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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 **Simona Mateo Cristóbal,**
12 **Petitioner,**

13 v.

14 **Todd Blanche,** Acting United States
15 Attorney General; **Markwayne Mullin,**
16 Secretary of Homeland Security; **Todd M.**
17 **Lyons,** Acting Director of Immigration
18 and Customs Enforcement; **Patrick**
19 **Divver,** San Diego Field Office Director,
20 Immigration and Customs Enforcement;
Christopher J. LaRose, Senior Warden,
21 Otay Mesa Detention Center

22 Respondents.
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Case No. '26CV2522 RBM VET

Agency No. 240-408-545

Petition for a Writ of Habeas Corpus

1 **INTRODUCTION**

2 1. Petitioner Simona Mateo Cristóbal petitions this Court to remedy her illegal
3 detention at the Otay Mesa Detention Center (OMDC) in San Diego.

4 2. Ms. Mateo is a 21-year-old native and citizen of Guatemala. In March 2026,
5 the Department of Homeland Security encountered Ms. Mateo in the interior of the
6 United States—where all agree she has been present since 2023—took custody of her,
7 transferred her to OMDC, and initiated removal proceedings against her.

8 3. Until the summer of 2025, it would have been uncontroversial that Ms.
9 Mateo is detained under 8 U.S.C. § 1226 and thus entitled to a bond hearing before an
10 immigration judge to determine whether she must remain detained for the duration of her
11 removal proceedings. But Respondents now maintain that individuals like Ms. Mateo,
12 who long ago entered the United States, are nonetheless applicants for admission who are
13 “seeking admission” to the United States and thus subject to mandatory detention under 8
14 U.S.C. § 1225(b)(2).

15 4. Respondents, however, are wrong. And so, Ms. Mateo has come before this
16 Court seeking an order that Respondents provide her with a bond hearing under 8 U.S.C.
17 § 1226(a).

18 **PARTIES**

19 5. Petitioner Simona Mateo Cristóbal is a native and citizen of Guatemala. She
20 has been continuously present in the United States since 2023. She is currently in
21 removal proceedings in the Otay Mesa Immigration Court, and has been detained at
22 OMDC since March 2026.

23 6. Respondent Todd Blanche is the Acting United States Attorney General. He
24 is responsible for implementing and enforcing the immigration laws of the United States.
25 Some of this authority is delegated to the Executive Office for Immigration Review, the
26 agency that houses the immigration courts and BIA. *See* 8 C.F.R. § 1003.0(a). Acting
27 Attorney General Blanche is a legal custodian of Ms. Mateo. He is sued in his official
28 capacity.

1 7. Respondent Markwayne Mullin is the United States Secretary of Homeland
2 Security. He is responsible for enforcing the immigration laws of the United States,
3 including those concerning the detention of noncitizens. Mr. Mullin is a legal custodian
4 of Ms. Mateo. He is sued in his official capacity.

5 8. Respondent Todd M. Lyons is the Acting Director of United States
6 Immigration and Customs Enforcement (ICE). The Department of Homeland Security
7 (DHS) is ICE's parent agency. Mr. Lyons is responsible for ICE's policies, practices, and
8 procedures, including those pertaining to the detention of noncitizens. Mr. Lyons is a
9 legal custodian of Ms. Mateo. He is sued in his official capacity.

10 9. Respondent Patrick Divver is the Field Office Director of ICE's San Diego
11 Field Office. The San Diego Field Office is responsible for ICE's detention operations at
12 OMDC. Field Office Director Divver is a legal custodian of Ms. Mateo. He is sued in his
13 official capacity.

14 10. Respondent Christopher J. LaRose is the senior warden of OMDC. He is
15 employed by the private corporation CoreCivic. Warden LaRose is Ms. Mateo's
16 immediate physical custodian. He is sued in his official capacity.

17 JURISDICTION & VENUE

18 11. 28 U.S.C. §§ 1331 and 2241, and Article I, section nine, clause two of the
19 United States Constitution give the Court jurisdiction over this petition. The Court may
20 grant relief pursuant to 28 U.S.C. §§ 2201, 2241, and 1651.

21 12. Venue is proper in the Southern District of California because Ms. Mateo is
22 detained here. See 28 U.S.C. §§ 1391(e), 2241.

23 BACKGROUND

24 13. Ms. Mateo was born in Guatemala in 2004. Ex. A at 4. In May 2023, she
25 entered the United States without inspection, and was placed in removal proceedings. *See*
26 *id.* at 5-6. She has not left the United States since then. The IJ ultimately terminated Ms.
27 Mateo's removal proceedings without prejudice. *See id.* at 6.

1 14. On March 3, 2026, DHS detained Ms. Mateo after she mistakenly drove into
2 Camp Pendleton. *See id.* at 5. DHS transferred Ms. Mateo to OMDC and initiated
3 removal proceedings against her by filing a notice to appear in the Otay Mesa
4 Immigration Court. *See* Ex. B; 8 U.S.C. § 1229(a). The NTA charges Ms. Mateo with
5 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as a noncitizen “present in the
6 United States without being admitted or paroled.” Ex. B at 1.

7 15. Ms. Mateo’s next hearing in immigration court is scheduled for May 13,
8 2026. Declaration of Christopher Medeiros, ¶ 5. At that hearing—unless she is released
9 from detention and venue in her removal proceedings changes—she will indicate to the IJ
10 her intent to apply for asylum and related humanitarian relief. *Id.*

11 EXHAUSTION

12 16. As a 28 U.S.C. § 2241 habeas petitioner, the Ninth Circuit’s prudential
13 exhaustion requirement applies to Ms. Mateo’s petition. *See Romero-Salas*, No.
14 20cv0073-BAS (KSC) 2020 WL 919135, at *3 (S.D. Cal. Feb. 26, 2020). Courts are to
15 waive that prudential requirement, though, if “pursuit of administrative remedies would
16 be a futile gesture.” *Id.* (quoting *Liang v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)).

17 17. That is the case here. While Ms. Mateo could theoretically request a bond
18 hearing before an IJ and then, in the event of an unfavorable decision, seek review before
19 the Board of Immigration Appeals, the outcome of those efforts is preordained by the
20 BIA’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). There, the
21 BIA held that noncitizens who, like Ms. Mateo, “are present in the United States without
22 admission” are not detained under 8 U.S.C. § 1226, but rather should be considered
23 “applicants for admission” who are “seeking admission” to the United States and thus
24 subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *Id.* at 220.

25 18. Because *Yajure Hurtado* forecloses any possibility of Ms. Mateo receiving a
26 grant of bond from the agency, the Court should thus waive the prudential exhaustion
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28

1 requirement here.¹ *See, e.g., Esquivel-Ipina v. LaRose*, 812 F.Supp. 3d 1073, 1080 (S.D.
2 Cal. 2025) (“[E]xhaustion would be futile because the [BIA] is obligated to apply the
3 binding precedent of *Matter of Yajure Hurtado* . . . to find that detention is mandatory
4 under 8 U.S.C. § 1225(b)(2).”).

5 **CAUSE OF ACTION**

6 **Violation of the Immigration and Nationality Act**

7 19. Ms. Mateo incorporates by reference all preceding paragraphs.

8 20. Prior to *Yajure Hurtado*, it would have been uncontroversial that Ms. Mateo
9 is detained under 8 U.S.C. § 1226(a). That subsection gives DHS and the Attorney
10 General the authority to arrest and detain noncitizens “pending a decision on whether
11 [they are] to be removed from the United States.”² *Id.* It also gives the Attorney General
12 the discretionary authority to release noncitizens detained thereunder on “a bond of at
13 least \$1,500,” *id.*, so long as they do not fall within the categories of noncitizens set forth
14 in section 1226(c) for whom detention is mandatory for the duration of their removal
15 proceedings. *See Nielsen v. Preap*, 586 U.S. 392, 397 (2019).

16 21. According to Respondents, Ms. Mateo is detained under 8 U.S.C. §
17 1225(b)(2). That subsection provides that “in the case of an alien who is an applicant for
18 admission, if the examining immigration officer determines that an alien seeking
19 admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be
20 detained for [removal proceedings] under section 1229a.” *Id.* § 1225(b)(2)(A); *see also*
21

22
23 ¹ The United States District Court for the Central District of California entered an order on February
24 18, 2026 vacating *Yajure Hurtado* as contrary to law under the Administrative Procedure Act.
25 *Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2026 WL 468284, at *12 (C.D. Cal.
26 Feb. 18, 2026). But the Ninth Circuit has stayed that order. *Maldonado Bautista v. EOIR*, No. 26-1044,
27 Dkt. No. 17 (9th Cir. Mar. 31, 2026).

28 ² Section 1226 speaks only of the Attorney General. But the Homeland Security Act of 2002
transferred many of the Attorney General’s functions to DHS, without amending the Immigration and
Nationality Act to reflect those reallocated functions. *See United States v. Gambino-Ruiz*, 91 F.4th 981,
986 n.4 (9th Cir. 2024).

1 *id.* § 1225(a)(1) (defining “applicant for admission” to include any noncitizen “present in
2 the United States who has not been admitted”). *Yajure Hurtado* holds that all noncitizens
3 alleged to have entered the United States without inspection—regardless of how long
4 they have been physically present in the country—are not just “applicants for admission,”
5 but are also “seeking admission” within the meaning of section 1225(b)(2)(A). 29 I. & N.
6 Dec. at 221.

7 22. Since the BIA decided *Yajure Hurtado*, an overwhelming consensus has
8 emerged that it embodies legal error, for three principal reasons. First, district courts have
9 correctly recognized that the BIA’s conclusion that noncitizens such as Ms. Mateo are
10 detained under 8 U.S.C. § 1225(b)(2) cannot be squared with statutory text. Indeed, by
11 declaring that all applicants for admission are necessarily also “seeking admission,”
12 *Yajure Hurtado* renders superfluous the words “seeking admission” in section
13 1225(b)(2)(A). *See Rodriguez v. Bostock*, 802 F.Supp. 3d 1297, 1327-28; *Salcedo Aceros*
14 *v. Kaiser*, No. 25-cv-06924-EMC (EMC), 2025 WL 2637503, at *11 (N.D. Cal. Sept. 12,
15 2025). But because Congress must have meant for those words—and in particular, its use
16 of the present participle—to have substance, section 1225(b)(2)(A) must apply to those
17 applicants for admission who are presently engaged in “an affirmative act such as
18 entering the United States or applying for status.” *Esquivel-Ipina*, 812 F.Supp. 3d at 1081
19 (quoting *Mosqueda v. Noem*, No. 25-CV-2304 CAS (BFM), 2025 WL 2591530, at *5
20 (C.D. Cal. Sept. 8, 2025)); *see also Rodriguez*, 802 F.Supp. 3d at 1329-30.³

21
22 ³ Further demonstrating the frailty of *Yajure Hurtado*’s reasoning, if Ms. Mateo were somehow
23 detained under 8 U.S.C. § 1225(b), it would be under subsection (b)(1), not (b)(2). “[A]pplicants for
24 admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by
25 §1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Section 1225(b)(1) applies to
26 noncitizens, like Ms. Mateo, “determined to be inadmissible due to . . . lack of valid documentation.” *Id.*
27 Section 1225(b)(2), in contrast, “is broader” and “serves as a catchall provision that applies to all
28 applicants for admission not covered by § 1225(b)(1).” *Id.*; *see also Innovation Law Lab v. Wolf*, 951
F.3d 1073, 1084 (9th Cir. 2020) (noting that “[b]oth § (b)(1) and § (b)(2) applicants can thus be placed
in regular removal proceedings under § 1229a, though by different routes,” but that “the fact that an
applicant is in removal proceedings under § 1229a does not change his or her underlying category”),
vacated as moot, 5 F.4th 1099 (2021) (mem.).

1 23. *Yajure Hurtado* likewise renders superfluous the recently enacted Laken
2 Riley Act, Pub. L. 119-1, 139 Stat. 3 (2025), which extends mandatory detention under
3 section 1226(c) to applicants for admission who have been charged with certain
4 qualifying crimes. *See* 8 U.S.C. § 1226(c)(1)(E). Were all applicants for admission
5 already subject to mandatory detention under section 1225(b)(2), there would have been
6 no need for Congress to specify that this particular subset of them are not eligible for
7 bond under section 1226(a). *See Garcia v. Noem*, 803 F.Supp. 3d 1064, 1075-76 (S.D.
8 Cal. 2025); *Sampiao v. Hyde*, 799 F.Supp. 3d 14, 28 (D. Mass. 2025); *Rodriguez*, 802
9 F.Supp. 3d at 1324.

10 24. Second, district courts have correctly found additional support for the
11 conclusion that *Yajure Hurtado* was wrongly decided in the legislative history of the
12 relevant statutory provisions. Section 1226 was enacted as part of the Illegal Immigration
13 Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat.
14 3009. IIRIRA’s predecessor statute permitted the Attorney General to grant bond to
15 noncitizens arrested within the United States. *Rodriguez*, 2025 WL 2782499, at *23
16 (citing 8 U.S.C. § 1252 (1994)). And “according to the legislative record,” today’s
17 section 1226(a) “restates” the pre-IIRIRA framework “regarding the authority of the
18 Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the
19 United States.” *Salcedo Aceros*, 2025 WL 2637503, at *12; *see also Rodriguez*, 2025 WL
20 2782499, at *23-24.

21 25. Third, district courts have further cemented their rejection of *Yajure Hurtado*
22 in its departure from longstanding agency practice. *See Loper Bright*, 603 U.S. at 370 (the
23 persuasive authority of a given agency interpretation depends, in part, on its “consistency
24 with earlier . . . pronouncements” (quoting *Skidmore v. Swift & Co.*, 323 U.S. 134, 140
25 (1944)). Indeed, in promulgating IIRIRA’s still-unchanged implementing regulations,
26 DHS and EOIR recognized that “[d]espite being applicants for admission, aliens who are
27 present without having been admitted or paroled . . . will be eligible for bond and bond
28 redetermination.” *Rodriguez*, 2025 WL 2782499, at *25 (quoting Inspection and

1 Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
2 Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997)). And the
3 BIA held as recently as June 30, 2025 “that a noncitizen who had entered the United
4 States unlawfully three years earlier was subject to discretionary detention under section
5 1226(a).” *Id.* (citing *Matter of Akhmedov*, 29 I. & N. Dec. 116 (BIA 2025)).

6 26. Accordingly, it is plain that Ms. Mateo is detained under 8 U.S.C. § 1226(a)
7 and is thus entitled to a bond hearing. The Court should therefore grant her petition for a
8 writ of habeas corpus and order her released from Respondents’ custody if she does not
9 receive a bond hearing under section 1226(a) within seven days.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Ms. Mateo prays that the Court:

- 12 a. Assume jurisdiction over this case;
13 b. Order that Respondents refrain from transferring her outside of the Southern
14 District of California while her petition remains pending;
15 c. Declare that her detention is unlawful;
16 d. Issue a writ of habeas corpus ordering Respondents to release her from
17 custody if she is not provided within seven days of the Court’s order with a
18 bond hearing before an IJ at which DHS bears the burden of justifying her
19 continued detention by clear and convincing evidence.
20 e. Award her attorney’s fees and costs under the Equal Access to Justice Act,
21 28 U.S.C. § 2412, and on any other basis justified under law; and
22 f. Grant all other relief that the Court deems just and proper.

23
24 Respectfully submitted,

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26 Dated: April 21, 2026

/s/ Christopher Paul Kailani Medeiros

27 Christopher Paul Kailani Medeiros
28 Attorney for Simona Mateo Cristóbal