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9
10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**
12

13 Jose Luis Cruz Gazca

14 Petitioner,

15 v.

16 Markwayne MULLIN, Secretary, U.S.
17 Department of Homeland Security; Todd
18 BLANCHE, U.S. Attorney General;
19 Patrick DIVVER, Director, San Diego
20 Field Office, Immigration and Customs
21 Enforcement, Enforcement and Removal
22 Operations; Sixto MARRERO, Warden
23 of Imperial Region Adult Detention
24 Facility; U.S. Department of Homeland
25 Security; U.S. Department of Justice,

26 Respondents.

Case No. '26CV2118 RSH DEB

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

PETITIONER'S DHS NO:



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Dated: April 3, 2026

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INTRODUCTION

1. Petitioner, Jose Luis Cruz Gazca, is in the physical custody of Respondents at the Imperial Regional Detention Facility in Calexico, California a sub facility of the San Diego ICE Processing Center in San Diego, California.

2. Petitioner is unlawfully detained. The Department of Homeland Security (DHS) and the Department of Justice (DOJ) have improperly concluded that Petitioner, despite being physically present within the interior of and residing in the United States when arrested in Indio, California, should be deemed to be seeking admission to the United States and therefore subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A).

3. DHS has placed Petitioner in removal proceedings pursuant to 8 U.S.C. § 1229a and has charged Petitioner with being present in the United States without admission and therefore removable pursuant to 8 U.S.C. § 1182(a)(6)(A)(i).

4. On July 8, 2025, DHS issued a new policy, 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 admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond during the removal hearing process.¹

5. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board), a component of the DOJ, issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without

¹ “Interim Guidance Regarding Detention Authority for Applicants for Admission”, ICE, July 8, 2025. Available at: <https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents>.

1 admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The
2 Board determined that such individuals are subject to mandatory detention under 8
3 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4 6. Petitioner’s detention on this basis violates the plain language of the
5 Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* Section
6 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered,
7 often decades ago, and are now present and residing in the United States. Instead,
8 such individuals are subject to a different statute, § 1226(a), that allows for release
9 on conditional parole or bond issued by DHS or an immigration judge. That statute
10 expressly applies to people who, like Petitioner, are charged as removable for
11 having entered the United States without inspection and being present without
12 admission.

13 7. Respondents’ new legal interpretation of the INA is plainly contrary to
14 the statutory framework and to decades of agency practice applying § 1226(a) to
15 people like Petitioner who are present within the United States.

16 8. Respondents’ new legal interpretation of the INA also violates
17 Petitioner’s right to due process. All individuals within the United States have
18 constitutional rights. “[T]he Due Process Clause applies to all ‘persons’ within the
19 United States, including aliens, whether their presence here is lawful, unlawful,
20 temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

21 9. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he
22 be released unless Respondents provide a bond hearing under § 1226(a) within
23 seven days of the court’s order.

24 **JURISDICTION**

25 10. This Court has jurisdiction over the present action pursuant to 28
26 U.S.C. § 1331, general federal question jurisdiction; 5 U.S.C. §§ 701 *et seq.*, the
27 Administrative Procedure Act (APA); habeas jurisdiction pursuant to 28 U.S.C.
28 § 2241 *et seq.*; Art I., § 9, Cl. 2 of the United States Constitution (the Suspension

1 Clause); 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (Declaratory
2 Judgment Act); the Fourth and Fifth Amendments to the U.S. Constitution; and the
3 common law.

4 11. This action arises under the Due Process Clause of the Fifth
5 Amendment of the U.S. Constitution and the INA.

6 12. This Court may grant relief under the habeas corpus statutes, 28 U.S.C.
7 § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2001 et seq., and the
8 All-Writs Act, 28 U.S.C. § 1651.

9 **VENUE**

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

14 14. Venue is also properly in this Court pursuant to 28 U.S.C. §
15 1391(e) because Respondents are employees, officers, and agencies of the United
16 States, and because a substantial part of the events or omissions giving rise to the
17 claims occurred in the Southern District of California.

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

19 15. The Court must grant a petition for writ of habeas corpus or order
20 Respondents to show cause “forthwith,” unless a petitioner is not entitled to relief.
21 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a
22 return “within three days unless for good cause additional time, not exceeding
23 twenty days, is allowed.” *Id.*

24 16. Habeas corpus is “perhaps the most important writ known to the
25 constitutional law . . . affording as it does a swift and imperative remedy in all cases
26 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). “The
27 application for the writ usurps the attention and displaces the calendar of the judge
28 or justice who entertains it and receives prompt action from him within the four

1 corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000)
2 (citation omitted).

3 **PARTIES**

4 ***Petitioners***

5 17. Petitioner Jose Luiz Cruz Gazca is a native and citizen of Mexico,
6 currently detained by DHS at the Imperial Reginal Detention Facility.

7 ***Respondents***

8 18. Respondent Markwayne Mullin is the Secretary of the Department of
9 Homeland Security. He is responsible for the implementation and enforcement of
10 the Immigration and Nationality Act and oversees ICE, which is responsible for
11 Petitioner’s detention. Mr. Mullin has ultimate custodial authority over Petitioner.
12 He is sued in his official capacity.

13 19. Respondent Todd Blanche is the Attorney General of the United
14 States. He is responsible for the Department of Justice, of which the Executive
15 Office for Immigration Review, and the BIA and immigration court system it
16 operates, is a component agency. He is sued in his official capacity.

17 20. Respondent Patrick Divver is the Director of the San Diego Field
18 Office of ICE’s Enforcement and Removal Operations division. As such, he
19 is the custodian of all persons held at the ICE facilities within the San Diego
20 Field Office. He is Petitioner’s immediate custodian and is responsible for
21 Petitioner’s detention. He is sued in his official capacity.

22 21. Respondent Sixto Marrero is the Warden of
23 The Imperial Reginal Adult Detention Facility, Calexico, California, where
24 Petitioner is detained. Warden has immediate physical custody of Petitioner. Sixto
25 Marrero/The Warden is sued in their official capacity.

26 22. Respondent Department of Justice is the agency responsible for
27 administering the immigration courts and the Board of Immigration Appeals. As
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1 such, it is responsible for the publication of the decision in *Matter of Yajure*
2 *Hurtado*. Respondent Department of Homeland Security (DHS) is the federal
3 agency responsible for implementing and enforcing the INA, including the
4 detention and removal of noncitizens.

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6 **LEGAL FRAMEWORK**

7 23. The INA prescribes three basic forms of detention for the vast
8 majority of noncitizens in removal proceedings conducted pursuant to 8 U.S.C. §
9 1229a.

10 24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in §
11 1229a removal proceedings before an IJ. Individuals covered by § 1226(a)
12 detention are generally entitled to a bond hearing at the outset of their detention, *see*
13 8 C.F.R. §§ 1003.19(a), 1236.1(d), while certain noncitizens who have been
14 arrested, charged with, or convicted of certain crimes are subject to mandatory
15 detention. *See* 8 U.S.C. § 1226(c).

16 25. Second, the INA provides for the mandatory detention of
17 noncitizens subjected to an expedited removal order imposed pursuant to 8 U.S.C. §
18 1225(b)(1) and for certain other noncitizen applicants for admission to the U.S. who
19 are deemed not clearly entitled to be admitted. *See* 8 U.S.C. § 1225(b)(2).

20 26. Last, the INA provides for the detention of noncitizens who have
21 been ordered removed, including individuals in withholding-only proceedings. *See*
22 8 U.S.C. § 1231(a)–(b).

23 27. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a)
24 and 1225(b)(2) described in paragraphs 25 and 26.

25 28. The detention provisions at § 1226(a) and § 1225(b)(2) were
26 enacted as part of the Illegal Immigration Reform and Immigrant Responsibility
27 Act (IIRIRA) of 1996, Pub. L. No. 104--208, Div. C, §§ 302–03, 110 Stat. 3009-
28

1 546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended
2 in early 2025 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

3 29. Following the enactment of the IIRIRA in 1996, EOIR drafted new
4 regulations applicable to proceedings before immigration judges explaining that, in
5 general, people who entered the country without inspection – also referred to as
6 being “present without admission” - were not considered detained under § 1225 and
7 that they were instead detained under § 1226(a). *See* Inspection and Expedited
8 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
9 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

10 30. Thus, in the decades that followed, most noncitizens who entered
11 without inspection and were placed in standard § 1229a removal proceedings
12 received bond hearings before IJs, unless their criminal history rendered them
13 ineligible pursuant to § 1226(c). That practice was consistent with many more
14 decades of practice prior to IIRIRA, in which noncitizens who were not deemed
15 “arriving” were entitled to a custody hearing before an IJ or other hearing officer.
16 *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996)
17 (noting that § 1226(a) simply “restates” the detention authority previously found at
18 § 1252(a)).

19 31. This practice both pre- and post-enactment of IIRIRA in 1996 is
20 consistent with the fact that noncitizens present within the United States – as
21 opposed to noncitizens present at the border and seeking admission - have
22 constitutional rights. “[T]he Due Process Clause applies to all ‘persons’ within the
23 United States, including aliens, whether their presence here is lawful, unlawful,
24 temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

25 32. On July 8, 2025, ICE, “in coordination with” the Department of
26 Justice, announced a new policy that rejected this well-established understanding of
27 the statutory framework and reversed decades of practice.

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1 33. The new policy, entitled “Interim Guidance Regarding Detention
2 Authority for Applicants for Admission,”² claims that all noncitizens who entered
3 the United States without inspection shall now be deemed “applicants for
4 admission” and subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
5 The policy applies regardless of when a person is apprehended, and affects to equal
6 effect those who have resided in the United States for months, years, and even
7 decades.

8 34. On September 5, 2025, the BIA adopted this same position in a
9 published decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
10 The Board held that all noncitizens who entered the United States without
11 admission or parole are subject to mandatory detention under § 1225(b)(2)(A) and
12 are ineligible for bond hearings before immigration judges.

13 35. Since Respondents adopted their new policies, dozens of federal
14 courts have rejected their new interpretation of the INA’s detention authorities.
15 Some of these courts have likewise rejected *Matter of Yajure Hurtado*, which
16 adopts the same reading of the statute as ICE. Court decisions rejecting this reading
17 include at least seven in the Central District of California. *See Santiago Flores v.*
18 *Noem*, Case No. 5:25-cv-2490-AB-AJR (Sept. 29, 2025); *Arreola Armenta v.*
19 *Noem*, 5:25-cv-2416-JFW-SP (C.D. Cal. Sept. 16, 2025); *Zaragoza Mosqueda v.*
20 *Noem*, No. 5:25-CV-02304-CAS-BFM, 2025 WL 2591530 (C.D. Cal. Sept. 8,
21 2025); *Benitez v. Noem*, 5:25-cv-2190-RGK-AS (C.D. Cal. Aug. 26, 2025); *Ceja*
22 *Gonzalez v. Noem*, 5:25-cv-2054-ODW-BFM (C.D. Cal. Aug. 13, 2025); *Arrazola-*
23 *Gonzalez v. Noem*, No. 5:25-cv-01789-ODW-DFM, 2025 WL 2379285 (C.D. Cal.
24 Aug. 15, 2025); and *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-
25 BFM (C.D. Cal. July 28, 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK,
26 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-

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28 ² Available at: <https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents>.

1 11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
2 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D.
3 Ariz. Aug. 11, 2025), report and recommendation adopted, No. CV-25-02157-
4 PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v.*
5 *Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025);
6 *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn.
7 Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D.
8 Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831
9 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF,
10 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-
11 cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No.
12 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E.*
13 *v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D.
14 Minn. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS,
15 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-
16 cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Pizarro Reyes v.*
17 *Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025);
18 *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9,
19 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at
20 *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a)
21 and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-
22 JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v.*
23 *Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14,
24 2025) (same); *Hasan v. Crawford*, --- F.Supp.3d ----, 2025 WL 2682255, *8-9
25 (E.D. Va. Sept. 19, 2025)) (noting that Respondents’ interpretation of 8 U.S.C.
26 § 1225(b) “would render superfluous those provisions of § 1226 that apply to
27 certain categories of inadmissible aliens, such as § 1226(c)(1)(A), (D), and (E)”);
28 *Jimenez v. FCI Berlin*, --- F.Supp.3d ----, 2025 WL 2639390, *10 (D. N.H. Sept. 8,

1 2025); *but see, Sixtos Chavez v. Noem*, No. 3:25-cv-2325-CAB-SBC (S.D. Cal.
2 Sept. 24, 2025) (denying TRO and accepting government’s interpretation of §
3 1225(b)(2)).

4 36. Even before ICE or the BIA introduced these nationwide policies, IJs
5 in the Tacoma, Washington immigration court stopped providing bond hearings for
6 persons who entered the United States without inspection and who have since
7 resided here. On September 30, 2025, the U.S. District Court for the Western
8 District of Washington issued a partial summary judgment order concluding that
9 such persons are subject to detention under 8 U.S.C. § 1226(a) and are not subject
10 to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *Rodriguez Vazquez v.*
11 *Bostock*, No. 3:25-cv-0524-TMC (W.D. Wash. Sept. 30, 2025), Order Granting
12 Plaintiffs’ Partial Motion for Summary Judgment and Denying Defendants’ Motion
13 to Dismiss, Dkt. 65.

14 37. Numerous courts have rejected DHS’s and EOIR’s new
15 interpretation because it defies the INA. As the *Rodriguez Vazquez* court and
16 others have explained, the plain text of the statutory provisions demonstrates that §
17 1226(a), not § 1225(b), applies to people like Petitioners.

18 38. Section 1226(a) applies by default to all persons “pending a
19 decision on whether the [noncitizen] is to be removed from the United States.”
20 Removal hearings are held pursuant to § 1229a, to “decid[e] the inadmissibility or
21 deportability of a[] [noncitizen].”

22 39. The text of § 1226(a) also explicitly applies to individuals charged
23 as being inadmissible, including those who entered without inspection. *See* 8
24 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to inadmissible individuals
25 makes clear that, by default, such individuals are afforded a bond hearing under
26 subsection (a). As the *Rodriguez Vazquez* court explained in its preliminary
27 injunction order, “[w]hen Congress creates “specific exceptions” to a statute’s
28 applicability, it “proves” that absent those exceptions, the statute generally applies.

1 *Rodriguez Vazquez*, 779 F.Supp. 3d at 1257 (citing *Shady Grove Orthopedic*
2 *Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also* *Gomes*, 2025
3 WL 1869299, at *7.

4 40. Section 1226 therefore leaves no doubt that it applies to
5 noncitizens present in the United States who face charges of being inadmissible to
6 the United States, including those who are present without admission or parole.

7 41. By contrast, § 1225(b) applies to people arriving at U.S. ports of
8 entry. The statute’s entire framework is premised on inspections at the border of
9 people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A).
10 Indeed, the Supreme Court has explained that this mandatory detention scheme
11 applies “at the Nation’s borders and ports of entry, where the Government must
12 determine whether a[] [noncitizen] seeking to enter the country is admissible.”
13 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

14 42. Accordingly, the mandatory detention provision of § 1225(b)(2)
15 does not apply to people like Petitioners, who have already entered and were
16 residing in the United States at the time they were apprehended.

17 FACTS

18 **Petitioner Jose Luis Cruz Gazca**

19 43. Petitioner Jose Luis Cruz Gazca resides in California. He has no
20 previous contact with immigration authorities, and his history does not trigger
21 mandatory detention pursuant to 8 U.S.C. § 1226(c) or on any other basis.

22 44. On March 25, 2026, Petitioner was arrested while traveling back
23 home in Indio, California. Petitioner is now detained at the Imperial Reginal
24 Facility Adult Detention Facility in Calexico, California.

25 45. On information and belief, ICE intends to place Petitioner in removal
26 proceedings before the San Diego Immigration Court pursuant to 8 U.S.C. § 1229a.
27 On information and belief, ICE intends to charged Petitioner with being
28 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present without

1 admission in the United States. It is presumed that ICE will officially charge
2 Petitioner with the aforementioned.

3 46. Upon information and belief, [following Petitioner’s arrest and
4 transfer to the Imperial Regional Detention Facility, ICE issued a custody
5 determination to continue Petitioner’s detention without an opportunity to post
6 bond or be released on other conditions.

7 47. In light of the BIA’s September 5, 2025 decision in *Matter of Yajure*
8 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), Petitioner is unable to obtain a bond
9 hearing before an IJ pursuant to 8 U.S.C. § 1226(a).

10 **FIRST CLAIM FOR RELIEF**

11 **Petitioner’s Detention is in Violation of 8 U.S.C. § 1226(a)**

12 48. Petitioner incorporates by reference the allegations of fact set forth
13 in the preceding paragraphs.

14 49. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does
15 not apply to noncitizens who have entered and were residing in the United States
16 prior to being arrested, have been placed under § 1229a removal proceedings, and
17 been charged with a ground of inadmissibility, including 8 U.S.C.
18 § 1182(a)(6)(A)(i), by Respondents. Such noncitizens may only be detained
19 pursuant to § 1226(a), unless subject to § 1225(b)(1), § 1226(c), or § 1231.

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

22 **SECOND CLAIM FOR RELIEF**

23 **Petitioner’s Detention is in Violation of DHS and EOIR Bond Regulations**

24 51. Petitioner incorporates by reference the allegations of fact set forth
25 in the preceding paragraphs.

26 52. In 1997, after Congress amended the INA through IIRIRA, EOIR
27 and the then-Immigration and Naturalization Service issued an interim rule to
28 interpret and apply IIRIRA. Specifically, under the heading of “Apprehension,

1 Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite
2 being applicants for admission, [noncitizens] who are present without having been
3 admitted or paroled (formerly referred to as [noncitizens] who entered without
4 inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at
5 10323. The agencies thus made clear that individuals who had entered without
6 inspection were eligible for consideration for bond and bond hearings before IJs
7 under 8 U.S.C. § 1226 and its implementing regulations.

8 53. Nonetheless, pursuant to *Matter of Yajure Hurtado*, DOJ has a
9 policy and practice of applying § 1225(b)(2) to individuals like Petitioner and,
10 pursuant to the July 8, 2025 “Interim Guidance Regarding Detention Authority for
11 Applicants for Admission,” DHS has a policy and practice of applying § 1225(b)(2)
12 to individuals like Petitioner.

13 54. The application of § 1225(b)(2) to Petitioner unlawfully mandates
14 his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

15 **THIRD CLAIM FOR RELIEF**

16 **Petitioner’s Detention Violates the Administrative Procedure Act,** 17 **5 U.S.C. § 706(2)**

18 55. Petitioner incorporates by reference the allegations of fact set forth in
19 the preceding paragraphs.

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

25 57. Respondents’ detention of Petitioner pursuant to § 1225(b)(2) is
26 arbitrary and capricious, violates the INA and the Fifth Amendment, is not
27 authorized under § 1225(b)(2), and therefore is in violation of 5 U.S.C. § 706(2).

28 **FOURTH CLAIM FOR RELIEF**

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

RESPECTFULLY SUBMITTED, this 3rd of April

/s/ Samuel Baumer
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TABLE OF EXHIBITS

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Exhibit A: Evidence of Petitioner’s Detention in Imperial Reginal Detention Facility (ICE Locator Information Page)

Exhibit B: ICE Interim Guidance Regarding Detention Authority for Applicants for Admission. July 8, 2025