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STATEMENT OF COUNSEL

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

(PHOENIX DIVISION)

Francisco Imaicela-Vega,

Petitioner,

v.

Warden, Florence Service Processing Center;
John Cantu, Director of Phoenix Field Office,
U.S. Immigration and Customs Enforcement;
Todd Lyons, Director, U.S. Immigration and
Customs Enforcement; **Markwayne Mullin**,
Secretary of the U.S. Department of Homeland
Security; and **Todd Blanche**, Acting Attorney
General of the United States, in their official
capacities.

Respondents.

Case No. _____

PETITION FOR WRIT OF HABEAS
CORPUS

I. INTRODUCTION

1. Petitioner Francisco Imaicela-Vega, a native and citizen of Ecuador who has resided in the United States since approximately March 2005, has been detained by Immigration and Customs Enforcement (“ICE”) since on or about March 2, 2026. He challenges his detention as a violation of the Immigration and Nationality Act (“INA”) and the Due Process Clause of the Fifth Amendment.
2. ICE is unlawfully subjecting Mr. Imaicela-Vega to mandatory detention without any opportunity for a bond hearing, premised on an improper application of 8 U.S.C. § 1225(b). Mr. Imaicela-Vega is not an “alien seeking admission” within the meaning of that provision. He is a long-term interior resident of the United States who was apprehended more than twenty years after entry. His detention is governed by 8 U.S.C. § 1226(a), and his continued confinement without a bond hearing violates both the INA and his constitutional rights under the Fifth Amendment.
3. On April 14, 2026, Immigration Judge Bruce Taylor of the Florence Immigration Court denied Mr. Imaicela-Vega’s request for a custody redetermination, finding that he lacked jurisdiction based on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). IJ Taylor acknowledged the district court’s decision in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), but declined to apply it absent a federal court order directed specifically to this Court. IJ Taylor stated explicitly that he would conduct a bond hearing upon receipt of such an order. This petition provides that order.

4. Mr. Imaicela-Vega respectfully requests that this Court grant a Writ of Habeas Corpus and order that he be afforded a bond hearing before an Immigration Judge within seven (7) days. Such relief is proper under 28 U.S.C. § 2241. *See Zadvydas v. Davis*, 533 U.S. 678-88 (2001). In the alternative, Mr. Imaicela-Vega asks this Court to issue an order to show cause why the writ should not be granted within three (3) days, as prescribed by 28 U.S.C. § 2243.

II. CUSTODY

5. Mr. Imaicela-Vega is in the physical custody of Respondents and is currently detained at Florence Service Processing Center, 3250 N. Pinal Parkway, Florence, Arizona 85132. He is under the direct control of Respondents and their agents. His A-Number is 

III. JURISDICTION AND VENUE

6. Jurisdiction is proper under 28 U.S.C. §§ 1331, 2241, and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2. District courts have jurisdiction to hear habeas petitions by noncitizens challenging the lawfulness of their detention under federal law. *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas*, 533 U.S. at 687.
7. Venue is proper in this District because Petitioner is detained within the District of Arizona, at least one Respondent is located within this District, and Petitioner's immediate physical custodian is in this District. 28 U.S.C. § 1391(b).

8. This case is properly assigned to the Phoenix Division as Petitioner is detained at Florence Service Processing Center, which is located within the geographic jurisdiction of the Phoenix Division of this Court.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

9. The Court must grant the petition or issue an order to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
10. The writ of habeas corpus has been described as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). Mr. Imaicela-Vega has been detained for 51 days without any individualized bond determination. He respectfully requests expedited consideration of this petition.

V. PARTIES

11. Petitioner Francisco Imaicela-Vega is a native and citizen of Ecuador who entered the United States in or about March 2005 and has resided here continuously for more than twenty years. He is the spouse of a United States citizen and the father of United States citizen children. He is currently detained at Florence Service Processing Center, Florence, Arizona, A-Number 



12. Warden, Florence Service Processing Center, is the immediate custodian responsible for the detention of Mr. Imaicela-Vega at Florence Service Processing Center, 3250 N. Pinal Parkway, Florence, Arizona 85132. The Officer in Charge is named in their official capacity.
13. Respondent John Cantu is the Acting Field Office Director of Enforcement and Removal Operations, Phoenix Field Office, ICE. He is a legal custodian of Petitioner and is named in his official capacity.
14. Respondent Todd Lyons is the Acting Director of ICE. He is a legal custodian of Petitioner and is named in his official capacity.
15. Respondent Markwayne Mullin is the Secretary of the United States Department of Homeland Security (“DHS”). He is a legal custodian of Petitioner and is named in his official capacity.
16. Respondent Todd Blanche is the Acting Attorney General of the United States. He has authority over the Executive Office of Immigration Review (“EOIR”), which administers the immigration courts and the BIA. He is a legal custodian of Petitioner and is named in his official capacity.

VI. STATEMENT OF FACTS

17. Mr. Imaicela-Vega is a native and citizen of Ecuador. He entered the United States in or about March 2005 and has resided here continuously for more than twenty years. He is the spouse of a United States citizen and the father of United States citizen children, to whom he provides financial and emotional

support. He has worked in the United States throughout his residence here to support himself and his family.

18. Mr. Imaicela-Vega's United States citizen spouse has filed a Form I-130, Petition for Alien Relative, on his behalf, which is pending, evidencing his qualifying immediate family relationship and potential eligibility for permanent residence. He has also filed a Form EOIR-42B, Application for Cancellation of Removal for Certain Nonpermanent Residents, which is currently pending before the Florence Immigration Court.
19. Mr. Imaicela-Vega was taken into ICE custody on or about March 2, 2026. He was subsequently transferred to Florence Service Processing Center in Florence, Arizona, where he remains detained. Ex. A.
20. ICE issued a Form I-862, Notice to Appear, charging Mr. Imaicela-Vega as removable under 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without having been admitted or paroled, and under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an immigrant not in possession of a valid entry document. Ex. B. The dual charging of both provisions reflects the governments conflation of inadmissibility grounds applicable to arriving aliens with the circumstances of a long-term interior resident apprehended more than two decades after entry. Mr. Imaicela-Vega is not an arriving alien and was not apprehended at or near the border.
21. On April 14, 2026, Mr. Imaicela-Vega appeared before Immigration Judge Bruce Taylor of the Florence Immigration Court for a custody redetermination

hearing pursuant to 8 C.F.R. § 1236. IJ Taylor denied the request for bond, finding that he lacked jurisdiction under INA § 235(b)(2) and the BIA's decisions in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). Ex. C.

22. IJ Taylor's written order acknowledged the district court's decision in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), and the February 18, 2026 enforcement order vacating *Matter of Yajure Hurtado* under the APA. He then declined to apply those decisions on the ground that they had not been made binding on this Court by an order of the U.S. District Court in this District. IJ Taylor explicitly stated that he would conduct a bond hearing upon receipt of a federal court order directed to this Court or to supervisory officials responsible for Mr. Imaicela-Vega's detention. Ex. C at 2. This petition provides that order.

23. Mr. Imaicela-Vega has now been detained for approximately 51 days without any individualized determination of whether he poses a flight risk or danger to the community. He has not been afforded a bond hearing at any point during his detention. Each day of continued detention without a bond hearing constitutes irreparable harm to a man with a United States citizen spouse, United States citizen children, a pending I-130 petition, a pending EOIR-42B application, and more than twenty years of continuous residence in the U.S.

VII. LEGAL FRAMEWORK

24. The central question is which detention statute governs Mr. Imaicela-Vega: 8

U.S.C. § 1226(a), which provides for individualized bond hearings, or 8 U.S.C.

§ 1225(b), which the government contends mandates detention without bond

for all noncitizens who entered without inspection. The answer is § 1226(a).

25. Under 8 U.S.C. § 1226(a), the Attorney General “may” arrest and detain a

noncitizen pending a removal decision, and “may release the alien on a bond of

at least \$1,500.” Section 1226(a) is the “default rule” for detention of

noncitizens in removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 288

(2018). Federal regulations implem

26. enting § 1226(a) provide that noncitizens detained under this provision

“receive bond hearings at the outset of detention.” *Id.* at 306 (citing 8 C.F.R. §

236.1(d)(1)). The Ninth Circuit has recognized that § 1226(a) “stands out from

the other immigration detention provisions in key respects,” providing

“extensive procedural protections” including “an initial bond hearing before a

neutral decisionmaker, the opportunity to be represented by counsel and to

present evidence, the right to appeal, and the right to seek a new hearing when

circumstances change.” *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1202 (9th

Cir. 2022).

27. Under 8 U.S.C. § 1225(b), the government may subject certain “applicants for

admission” to mandatory detention. An “applicant for admission” is defined as

“an alien present in the United States who has not been admitted.” 8 U.S.C. §

1225(a)(1). The government has interpreted this provision to encompass every

noncitizen who ever entered without inspection, regardless of how long they have resided here or how long ago they entered. This interpretation is incorrect.

28. Section 1225(b) applies to aliens who are actively “seeking admission” – those apprehended at or near the border at or around the time of entry. It does not apply to long-term interior residents apprehended years or decades after entry. Mr. Imaicela-Vega entered the United States more than twenty years ago. He was apprehended in the interior of the country. He is not “seeking admission.” He is subject to removal as a deportable alien, and his detention is governed by § 1226(a).

29. The government’s contrary interpretation would render § 1226(a) a nullity for the vast majority of long-term undocumented residents of the United States. Statutory interpretation that renders a provision superfluous is disfavored. *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001). There must be a meaningful distinction between § 1225 and § 1226: detention under § 1226 is permissive while detention under § 1225 is mandatory, and these provisions apply to “different situations.” The government’s reading eliminates that distinction entirely for the long-term interior resident population.

30. The district court in *Maldonado Bautista* reached this conclusion on the merits: EWI noncitizens arrested in the interior and not apprehended at or near the time of entry are detained under § 1226(a), not § 1226(b), and are entitled to bond hearings. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). The Ninth Circuit’s March

31, 2026 stay of that court’s class-wide relief does not disturb the underlying statutory analysis, and the Ninth Circuit’s stay order itself reflects that individual habeas petitions under 28 U.S.C. § 2241 are the proper vehicle for relief – precisely what Petitioner files here. *Bautista v. U.S. Dep’t of Homeland Sec.*, No. 26-1044 (9th Cir. Mar. 31, 2026).

31. Courts in this District have repeatedly granted habeas relief to noncitizens in identical circumstances. See *Echevarria v. Bondi*, 2:25-cv-03252-DWL-ESW (D. Ariz. Oct. 3, 2025); *Millan-Osuna v. Cantu*, 2025 WL 3294945, 2:25-CV-04019 (D. Ariz. Nov. 26, 2025); *Luna-Gonzalez v. Noem*, 2025 WL 2394961, 2:25-CV-03794 (D. Ariz. Nov. 26, 2025); *Armenta Soto v. Noem*, 2025 WL 3294755, 1:25-CV-13533 (D. Ariz. Nov. 26, 2025); *Rubi-Martinez v. Cantu*, No. CV-26-02266-PHX-AMM (JFM), 2026 WL – (D. Ariz. Apr. 3, 2026). This Court has consistently held that long-term interior residents are not subject to mandatory detention under § 1225(b) and are entitled to bond hearings under § 1226(a).

VIII. DUE PROCESS

32. The Due Process Clause of the Fifth Amendment provides Mr. Imaicela-Vega with critical protections. “Freedom from imprisonment -- from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty” the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Due process requires “adequate procedural protections” ensuring the

government's justification for detention "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.*

33. The Ninth Circuit has expressed "grave doubt" that "any statute that allows for arbitrary prolonged detention without any process is constitutional." *Rodriguez v. Marin*, 990 F.3d 252, 256 (9th Cir. 2018). Mr. Imaicela-Vega has been detained for 51 days without any individualized determination of flight risk or danger to the community. He has a United States citizen spouse, United States citizen children, a pending I-130 petition, a pending EOIR-42B application, and more than twenty years of continuous residence. Continued detention without any opportunity to demonstrate eligibility for release violates the Due Process Clause of the Fifth Amendment.

34. Should the government rely on *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020), it should be emphasized these cases are distinguishable. *Thuraissigiam* involved a Sri Lankan national apprehended at the southern border immediately upon entry and placed in expedited removal proceedings under 8 U.S.C. § 1252(e). The Court's due process holding was narrowly confined to the credible fear determination process applicable to aliens apprehended at the border during entry – not to the question of detention authority over long-term interior residents such as Mr. Imaicela-Vega, who was not apprehended at or near the border.

IX. EXHAUSTION

35. Any appeal to the BIA would be futile. The BIA's own decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), holds that immigration judges lack authority to grant bond to any noncitizen present without admission. BIA decisions are binding on immigration judges. *See Vasquez-Rodriguez v. Garland*, 7 F. 4th 888, 896 (9th Cir. 2021) ("where the agency's position appears already set and recourse to administrative remedies is very likely futile, exhaustion is not required").

36. IJ Taylor confirmed this futility in his April 14, 2026 order. He stated that he is "constrained to apply applicable precedent" in the form of *Yajure Hurtado* and *Matter of Q. Li* absent a direct federal court order, and that he lacks authority to deviate from BIA precedent on his own initiative. Ex. C. No administrative remedy exists that would provide Mr. Imaicela-Vega a bond hearing. Judicial intervention is required.

X. CLAIMS FOR RELIEF

COUNT ONE

Violation of the Immigration and Nationality Act

8 U.S.C. § 1226(a)

37. The allegations in the foregoing paragraphs are realleged and incorporated herein.

38. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens who are long-term interior residents of the United States apprehended years after entry. Such noncitizens are detained under § 1226(a)

and entitled to individualized bond hearings, unless subject to another detention provision such as § 1225(b)(1), § 1226(c), or § 1231. None of those alternative provisions applies to Mr. Imaicela-Vega.

39. Respondents have violated the INA by subjecting Mr. Imaicela-Vega to mandatory detention under 8 U.S.C. § 1225(b)(2) and denying him a bond hearing to which he is entitled under 8 U.S.C. § 1226(a) and its implementing regulations.

COUNT TWO

Violation of the Fifth Amendment Right to Due Process

40. The allegations in the foregoing paragraphs are realleged and incorporated herein.

41. The Due Process Clause of the Fifth Amendment requires that Mr. Imaicela-Vega be afforded a bond hearing at which he may demonstrate that he does not pose a danger to the community or a flight risk. His continued detention for 51 days without any such hearing constitutes a deprivation of liberty without due process of law.

XI. PRAYER FOR RELIEF

WHEREFORE, Petitioner Francisco Imaicela-Vega respectfully requests that this Court:

- a. Assume jurisdiction over this matter;
- b. Issue an Order to Show Cause requiring Respondents to show cause why this Petition should not be granted within three (3) days;

- c. Declare that Petitioner's detention without a bond hearing violates 8 U.S.C. § 1226(a) and the Due Process Clause of the Fifth Amendment;
- d. Issue a Writ of Habeas Corpus ordering Respondents to provide Petitioner with a bond hearing before an immigration judge within seven (7) days of this Court's Order, at which hearing Respondent shall have the opportunity to demonstrate that he is not a flight risk and does not pose a danger to the community;
- e. Pending resolution of this Petition, issue an Order restraining Respondents from transferring Petitioner outside the District of Arizona, so as to preserve this Court's jurisdiction and prevent Petitioner from suffering irreparable harm through jurisdictional manipulation;
- f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable basis; and
- g. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted

/s/ George N. Russo III

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Pro Hac Vice

Counsel for Petitioner

Dated: April 22, 2026

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

I represent Petitioner Francisco Imaicela-Vega and submit this verification on his behalf.

I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

Dated this 22nd day of April, 2026.

/s/ George N. Russo III

George N. Russo III

EXHIBIT LIST

Exhibit A: ICE Detainee Locator / Form I-200 Warrant of Arrest

Exhibit B: Form I-862, Notice to Appear

Exhibit C: Order of Immigration Judge Bruce Taylor, Florence Immigration Court,

dated April 14, 2026 (A-)