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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

Maurilio Escamilla-Alvarado <i>Petitioner,</i> v. JEREMY CASEY, Facility Administrator at the Imperial Regional Detention Facility, GREGORY J. ARCHAMBEAULT, Director of the U.S. Immigration and Customs Enforcement San Diego Field Office, TODD LYONS, acting Director of U.S. Immigration and Customs Enforcement, MARKWAYNE MULLIN, Secretary of the U.S. Department of Homeland Security, and TODD BLANCHE, Acting U.S. Attorney General.	VERIFIED EMERGENCY PETITION FOR A WRIT OF HABEAS CORPUS, ORDER TO SHOW CUASE WITHIN THREE DAYS AND COMPLAINT FOR DECLARATORY RELIEF <u>'26CV2593 JO B JW</u>
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**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C.
§2241**

INTRODUCTION

1. Petitioner Maurilio Escamilla-Alvarado is in the physical custody of Respondents at the Imperial Regional Detention Facility. He is being unlawfully detained because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review have concluded that Petitioner is subject to mandatory detention.
2. Petitioner is charged with, inter alia, having entered the United States without admission or inspection on or about January 24, 2000. *See* 8 U.S.C. § 1182(a)(6)(A)(i). Ex. A.
3. He was granted release on his own recognizance on May 29, 2013. Ex. B. He has made numerous appearances in court over the years on the non-detained docket. He has had a valid employment authorization document (EAD) since 2013. Ex. C. His most recent EAD is valid through 2030. *Id.* His immigration case was administratively closed in 2015 based on prosecutorial discretion. Ex. D.
4. Petitioner was re-detained on November 26, 2025, in front of the home that he owns in Pomona, California where he has lived with his wife and children since 2005.

5. Petitioner was re-detained consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without 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.
6. On September 5, 2025, the Board of Immigration Appeals (BIA) 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 admission. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.
7. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who entered without inspection. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

8. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.
9. Mr. Escamilla-Alvarado must be released from custody unless and until DHS proves to a neutral adjudicator, by clear and convincing evidence that he is a flight risk or a danger to the community.
10. Due Process requires the government to provide noncitizens with notice and a hearing prior to determining that they should not be released from immigration detention. Failure to do so does not satisfy the procedural requirements of the Fifth Amendment.

JURISDICTION AND VENUE

11. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (declaratory relief), and art. I sec. 9, cl. 2 of the United States Constitution (Suspension Clause), as Mr. Escamilla-Alvarado is presently in custody under the authority of the United States and challenges his detention as in violation of the Constitution, laws, or treaties of the United States.
12. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).

13. “A federal district court has habeas jurisdiction under 28 U.S.C. § 2241 to review bond hearing determinations for “constitutional claims and legal error.” *Singh v. Holder*, 638 F.3d 1196, 1206 (9th Cir. 2011), 638 F.3d at 1200-01; *De La Cruz Sales v. Johnson*, 323 F. Supp. 3d 1131, 1139 (N.D. Cal. 2017) (concluding that immigrant’s claims were reviewable by district court where bond determination challenged as constitutionally flawed); *Martinez v. Clark*, 124 F.4th 775, 785 (9th Cir. 2024)(concluding that a federal court has discretion to review a bond denial when a “district court...ordered the bond hearing under the Due Process Clause”); *Hasratyan v. Bondi*, 2026 WL 288909 at *3-4 (C.D. Cal. Feb. 2, 2026)(ordering the release of an immigration detainee following the court’s review of an IJ’s bond denial that was based on procedural and legal error); *Mayancela v. FCI Berlin, Warden*, No. 25-cv-348-LM-TSM, 2025 WL 3215638, at *4 (D.N.H. Nov. 18, 2025) (If the government does not meet its burden and the IJ determines that the noncitizen must remain in custody, then “a petition for a writ of habeas corpus, filed in the appropriate district court, is the only mechanism by which a noncitizen may seek judicial review of an IJ’s bond decision.”). (citations omitted).

14. Venue is proper in the Southern District of California, pursuant to 28 U.S.C. §§ 1391 and 2241(d) because Mr. Escamilla-Alvarado is detained at the Imperial Regional Detention Facility in Calexico, California.

REQUIREMENTS OF 28 U.S.S. § 2243

15. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC 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.*
16. Court have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to 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 and confinement. *Fay v. Noia*, 372 U.S. 391, 400 (1963) (overruled on other grounds by *Wainwright v. Sykes*, 433 U.S. 72 (1977)) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

17. Petitioner Maurilio Escamilla-Alvarado is currently detained by Respondents in the Imperial Regional Detention Facility.

18. Respondent Jeremy Casy is the facility administrator at the Imperial Detention Facility in San Diego, California where Mr. Escamilla-Alvarado is currently detained. He is thus Petitioner's immediate custodian. He is sued in his official capacity.
19. Respondent Patrick Divver is the Director of ICE's San Diego Field Office, which has jurisdiction over ICE detention facilities in San Diego and Imperial County, including the Imperial Regional Detention Center, and is thus Petitioner's immediate custodian. He is sued in his official capacity.
20. Respondent Todd Lyons is the Director of ICE. He is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigrant detention. As such, Mr. Lyons is a legal custodian of Mr. Escamilla-Alvarado. He is sued in his official capacity.
21. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS), which is responsible for the administration of ICE, a subunit of DHS, and the implementation and enforcement of the immigration laws. As such, Mr. Mullin is the ultimate legal custodian of Mr. Escamilla-Alvarado. He is sued in his official capacity.
22. Respondent Todd Blanche is the Attorney General of the United States and head of the Department of Justice, which encompasses the Board of Immigration Appeals and the Immigration Courts. Mr. Blanche shares responsibility for

implementation and enforcement of the immigration laws with Respondent Mullin. Mr. Blanche is a legal custodian of Mr. Escamilla-Alvarado. He is sued in his official capacity.

LEGAL FRAMEWORK

23. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings.
24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).
25. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).
26. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).
27. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

28. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104--208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).
29. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 but were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).
30. Thus, in the decades that followed, most people, including people like Mr. Escamilla-Alvarado, who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)). Indeed, Mr. Escamilla-

Alvarado has been previously released on his own recognizance in 2015 and lived lawfully in the United States with valid employment authorization until he was arbitrarily re-detained on November 26, 2025. Ex. B, C.

31. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. Respondents’ new policy turns the well-established understanding of immigration detention and bond on its head and violates the statutory scheme.

32. In an about face, the new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”¹ claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

33. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216. There, the Board held that all noncitizens who entered the United States without admission or parole

¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

34. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

35. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States.

Rodriguez Vazquez v. Bostock, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

36. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Lopez-Mendez v. LaRose*, No. 25-cv-03037-BAS-DDL, 2025 WL 3295331 (S.D. Cal. Nov. 26, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-3038-TWR-JLB (S.D. Cal. Nov. 13, 2025); *N.A. v. LaRose* 2025 WL 2841989 (S. D. Cal. Oct. 7, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d --

--, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *1 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670, at *8 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025), *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566 at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2)

authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same); *Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ken Sep 19, 2025).

37. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

38. Mr. Escamilla-Alvarado is a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santa Cruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025) reconsideration granted in part, --- F. Supp. 3d ---, 2025 WL 3713982 (C.D. Cal. Dec. 18, 2025) ("*Maldonado Bautista*") (entering final judgment as to the Bond Eligible Class). On November 25, 2025, the U.S. District Court for the Central District of California issued an order in *Maldonado Bautista*, certifying a nationwide class of noncitizens who are in immigration detention and being denied access to a bond hearing based on the government's allegation that they entered the U.S. without admission or inspection.

39. On February 18, 2026, the district court issued an order vacating the Board's decision in *Matter of Yajure Hurtado* and enforcing the Petitioner's request for a

final judgement. *Bautista v. Santacruz*, ---F. Supp. 3d---, No. 25-CV-1873-SSS-BFM, WL 468284 (C.D. Cal. Feb. 18, 2026). The Government filed a notice of appeal and on March 6, 2026, the Ninth Circuit issued a temporary stay pending a ruling on the government's emergency motion for a stay pending appeal. *See* 25-CV-1873 Dkt. No. 129.

40. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."
41. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also* *Gomes*, 2025 WL 1869299, at *7.

42. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who, like Petitioner, are present without admission or parole.
43. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).
44. Moreover, the government's recent decision to apply §1225(b) to people like Petitioner who are already present in the United States is inconsistent with the recently passed Laken Riley Act, which added a new subsection under §1226(c) that mandates detention for individuals who entered the United States without inspection or admission and have been charged with certain criminal offenses. District courts have noted "If 1225(b)(2) already mandated detention of any alien who has not been admitted, regardless of how long they have been here, then adding §1226(c)(1)(E) to the statutory scheme was pointless." *See Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ken Sep 19, 2025) (quoting *Lopez-Campos*

v. Raycraft, 2025 WL 2496379 at *8 (E.D. Mich. Aug 29, 2025). “If Congress has intended for Section 1225 to govern all noncitizens present in the country, who had not been admitted, then it would not have recently adopted an amendment to Section 1226 that prescribes a subset of noncitizens exempt from the discretionary bond framework.” *Id.*

45. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who entered the United States without inspection.

STATEMENT OF FACTS

46. Mr. Escamilla-Alvarado was born in Mexico  Ex. A He arrived in the United States at or near San Luis, Arizona on or about January 4, 2020. *Id.* Prior to his detention, he was living with his wife and four children in the home he has owned since 2005, in Pomona, California.

47. Before being detained by ICE, Mr. Escamilla-Alvarado owned and operated a pool contracting business,  He is a licensed C53 contractor and builds and remodels pools from the ground up. Since 2013, he has had a valid Employment Authorization Document. Ex. C. He has paid income taxes and has been law abiding.

48. Mr. Escamilla-Alvarado has four United States citizen children. His oldest daughter Kimberly is 21, his son Brayan is 20, and his youngest child,  is

7. Tragically, Mr. Escamilla-Alvarado lost his third youngest child, Jacob, to leukemia in 2020. Jacob was just 9 years old at the time. This was a devastating loss for Mr. Escamilla-Alvarado and his family.

49. According to his children, Mr. Escamilla-Alvarado is a loving father, a devoted husband, and a valued member of his community. Brayan describes his father as “the most selfless and humble man I have ever known. I do not say that just because he is my father. I say it because he always made sure everything else was taken care of before himself.” Ex. E. According to Kimberly, her father “is not only a generous and kind person but an amazing dad as well. My siblings and I are infinitely lucky to have grown up with such a selfless man and most of all a wonderful role model.” Ex. F.

50. Mr. Escamilla-Alvarado was detained at about 6:30 a.m. in front of his home in Pomona, California on November 26, 2025. It was the day before Thanksgiving, and he and his family had planned to host Thanksgiving dinner in their home for the first time in 10 years. When ICE took him into custody, they left his truck parked in the middle of the street with the keys in the ignition. Fortunately, Brayan was home and was able to park the car in the driveway. Mr. Escamilla-Alvarado was not informed as to why he was being detained by ICE. ICE did not inform Mr. Escamilla-Alvarado that he had

violated the conditions of his release on his own recognizance. They did not provide him with notice or a hearing.

51. In 2015, Mr. Escamilla-Alvarado filed an application for cancellation of removal. Ex. G. His case was administratively closed on October 22, 2015, based on prosecutorial discretion. Ex D.

52. After he was detained, his merits hearing was held in April 2026 at the Imperial Immigration Court in Calexico, California. The immigration judge denied relief and Mr. Escamilla-Alvarado reserved appeal. He intends to appeal the decision of the immigration judge. Although Mr. Escamilla-Alvarado was ordered removed, his removal order is not yet final because he reserved appeal and intends to appeal the judge's decision to the BIA.

53. If he is released from custody, Mr. Escamilla-Alvarado will return to live with his family at his home in Pomona, California. He has lived in this home with his family since 2005.

54. Mr. Escamilla-Alvarado has no criminal history, and he was in compliance with the terms of his release on his own recognizance.

55. Petitioner has been held in detention for five months. Without relief from this court, he faces the prospect of additional months, or even years, in immigration custody.

CLAIMS FOR RELIEF

COUNT ONE

Violation 8 U.S.C. § 1226(a)

56. Mr. Escamilla-Alvarado re-alleges and incorporates by reference each allegation contained above.
57. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who are charged with having entered without inspection. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.
58. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.
59. Instead, Mr. Escamilla-Alvarado should be subject to §1226(a) and eligible for immediate release from detention or release on immigration bond.

COUNT TWO

Violation of the Administrative Procedure Act Unlawful Denial of Bond

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

61. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231. 57.

62. The application of § 1225(b)(2) to bar Petitioner from release or from receiving a bond hearing before an immigration judge is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

COUNT THREE

Violation of Procedural Due Process

63. Petitioner re-alleges and incorporates by reference each allegation contained above.

64. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

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

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

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter.
2. Order that Mr. Escamilla-Alvarado shall not be transferred outside the Southern District of California.
3. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Mr. Escamilla-Alvarado because he was previously ordered released on his own recognizance. *See Lopez-Mendez v. LaRose*, No. 25-cv-03037-BAS-DDL, 2025 WL 32995331 (S.D. Cal. Nov. 25, 2025). Aside from *Matter of Yajure Hurtado*, the government has alleged no meaningful change in circumstances such that detention is warranted now. If the Court is not prepared to order immediate release, in the alternative, the Court should order Respondents to provide Petitioner with a bond hearing pursuant to 8 U.S.C. §1226(a) within seven days where the burden of proof is on the government to establish through clear and convincing evidence that Mr. Escamilla-Alvarado

is a danger or a flight risk if released. *See Sadeqi v. LaRose* No. 25-cv-2587-RSH-BJW, 2025 WL 3154520, at *4 (S.D. Cal. Nov. 12, 2025) (citing *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011)) (“Petitioner is entitled to a prompt and individualized bond hearing, at which Respondents must justify her continued detention by a showing of clear and convincing evidence that Petitioner would likely flee or pose a danger to the community if released.”). The Court should further require the government to provide him with a bond hearing before a “fair, neutral, and open-minded immigration judge.” *Domingos v. Casey*, No. 3:26-cv-01151-BTM-JLB, 2026 LX 176120, at *9 (S.D. Cal. Mar. 23, 2026).

4. Issue an Order to Show Cause why this Petition should not be granted within three days and set a hearing on this Petition within five days of the return pursuant to 28 U.S.C. § 2243.
5. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Mr. Escamilla-Alvarado.
6. Declare that Mr. Escamilla-Alvarado’s detention violates the Immigration and Nationality Act.
7. Declare that Mr. Escamilla-Alvarado’s detention violates the Due Process Clause of the Fifth Amendment.

6. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412.
7. Grant such further relief as this Court deems just and proper.

Respectfully submitted,

Cassandra Lopez
AL OTRO LADO

Pro Bono Counsel for Petitioner

Dated: April 23, 2026

**VERIFICATION BY ATTORNEY ACTING ON MR. ESCAMILLA-
ALVARADO'S BEHALF PURSUANT TO 28 U.S.C. §2242**

I am submitting this verification on behalf of Mr. Escamilla-Alvarado because I am his attorney. As Mr. Escamilla-Alvarado's attorney, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: April 23, 2026

By: /s/ Cassandra Lopez