  
25 applies regardless of when a person is apprehended and affects those who have resided in  
26 the United States for months, years, and even decades.  
27  
28

1 On September 5, 2025, the BIA adopted this same position in *Matter of Yajure*  
2 *Hurtado*, stating that all persons who entered without inspection are applicants for  
3 admission and are subject to mandatory detention under 8 U.S.C. § 1225(b)(2). The BIA  
4 stated that “[b]ased on the plain language of section 235(b)(2)(A) of the Immigration and  
5 Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to  
6 hear bond requests or to grant bond to aliens who are present in the United States without  
7 admission.”  
8

9  
10 The overwhelming majority of district judges who have considered this question  
11 across the country (including this District), however, have rejected the ICE policy memo  
12 and the BIA’s decision in *Matter of Yajure Hurtado*. District judges have instead held that  
13 Section 1225 governs detention of noncitizens outside the country who are “seeking  
14 admission” to the United States, while Section 1226 concerns those living in the United  
15 States who entered without inspection. *See Garcia v. Noem*, No. 25-cv-02180-DMS-MMP,  
16 2025 U.S. Dist. LEXIS 171714 (S.D. Cal. Sep. 3, 2025); *Maldonado Bautista v. Santacruz*,  
17 No. 5:25-cv-01873-SSS-BFM, 2025 U.S. Dist. LEXIS 171364, at \*16, (C.D. Cal. July 28,  
18 2025) (“[T]he Court finds that the potential for Petitioners’ continued detention without an  
19 initial bond hearing would cause immediate and irreparable injury, as this violates statutory  
20 rights afforded under § 1226(a).”); *Ceja Gonzalez v. Noem*, No. 5:25-cv-02054-ODW  
21 (ADSx), 2025 U.S. Dist. LEXIS 206688 (C.D. Cal. Aug. 13, 2025); *Benitez v. Francis*,  
22 2025 U.S. Dist. LEXIS 157214 (S.D.N.Y. Aug. 8, 2025); *Rosado v. Figueroa*, No. CV 25-  
23 02157 PHX DLR (CDB), 2025 U.S. Dist. LEXIS 156344 (D. Ariz. Aug. 11, 2025), *report*  
24  
25  
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1 *and recommendation adopted without objection, Rosado v. Figueroa*, No. CV-25-02157-  
2 PHX-DLR (CDB), 2025 U.S. Dist. LEXIS 156336 (D. Ariz. Aug. 13, 2025); *Gomes v.*  
3 *Hyde*, No. 1:25-cv-11571-JEK, 2025 U.S. Dist. LEXIS 128085 (D. Mass. July 7, 2025);  
4 *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Kostak v. Trump*,  
5 No. 3:25-1093, 2025 U.S. Dist. LEXIS 167280, at \*7 (W.D. La. Aug. 27, 2025); *Benitez*  
6 *v. Noem*, No. 5:25-cv-02190-RGK-AS, 2025 U.S. Dist. LEXIS 171945, at \*8, (C.D. Cal.  
7 Aug. 26, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428, 2025 U.S. Dist. LEXIS  
8 165015, at \*24, (D. Md. Aug. 24, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789,  
9 2025 U.S. Dist. LEXIS 158808, at \*4, (C.D. Cal. Aug. 15, 2025); *Chogllo Chafila v. Scott*,  
10 No. 2:25-cv-00437-SDN, 2025 U.S. Dist. LEXIS 184909, at \*14-15, (D. Me. Sep. 21,  
11 2025); *Eliseo A.A. v. Olson*, No. 25-3381 (JWB/DJF), 2025 U.S. Dist. LEXIS 201993 (D.  
12 Minn. Oct. 8, 2025); *Velazquez-Beltran v. Noem*, 2026 U.S. Dist. LEXIS 39070, 2026 (S.D.  
13 Cal. Feb. 25, 2026).

14  
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17  
18 As the district judge in *Rodriguez Vazquez* explained, the plain text of the statutory  
19 provisions demonstrates that § 1226(a), not § 1225(b), applies to persons like Mr.  
20 VALLEJO NOLASCO. Section 1226(a) applies by default to all persons “pending a  
21 decision on whether the [noncitizen] is to be removed from the United States.” *Rodriguez*  
22 *Vazquez*, 2025 U.S. Dist. LEXIS 193611, at \*6.  
23  
24

25 Other portions of § 1226 also explicitly apply to persons charged as being  
26 inadmissible, including those who entered without inspection. See 8 U.S.C. §  
27 1226(c)(1)(E). Subparagraph (E)’s reference to inadmissible persons makes clear that, by  
28

1 default, inadmissible persons not subject to subparagraph (E)(ii) are afforded a bond  
2 hearing under subsection (a). As *Rodriguez Vazquez* explained, “[w]hen Congress creates  
3 ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions,  
4 the statute generally applies.” *Rodriguez Vazquez*, 2025 U.S. Dist. LEXIS 193611, at \*52  
5 (quoting *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400  
6 (2010)).  
7  
8

9 On September 19, 2025, a district judge in the Western District of Kentucky,  
10 Louisville Division, reached the same conclusion after taking notice of the recent  
11 congressional amendments, via the Laken Riley Act, to Section 1226. See *Barrera v.*  
12 *Tindall*, Civil Action No. 3:25-cv-541-RGJ, 2025 U.S. Dist. LEXIS 184356 (W.D. Ky.  
13 Sep. 19, 2025). The Laken Riley Act added a new subsection under Section 1226(c) for  
14 certain persons who would have otherwise fallen under Section 1226(a). *Barrera* noted  
15 that if § 1225(b)(2) already mandated detention of any person who has not been admitted,  
16 regardless of how long they have been here, then “adding § 1226(c)(1)(E) to the statutory  
17 scheme was pointless and this Court, too, will not find that Congress passed the Laken  
18 Riley Act to ‘perform the same work’ that was already covered by § 1225(b)(2).” See  
19 *Barrera*, at \*9-10.  
20  
21  
22  
23

24 In its further analysis of the text, *Barrera* observed, “Respondents ‘completely  
25 ignore,’ or even read out, the term ‘seeking’ from ‘seeking admission.’” (citing *Lopez-*  
26 *Campos*, 2025 U.S. Dist. LEXIS 169423, at \*16). The term “seeking” “implies action.” *Id.*  
27 Noncitizens who have been present in the country for years, like *Barrera* who has been here  
28

1 20 years, are not actively “seeking admission.” *Id.* Since the plain language of Section 1225  
2 requires someone to be “seeking admission” to be subject to mandatory detention, Mr.  
3 VALLEJO NOLASCO, like Barrera, is not subject to it.  
4

5 Relying on the Supreme Court’s decision in *Jennings v. Rodriguez*, 583 U.S. 281  
6 (2018), the district judge in *Lopez Santos v. Noem*, No. 3:25-CV-01193 SEC P, 2025 U.S.  
7 Dist. LEXIS 183412 (W.D. La. Sep. 11, 2025), also reached the same conclusion. *Lopez*  
8 *Santos* noted that the Supreme Court in *Jennings* held that Section 1225(b), the provision  
9 at issue in this petition, “applies primarily to aliens seeking entry into the United States”  
10 (583 U.S. at 297), and that Section 1226 “applies to aliens already present in the United  
11 States.” *Id.* at 303. As such, *Lopez Santos* determined that a noncitizen residing in the U.S.  
12 is entitled to a bond hearing. *Lopez Santos*, at \*11.  
13  
14

15 Considering the foregoing, and the plain language of Sections 1225 and 1226,  
16 Section 1226 applies to noncitizens who are present without admission and who face  
17 charges in removal proceedings of being inadmissible to the United States.  
18

19 By contrast, § 1225(b) applies to persons arriving at U.S. ports of entry or who  
20 recently entered the United States and are encountered at or near the border. The statute’s  
21 entire framework is premised on inspections at the border of people who are “seeking  
22 admission” to the United States. 8 U.S.C. § 1225(b)(2)(A).  
23  
24

25 Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to  
26 persons like Mr. VALLEJO NOLASCO who have already entered and were residing in the  
27 United States at the time they were apprehended.  
28

FACTS

1  
2 Mr. VALLEJO NOLASCO is a 58-year-old devoted husband and father who has  
3  
4 been residing in southern California since approximately March 2005, when he most  
5 recently entered the United States without inspection. *Exhibit A.*

6 Mr. VALLEJO NOLASCO's wife is a U.S. citizen, and they have been married  
7  
8 since 2009. *Exhibit B.* Mr. VALLEJO NOLASCO is the beneficiary of an approved I-130  
9 petition that his wife filed on his behalf in 2010. *Exhibit C.*

10 Mr. VALLEJO NOLASCO was charged with Solicitation of a Sexual Act and Theft  
11  
12 in Cook County, Chicago, in 1996. This warrant was later quashed, and on April 30, 2018,  
13 the judge entered a decision of Nolle Prosequi. *Exhibit D.*

14 ICE detained Mr. VALLEJO NOLASCO while he was driving to work on March  
15  
16 21, 2026. All of a sudden, four cars surrounded Mr. VALLEJO NOLASCO and signaled  
17 him to pull over. *Exhibit A.*

18 The ICE officers approached Mr. VALLEJO NOLASCO's car and said "you are  
19  
20 illegal." When Mr. VALLEJO NOLASCO showed the officers his Know Your Rights card,  
21 they said, "this isn't worth anything." The officers told Mr. VALLEJO NOLASCO to get  
22 out of the car and that he would be detained. *Exhibit A.*

23 Mr. VALLEJO NOLASCO maintained that he did not wish to speak with the  
24  
25 officers. The officers mistakenly put his name as Jesus Velasco Velasco. When Mr.  
26 VALLEJO NOLASCO tried to correct his name, the officers told him it did not matter if  
27  
28 his name was right or not. Mr. VALLEJO NOLASCO has since been detained. *Exhibit A.*

1 Mr. VALLEJO NOLASCO has not requested a bond hearing before an immigration  
2 judge because doing so is futile based on recent BIA case law.

3  
4 Considering ICE and EOIR's compliance with *Matter of Yajure Hurtado*, Mr.  
5 VALLEJO NOLASCO will continue to be detained unlawfully for the foreseeable future.

6  
7 **EXHAUSTION**

8 Exhaustion in this case is futile. ICE's new policy was issued "in coordination with  
9 DOJ," which oversees the immigration courts. Moreover, as noted, the most recent  
10 published BIA precedent decision on this issue (*Matter of Yajure Hurtado*) states that  
11 persons like Mr. VALLEJO NOLASCO are subject to mandatory detention as applicants  
12 for admission. Therefore, even if Mr. VALLEJO NOLASCO seeks a custody  
13 redetermination before the IJ and the IJ grants his release on bond, the government will  
14 reserve appeal and the BIA will reverse the IJ's order under *Matter of Yajure Hurtado*.  
15

16  
17 The government appealed those rulings to the United States Court of Appeals for Ninth  
18 Circuit. *See Bautista v. US. Department of Homeland Security*, No. 26-1044 (9th Cir.). On  
19 March 6, 2026, the Ninth Circuit issued an administrative stay pending resolution of the  
20 government's emergency motion for a stay pending appeal. The court temporarily stayed  
21 the district court's December 18, 2025 judgment insofar as it extended beyond the Central  
22 District of California, and also temporarily stayed the district court's February 18, 2026  
23 enforcement order vacating *Matter of Yajure-Hurtado*. The appeal remains pending.  
24

25  
26 As a result, immigration courts within this circuit have continued to treat *Matter of*  
27 *Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), as binding precedent when determining  
28

1 custody jurisdiction. In practice, noncitizens apprehended in the interior of the United  
2 States long after entry continue to be denied bond hearings based on the assertion that  
3 detention is governed by INA§ 235 rather than INA§ 236(a).  
4

5 **CAUSES OF ACTION**

6 **FIRST CAUSE OF ACTION**

7 **Mr. VALLEJO NOLASCO's Detention is in Violation of 8 U.S.C. § 1226(a)**

8 Mr. VALLEJO NOLASCO incorporates by reference the factual allegations set  
9 forth in the preceding paragraphs.  
10

11 The mandatory detention provision in 8 U.S.C. § 1225(b)(2) does not apply to Mr.  
12 VALLEJO NOLASCO, who is present and residing in the United States and has been  
13 placed in § 1229a removal proceedings and charged with inadmissibility under 8 U.S.C. §  
14 1182(a)(6)(A)(i). As relevant here, § 1225(b)(2) does not apply to those who previously  
15 entered the country and have been present and residing in the United States before being  
16 apprehended and placed in removal proceedings by Respondents. Such noncitizens may  
17 only be detained under § 1226(a), unless subject to § 1226(c) or § 1231.  
18

19 The application of § 1225(b)(2) to Mr. VALLEJO NOLASCO unlawfully mandates  
20 his continued detention without a bond hearing and violates 8 U.S.C. § 1226(a).  
21

22 **SECOND CAUSE OF ACTION**

23 **Mr. VALLEJO NOLASCO's Detention Violates the Administrative Procedure Act,**  
24 **5 U.S.C. § 706(2)**

25 Mr. VALLEJO NOLASCO incorporates by reference the factual allegations set  
26 forth in the preceding paragraphs.  
27  
28

1 Under the Administrative Procedure Act, a court must “hold unlawful and set aside  
2 agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in  
3 accordance with the law,” that is “contrary to constitutional right [or] power,” or that is “in  
4 excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5  
5 U.S.C. § 706(2)(A)-(C).  
6

7  
8 Respondents’ detention of Mr. VALLEJO NOLASCO under § 1225(b)(2) is  
9 arbitrary and capricious. Respondents’ detention of Mr. VALLEJO NOLASCO violates  
10 the INA and the Fifth Amendment. Respondents do not have statutory authority under  
11 § 1225(b)(2) to detain Mr. VALLEJO NOLASCO.  
12

13 Mr. VALLEJO NOLASCO’s detention is arbitrary, capricious, an abuse of  
14 discretion, violates the Constitution, and without statutory authority, therefore violating 5  
15 U.S.C. § 706(2).  
16

### 17 **THIRD CAUSE OF ACTION**

#### 18 **Mr. VALLEJO NOLASCO’s Detention Violates His Fifth Amendment Right to Due** 19 **Process**

20 Mr. VALLEJO NOLASCO incorporates by reference the factual allegations set  
21 forth in the preceding paragraphs.

22 The government may not deprive a person of life, liberty, or property without due  
23 process of law. U.S. Const. amend. V. “Freedom from imprisonment — from government  
24 custody, detention, or other forms of physical restraint — lies at the heart of the liberty that  
25 the Clause protects.” *Zadvydas*, 533 U.S. at 690 (2001).  
26  
27  
28

1 Mr. VALLEJO NOLASCO has a fundamental interest in liberty and being free from  
2 official restraint.

3  
4 The Respondents' continued detention of Mr. VALLEJO NOLASCO without  
5 allowing Mr. VALLEJO NOLASCO to have a fair bond hearing before an IJ, and most  
6 importantly, without the assurance of knowing that Respondents will honor the bond that  
7 an IJ is likely to grant considering Mr. VALLEJO NOLASCO's longstanding community  
8 ties and lack of recent criminal history (which indicate he is neither a flight risk nor a  
9 danger to the community), violates his right to due process.  
10

11  
12 **PRAYER FOR RELIEF**

13 WHEREFORE, Mr. VALLEJO NOLASCO respectfully asks that this Court take  
14 jurisdiction over this matter and grant the following relief:

- 15  
16 a. Issue an Order to Show Cause ordering Respondents to show cause why this Petition  
17 should not be granted within three days;
- 18  
19 b. Issue a Writ of Habeas Corpus requiring Respondents to release Petitioner, or in the  
20 alternative, issue an order that requires an IJ to conduct a bond hearing for Petitioner, and  
21 that Respondents' must honor any bond that an IJ may set and to thereafter release  
22 Petitioner from their custody upon the payment of the bond;
- 23  
24 c. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act  
25 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and  
26  
27  
28

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

2 Dated: April 3, 2026

3 Respectfully submitted  
4 By: /s Valerie Sigamani  
5 Valerie Sigamani  
6 Attorney for Petitioner  
7 E-mail: valerie@jsslegal.com  
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**VERIFICATION PURSUANT TO 28 U.S.C. 2242**

1  
2 I represent Petitioner Jesus VALLEJO NOLASCO in these habeas corpus  
3  
4 proceedings. Mr. VALLEJO NOLASCO is currently being held in detention at the Otay  
5 Mesa Detention Center and is not able to appear in my office to sign this Verification. I  
6 have reviewed his attached declaration, the documents annexed to the petition, and  
7  
8 discussed his case with colleagues from my office who have worked closely with him,  
9 but they are not eligible to be admitted to this Court's Bar and therefore cannot sign this  
10 Verification. Based on their representations to me, I verify that the information  
11  
12 contained in the foregoing petition is true and correct to the best of my knowledge and  
13 belief.

14 Executed on this April 3, 2026, in San Diego, California.

15  
16 By: /s Valerie Sigamani  
17 Valerie Sigamani  
18 Attorney for Petitioner  
19 E-mail: valerie@jsslegal.com  
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