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

JOSE ALEXANDER TORRES
SANCHEZ,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security,
TODD BLANCHE, Acting Attorney
General, TODD M. LYONS, Acting
Director, Immigration and Customs
Enforcement, JESUS ROCHA, Acting
Field Office Director, San Diego Field
Office, JEREMY CASEY, Warden at
Imperial Regional Detention Center,

Respondents.

CIVIL CASE NO.: 26-cv-2957-JLS-
AHG

**Amended Petition
for a
Writ of Habeas Corpus**

INTRODUCTION

Mr. Torres Sanchez is a citizen of El Salvador who came to the United States alone as a 17-year-old. He was placed in a shelter with the Office of Refugee Resettlement (“ORR”) and then released to his father so that he could seek asylum and special immigrant juvenile status (“SIJS”) in the United States. Instead of remaining free to fight his immigration case, ICE later took Mr. Torres Sanchez back into custody without a warrant, any paperwork, or any opportunity to contest his re-detention, even though he still was legally entitled to apply for SIJS. In doing so, Respondents violated Mr. Torres Sanchez’s Constitutional due process rights.

Alternatively, because Respondents did not “compl[y] with the express terms of section 1226 when [they] detained” him absent the “[i]ssuance of a[n administrative] warrant,” this Court must order his “immediate release.” *JACP v. Wofford*, No. 25-cv-1354-KES-SKO, 2025 WL 3013328, *8 (E.D. Cal. Oct. 27, 2025); *accord R.D. v. Bondi*, No. 26-cv-1904-ECT-EMB, 2026 WL 788263, *2 (D. Minn. Mar. 20, 2026) (collecting cases ordering immediate release in the absence of a warrant). At least one judge in this district recently concluded the same. *See Cruz Pedraza v. Larose*, 26-cv-2697-LL-MSB, ECF 12 at 4 (S.D. Cal. May 27, 2026) (finding that because petitioner was “arrested by ICE without a warrant,” immediate release is the “appropriate remedy”).

Because the agency’s actions violated the Due Process Clause and 8 U.S.C. § 1226, this Court should immediately order his release.

STATEMENT OF FACTS

Mr. Torres Sanchez fled his native country of El Salvador alone at 17 years old. Declaration of Jose Alexander Torres Sanchez, Exhibit A at ¶¶ 1–2. He traveled to the United States to seek asylum because he was afraid for his life in El Salvador. *Id.* at ¶ 1. In June 2024, he entered the United States without inspection. *Id.* at ¶ 2. He was arrested almost immediately and detained by Border Patrol. *Id.* at ¶ 3. After his arrest, Mr. Torres Sanchez was transferred to the custody of the Department of

1 Health and Human Services (“HHS”) and ORR and brought to a shelter for
2 children. *Id.* About a month later, he was released to his father, who was living in
3 the United States at the time. *Id.* When he was released to his father, Mr. Torres
4 Sanchez received a verification of release from HHS and ORR. *Id.*

5 Mr. Torres Sanchez then went to live with his father in Santa Maria, CA. *Id.*
6 at ¶ 4. He was supposed to receive a notice to appear from ICE that would start his
7 removal proceedings, but he never received one. *Id.* at ¶ 4.

8 Around March 20, 2026, Mr. Torres Sanchez was riding as a passenger in his
9 brother’s car. *Id.* at ¶ 5. The car was pulled over by Border Patrol agents, and Mr.
10 Torres Sanchez was arrested. *Id.* He was brought straight to Imperial Regional
11 Detention Center and has been detained there ever since. *Id.* at ¶ 6, 8. He was never
12 shown a warrant or any other documents authorizing his arrest. *Id.* at ¶ 5.

13 Mr. Torres Sanchez has an immigration attorney and has filed an application
14 for SIJS. *Id.* at ¶ 7. His application is pending. *Id.* He has an individual hearing
15 scheduled for July 1, 2026. *Id.*

16 CLAIMS FOR RELIEF

17 **I. Count 1: The Due Process Clause required notice and a chance to be**
18 **heard before Mr. Torres Sanchez was re-detained after previously being**
19 **released to a sponsor as an unaccompanied alien child.**

20 Respondents’ re-detention of Mr. Torres Sanchez clearly violates the Due
21 Process Clause. Mr. Torres Sanchez could not be re-detained without a pre-
22 deprivation hearing. *See Garcia Domingo v. Castro*, 806 F. Supp. 3d 1246, 1253
23 (D.N.M. 2025) (ordering immediate release of a noncitizen who entered the United
24 States as an unaccompanied minor, was initially released from ORR to the custody
25 of his father, and then re-detained by ICE without any process).

26 **A. ORR had already made a determination of Mr. Torres Sanchez’s**
27 **dangerousness and risk of flight when they released him to the**
28 **custody of his father.**

To understand how this violation occurred requires a brief overview of

1 processes related to unaccompanied alien child[ren] (“UACs”). The Homeland
2 Security Act of 2002 and the Trafficking Victims Protection Reauthorization Act
3 [“TVPRA”] provide special protections for UACs who come to the United States.
4 *See Garcia Domingo*, 806 F. Supp. 3d at 1250. After detention by ICE, UACs must
5 be transferred to the custody of ORR and HHS within 72 hours. *See* 8 U.S.C. §
6 1232. Once in the custody of ORR, UACs are transferred to appropriate facilities
7 for dependent children. *See id.* When possible, the ORR is required to release UACs
8 to a parent, guardian, or other approved sponsor. 8 U.S.C. § 1232; 6 U.S.C. §
9 279(b)(2)(A). And, as required by the TVPRA, when making that determination,
10 ORR considers “danger to self, danger to the community, and risk of flight” in that
11 decision. *See* 8 U.S.C. § 1232(c)(2)(A). “ORR may release the minor to a ‘sponsor’
12 who already lives in the country but was not with the minor when DHS picked him
13 up . . . so long as the minor is not dangerous and the placement is otherwise
14 suitable.” *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1178 (N.D. Cal. 2017).
15 “Release reflects a determination by the government that the noncitizen is not a
16 danger to the community or a flight risk.” *Id.* at 1176.

17 ORR released Mr. Torres Sanchez by making the same determinations
18 required by ICE when releasing noncitizens. *See Garcia Domingo*, 804 F. Supp. 3d
19 at 1250 (listing danger to the community and flight risk as determinations made by
20 ORR prior to release); *Saravia*, F. Supp. 3d at 1176 (“Release reflects a
21 determination by the government that the noncitizen is not a danger to the
22 community or a flight risk.”). And he was released to his father, who had to file an
23 application and be approved by ORR before any determination of release was made.
24 *See Safe and Timely Release from ORR Care*, Office of Refugee Resettlement (Mar.
25 13, 2026), [https://acf.gov/orr/policy-guidance/unaccompanied-children-program-](https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2)
26 [policy-guide-section-2](https://acf.gov/orr/policy-guidance/unaccompanied-children-program-policy-guide-section-2). Only then did Mr. Torres Sanchez receive a verification of
27 release. Mr. Torres Sanchez’s subsequent re-detention without those
28 determinations and without any indication of changed circumstances goes against

1 that initial determination by ORR and the Constitution.

2 **B. Respondents violated the Due Process Clause by unilaterally re-**
3 **detaining Mr. Torres Sanchez.**

4 “The Fifth Amendment guarantees that ‘[n]o person shall be . . . deprived of
5 life, liberty, or property, without due process of law.’” *Salazar*, 2025 WL 3063629,
6 at *3 (quoting U.S. Const. amend. V). “[T]he Due Process Clause applies to all
7 ‘persons’ within the United States, including aliens, whether their presence here is
8 lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693
9 (9th Cir. 2001).

10 “Generally, due process protections depend on the situation and must
11 account for (1) the private interest at issue, (2) the risk of erroneous deprivation of
12 that interest through the procedures used, and (3) the Government's interest.” *Noori*
13 *v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149 (S.D. Cal. Oct. 1, 2025);
14 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)); *see also Garcia Domingo*, 806
15 F. Supp. 3d at 1252. Weighing those considerations here, Respondents violated the
16 Due Process Clause by revoking Mr. Torres Sanchez’s release with no notice,
17 hearing, or a finding of changed circumstances.

18 “First, Petitioner has a private interest in remaining free, which developed
19 over the [months] he resided in the United States.” *Noori*, 2025 WL 2800149, at
20 *10. It does not matter that his release is temporary or discretionary. “Comparing
21 Petitioner’s release from immigration custody in this case to the liberty interest in
22 parole discussed in *Morrissey*, Petitioner’s release from immigration custody
23 enabled ‘him to do a wide range of things,’ including to live at home, work, and ‘be
24 with family and friends and to form the other enduring attachments of normal life.’”
25 *Garcia Domingo*, 806 F. Supp. 3d at 1252 (quoting *Morrissey v. Brewer*, 408 U.S.
26 471, 482 (1972)). “[And] ‘decisions defining the constitutional rights of prisoners
27 establish a *floor* for the constitutional rights of [noncitizens in immigration
28 custody],’ who are ‘most decidedly entitled to *more* considerate treatment than

1 those who are criminally detained.” *Singh v. Andrews*, 803 F. Supp. 3d 1035, 1048
2 (E.D. Cal. 2025) (quoting *Unknown Parties v. Johnson*, No. CV-15-00250-TUC-
3 DCB, 2016 WL 8188563, at *5 (D. Ariz. Nov. 18, 2016)). Here, Mr. Torres
4 Sanchez had been out of custody, living with his father and brother, for nearly two
5 years before his re-detention. Exh. A at ¶ 4. He is 19 years old—still a child in the
6 eyes of USCIS and the SIJS process. *See infra* p. 8. Mr. Torres Sanchez is being
7 deprived of the life he began to build when Respondents determined he was not a
8 danger or a flight risk and released him from detention.

9 “Second, the risk of an erroneous deprivation of such interest is high as
10 Petitioner’s [release] was revoked without providing [him] a reason for revocation
11 or giving [him] an opportunity to be heard.” *Salazar*, 2025 WL 3063629, at *4.
12 “Civil immigration detention is permissible only to prevent flight or protect against
13 danger to the community.” *Perez v. LaRose*, No. 25-cv-02620-RBM-JLB, 2025 WL
14 3171742, at *5 (S.D. Cal. Nov. 13, 2025). “[W]here ICE [makes] a unilateral
15 decision to re-detain [a noncitizen] and [] have not explained why,” the risk of
16 erroneous deprivation is considerable. *Garcia Domingo*, 806 F. Supp. 3d at 1252.
17 Similarly, ICE has re-detained Mr. Torres Sanchez with no explanation as to why,
18 and there is no evidence that the prior findings by ORR have changed. *See supra* p.
19 5; *Perez*, 2025 WL 3171742, at *5 (“[s]ince DHS’s initial determination that
20 Petitioner should be paroled because [he] posed no danger to the community and
21 was not a flight risk, there is no evidence that these findings have changed.”).

22 Third, “[t]he effort and costs to provide Petitioner with procedural safeguards
23 is minimal.” *Garcia Domingo*, 806 F. Supp. 3d at 1252. “Detention for its own
24 sake, to meet an administrative quota, or because the government has not yet
25 established constitutionally required pre-detention procedures is not a legitimate
26 government interest.” *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1036 (N.D. Cal.
27 2025). It would have taken very little effort on Respondents’ part to have provided
28 Mr. Torres Sanchez with “notice, reasoning, and a hearing.” *Salazar*, 2025 WL

1 3063629, at *5.

2 A case in another district has addressed similar facts as those presented in
3 Mr. Torres Sanchez's case. In *Garcia Domingo v. Castro*, a court in the District of
4 New Mexico granted a temporary restraining order because Petitioner was likely to
5 succeed on his argument that re-detention after a UAC was released from ORR
6 custody but after that same person turned 18 violated due process. 806 F. Supp. 3d
7 at 1253. There, Mr. Garcia Domingo had been released as a UAC from ORR
8 custody to live with his father. *Id.* at 1251. He was later re-detained after he had
9 turned 18 without any redetermination of dangerousness or flight risk and no
10 information about why he was re-detained. *Id.* at 1251–52.

11 Mr. Torres Sanchez has been subjected to the same unconstitutional
12 detention seen in *Garcia Domingo*. Thus, because Respondents did not provide
13 “proper notice, reasoning, and a pre-deprivation hearing” before revoking his
14 release, Mr. Torres Sanchez's re-detention violated the Due Process Clause.
15 *Salazar*, 2025 WL 3063629, at *5.

16 **C. Noncitizen children released after a determination by the Office of**
17 **Refugee Resettlement are akin to noncitizens released on parole by DHS.**

18 The due process concerns governing Mr. Torres Sanchez's re-detention can
19 be analogized to those of a noncitizen who received parole and was later detained
20 with no notice or explanation. Just like those noncitizens allowed to reside in the
21 United States pending their applications for admission, there are provisions that
22 allow UACs to apply for SIJS while out of custody.

23 Special immigration juvenile status is a pathway to citizenship available to
24 UACs who meet certain criteria. “A petitioner is eligible for classification as a
25 special immigrant juvenile . . . if they meet all of the following requirements: (1)
26 is under 21 years of age at the time of filing the petition; (2) Is unmarried at the
27 time of filing and adjudication; (3) Is physically present in the United States; (4)
28 Is the subject of a juvenile court order . . . ; and (5) Obtains consent from the

1 Secretary of Homeland Security to classification as a special immigrant juvenile.”
2 8 C.F.R. § 204.11(b). This statute therefore allows Mr. Torres Sanchez to file for
3 SIJS until he is 21 years old. As he is currently only 19 years old, he is well
4 within the timeframe to apply—which he has done. *See* Exh. A at ¶ 7. And since
5 the statute specifies that an applicant must be under 21 “at the time of filing the
6 petition,” Mr. Torres Sanchez has already satisfied this and should be free to
7 continue that process out of custody.

8 As with parole, ORR made determinations about Mr. Torres Sanchez’s
9 dangerousness and risk of flight when they decided to release him to the custody
10 of his father. *See supra* at p. 4. Per ICE regulations, a person shall only be
11 “returned to the custody from which he was paroled” when “the purposes of such
12 parole . . . have been served.” 8 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. §
13 212.5(e)(2)(i) (parole may only be terminated “upon accomplishment of the
14 purpose for which parole was authorized”); *Y-Z-L-H*, 2025 WL 1898025, at *12
15 (same). Alternatively, the regulations permit revocation of parole when “neither
16 humanitarian reasons nor public benefit warrants the [noncitizen’s] continued
17 presence.” 8 C.F.R. § 212.5(e)(2)(i). But under either scenario, parole shall only
18 be “terminated upon written notice to the alien.” 8 C.F.R. § 212.5(e)(2)(i). But
19 under either scenario, parole shall only be “terminated upon written notice to the
20 alien.” 8 C.F.R. § 212.5(e)(2)(i). So under the statute and the regulations, the
21 agency may only revoke parole and re-detain a noncitizen when the parole’s
22 purpose is served or no humanitarian reasons warrant it *and* the noncitizen
23 receives notice.

24 None of this occurred here. Mr. Torres Sanchez did not receive any of the
25 protections afforded to someone who has been released and therefore has liberty
26 interests. Because “the purpose” of Mr. Torres Sanchez’s release was to allow
27 him to live free from unnecessary detention while applying for asylum (and,
28 SIJS), that purpose has not yet “been served” because his asylum and SIJS claims

1 are still pending. 8 U.S.C. § 1182(d)(5)(A). And the humanitarian reasons for
2 parole—to avoid unnecessary detention when an asylum seeker poses no danger
3 or flight risk—remains the same even though Mr. Torres Sanchez was initially
4 released as a UAC. Put differently, “upon Petitioner’s entry into the United States,
5 Respondents determined that Petitioner was suitable for [release]. Respondents
6 have not provided a reasoned explanation or any changed circumstances that
7 would justify their current departure from their prior decision.” *Y-Z-L-H v.*
8 *Bostock*, 792 F. Supp. 3d 1123, 1146 (D. Or. 2025).

9 Because Mr. Torres Sanchez had been released after ORR made specific
10 determinations regarding his eligibility for release, and because he is still currently
11 applying for (and was fully eligible to apply for) SIJS, his re-detention is akin to
12 the re-detention of a noncitizen on parole without any process. He should therefore
13 be released.

14 **II. Alternatively, Mr. Torres Sanchez’s arrest without a warrant requires**
15 **his immediate release, or at least a bond hearing under 8 U.S.C. §**
16 **1226(a).**

17 Alternatively, even if Mr. Torres Sanchez’s re-detention after release as a
18 UAC does not violate due process, he should have been afforded the process in 8
19 U.S.C. § 1226(a). This, in addition to being afforded a bond hearing where a neutral
20 arbiter make determinations about his dangerousness and risk of flight, requires that
21 ICE have a warrant prior to any arrest. Mr. Torres Sanchez was afforded none of
22 the protections under § 1226(a) and should be released.

23 **A. In *Yajure Hurtado*, the BIA stripped most noncitizens who enter**
24 **without inspection of the right to seek bond.**

25 This argument turns on the BIA’s recent decision in *Yajure Hurtado*. The
26 issue in *Yajure Hurtado* revolves around two statutes, 8 U.S.C. § 1226(a) and 8
27 U.S.C. § 1225(b)(2)(A).

28 “Section 1226(a) provides for the arrest and detention of noncitizens
‘pending a decision on whether the alien is to be removed from the United States.’”

1 *Hernandez Nieves*, 2025 WL 2533110, at *3. It instructs that, “[o]n a warrant issued
2 by the Attorney General, an alien may be arrested and detained.” 8 U.S.C. §
3 1226(a). Then, the Attorney General “may continue to detain” arrestees or “may
4 release [them] on bond of at least \$1,500 with security approved by, and containing
5 conditions prescribed by, the Attorney General.” *Id.* (punctuation altered). “Federal
6 regulations” implementing this statute “provide that aliens detained under § 1226(a)
7 receive a bond hearing at the outset of detention.” *Jennings v. Rodriguez*, 583 U.S.
8 281, 306 (2018) (citing 8 C.F.R. § 1236.1(d)(1)).

9 Section 1225(b)(2)(A), by contrast, provides that “in the case of an alien who
10 is an applicant for admission, if the examining immigration officer determines that
11 an alien seeking admission is not clearly and beyond a doubt entitled to be admitted,
12 the alien shall be detained for” certain immigration proceedings. 8 U.S.C. §
13 1225(b)(2)(A). Federal regulations do not prescribe bond hearings for people
14 detained under that section. Instead, “DHS has the sole discretion to temporarily
15 release on parole ‘any alien applying for admission to the United States’ on a ‘case-
16 by-case basis for urgent humanitarian reasons or significant public benefit.’”
17 *Hernandez Nieves*, 2025 WL 2533110, at *3 (quoting 8 U.S.C. § 1182(d)(5)(A)).

18 By their terms, these statutes apply to different groups of immigrants.
19 “Section 1226(a) sets out the default rule,” which governs unless some other, more
20 specific definition provision overrides it. *Rodriguez*, 779 F. Supp. 3d at 1246
21 (cleaned up). Section 1225(b)(2)(A) is more specific, but it applies only to an
22 “applicant for admission” who is also an “alien seeking admission.” 8 U.S.C.
23 1225(b)(2)(A).

24 *Yajure Hurtado* considered which of these provisions—the default rule in §
25 1226(a) or the mandatory detention provision in § 1225(b)(2)(A)—applies to
26 immigrants who enter the United States without inspection but live for years in the
27 country’s interior. 29 I.&N. Dec. at 216. The BIA concluded that noncitizens who
28 enter without inspection have no right to seek bond from an IJ, regardless of how

1 long they have been residing in the country and irrespective of whether they were
2 apprehended by immigration authorities. *Id.* at 228.

3 **B. Courts disagree with the BIA's reasoning.**

4 Since *Yajure Hurtado* was decided, many immigrants who otherwise would
5 have received bond hearings under § 1226(a) have challenged that decision in the
6 federal courts. Courts broadly agree that the BIA's novel constructions of §
7 1225(b)(2)(A) and § 1226(a) are not correct.

8 On the one hand, § 1225(b)(2)(A) is best read to apply to immigrants who
9 are at or near the border or other ports of entry, for at least three reasons.

10 First, § 1225(b)(2)(A)'s statutory context strongly suggests that it applies
11 only to persons apprehended at or near the border. As the Supreme Court
12 recognized in *Jennings*, § 1225(b) is concerned “primarily [with those] seeking
13 entry,” and is generally imposed “at the Nation’s borders and ports of entry, where
14 the Government must determine whether a [noncitizen] seeking to enter the country
15 is admissible.” 583 U.S. at 297, 287. Throughout its text, the statute refers to
16 “inspections”—a term not defined in the INA but which typically connotes an
17 examination upon or soon after physical entry. 8 U.S.C. § 1225 (“Inspection by
18 immigration officers; expedited removal of inadmissible arriving [noncitizens];
19 referral for hearing”); *id.* § 1225(b)(1)–(2) (referring to “inspections in their titles”;
20 *id.* § 1225(d)(1) (authorizing immigration officials to search certain conveyances
21 in order to conduct “inspections” where noncitizens “are being brought into the
22 United States”). Many statutory provisions, various regulations, and BIA precedent
23 discuss “inspection” in the context of admission processes at ports of entry, further
24 supporting the conclusion that § 1225 has a limited temporal and geographic scope.
25 8 U.S.C. § 1187(h)(2)(B)(i); 8 U.S.C. § 1225(a); 8 U.S.C. § 1752(a); 8 C.F.R. §
26 235.1; *Matter of Quilantan*, 25 I.&N. Dec 285 (BIA 2010). Petitioner’s
27 interpretation accords with these usages.

28 Second, consistent with the statute’s overall focus on the moment of physical

entry, § 1225(b)(2)’s plain language limits the statute’s reach to persons actively attempting to enter the United States. The statute applies only to those who are *both* “applicants for admission” *and* in the process of “seeking admission.” 8 U.S.C. §1225(b)(2)(A). Because the statute’s first clause already limits the provision to “applicants for admission,” the phrase “seeking admission” must have a different meaning. Any other reading would constitute “an obvious violation of the rule against surplusage.” *Romero*, 2025 WL 2403827, at *10.

On its face, the phrase “seeking admission” suggests an active attempt to enter the country. Congress’s use of the present and present progressive tenses “necessarily requires some sort of present-tense action,” excluding noncitizens in the interior who are no longer in the process of seeking admission to the U.S. *Romero*, 2025 WL 2403827, at *9 (cleaned up); *accord Rosado*, 2025 WL 2337099, at *11 (similar); *Lopez Benitez*, 2025 WL 2371588, at *6 (noting the statute’s “present-tense active language”). “Realistically speaking,” it is hard to accept that the statute’s plain language could mean anything else: “[I]f Congress’s intention” to detain everyone who entered without inspection “was so clear, why did it take thirty years to notice?” *Romero*, 2025 WL 2403827, at *12.

Third, the statutory history supports a limited reading of § 1225(b)’s reach. When Congress amended § 1225(b)’s predecessor statute—which authorized detention only of arriving noncitizens—to include individuals who had not been admitted, legislators expressed concerns about recent arrivals to the United States who lacked documents to remain in the country. H.R. Rep. No. 104–469, pt. 1 at 157–58, 228–29 (1996); H.R. Rep. No. 104–828, at 209 (1996) (Conf. Rep.). There was no suggestion in the legislative history that Congress intended to subject all people present in the United States after an unlawful entry to mandatory detention and thereby transform immigration detention and sweep millions of noncitizens into § 1225(b).

The BIA’s contrary reading of the legislative history is not persuasive. True,

IIRIRA “altered the typology of immigration *proceedings* to ‘place[] on equal footing’ ‘all immigrants who have not been lawfully admitted.’” *Romero*, 2025 WL 2403827, at *12 (emphasis added) (quoting *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020)). But that “says nothing about *detention* pending the outcome of those proceedings.” *Id.* (emphasis added). All these indicators suggest that § 1225(b)(2)(A) applies only to recent arrivals at the border or ports of entry, not people who have already entered the country.

On the other hand, § 1226(a) is best read to apply to some inadmissible persons. It cannot plausibly be the case that all inadmissible persons fall under § 1225(b)(2)(A) and none fall under § 1226(a).

First, § 1226(a)’s statutory structure makes clear that it reaches some individuals who entered without inspection. Section 1226(c) exempts specific categories of noncitizens from the default eligibility to seek release on bond in § 1226(a). “Among the individuals carved out and subject to mandatory detention are certain categories of ‘inadmissible’ noncitizens.” *Rodriguez*, 779 F. Supp. 3d at 1246 (quoting 8 § 1226(c)(1)(A), (D), (E)). The 2025 Laken Riley Act (“LRA”) added to that list. “This ‘new’ category” of persons not eligible for bond “includes those noncitizens who are deemed inadmissible, including for being ‘present in the United States without being admitted or paroled,’ and who have been arrested, charged with, or convicted of certain crimes.” *Rosado*, 2025 WL 2337099, at *9 (citing 8 U.S.C. § 1226(c)(1)(E); LRA, Pub. L. No. 119-1). If § 1226(a) did not apply to inadmissible noncitizens, then the longstanding carve outs that refer to inadmissibility and Congress’ most recent amendments would all be surplusage. *See Garcia*, 2025 WL 2549431, at *6. The better reading is the Supreme Court’s in *Jennings*: that § 1226(a) “applies to aliens already present in the United States.” 583 U.S. at 303.

Second, § 1226(a)’s legislative history supports Petitioner’s reading. “After passing the IIRIRA, Congress declared the new § 1226(a) ‘restates the current

1 provisions in [the predecessor statute] regarding the authority of the Attorney
2 General to arrest, detain, and release on bond’ a noncitizen ‘who is not lawfully in
3 the United States.’” *Rosado*, 2025 WL 2337099, at *9. Because noncitizens deemed
4 inadmissible “were entitled to discretionary detention under § 1226(a)’s
5 predecessor statute, and Congress declared the statute’s scope unchanged by
6 IIRIRA,” § 1226(a) must “allow for a discretionary release on bond for”
7 inadmissible noncitizens, too. *Id.*

8 Finally, other courts have found that § 1226(a) applies in very similar
9 circumstances as Mr. Torres Sanchez’s. *See Salvador v. Bondi*, No. 25-cv- , 2025
10 WL 2995055 (C.D. Cal. Sept. 2, 2025) (finding § 1226(a) applies to a Petitioner
11 who entered the United States, was transferred to the custody of ORR, released, and
12 re-detained years later). Similarly, Mr. Torres Sanchez was not actually seeking
13 entry when he was detained. He had already entered the United States nearly two
14 years prior, been detained by ICE, transferred to ORR custody, moved to a kids’
15 shelter, and then released to his father’s custody. *See* Exh. A at ¶¶ 1–4.

16 Thus, the best reading of 8 U.S.C. §§ 1225 and 1226 shows that Petitioner is
17 not subject to detention under § 1225 and can instead only fall within § 1226. And
18 under the Supreme Court’s recent decision in *Loper Bright v. Raimondo*, this Court
19 must independently interpret the meaning and scope of §§ 1225(b), 1226(a) using
20 the traditional tools of statutory construction. 603 U.S. 369, 385, 401 (2024); *see*
21 *also Rodriguez*, 779 F. Supp. 3d at 1251; *Kostak*, 2025 WL 2472136, at *2 n.29;
22 *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 n.9 (D. Mass.
23 July 7, 2025). Because the BIA’s decision in *Yajure Hurtado* is a deviation from
24 the agency’s long-standing interpretation of §§ 1225 and 1226; is not guidance
25 issued contemporaneously with enactment of the relevant statutes; and contradicts
26 the statutory interpretations of dozens of federal courts, this Court should give it no
27 weight. If anything, the government’s “decades of practice” providing bond
28 hearings to those who entered without inspection is a more persuasive guide.

1 *Martinez*, 2025 WL 2084238, at *4.

2 **C. The proper remedy for such a warrantless arrest is immediate**
3 **release and an order that Petitioner cannot be re-detained absent**
4 **the procedures of § 1226(a).**

5 Mr. Torres Sanchez may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).
6 But, under section 1226, “[i]ssuance of a warrant is a necessary condition to justify
7 discretionary detention under section 1226(a).” *Chogllo Chafila v. Scott*, 804 F.
8 Supp. 3d 247, 264 (D. Me. 2025). It provides that, “[o]n a warrant issued by the
9 Attorney General, an alien may be arrested and detained.” 8 U.S.C. § 1226(a)
10 (emphasis added). “[I]t follows that absent a warrant a noncitizen may *not* be
11 arrested and detained under section 1226(a).” *Chogllo Chafila*, 804 F. Supp. 3d at
12 264 (emphasis in original).

13 That is precisely what this Court recently held. In *Cruz Pedraza v. Larose*,
14 the petitioner was parked at a gas station when two unmarked cars blocked his
15 truck. 26-cv-2697-LL-MSB, ECF 12 at 1 (S.D. Cal. May 27, 2026). Several ICE
16 officers got out of their vehicles, asked the petitioner for proof of status, and then
17 arrested him without a warrant. *Id.* at 1–2. The Court found *Matter of Yajure*
18 *Hurtado* “unpersuasive” and determined that the petitioner was detained pursuant
19 to § 1226(a), rather than § 1225(b). *Id.* at 4.

20 Importantly, the Court then noted that the statutory language of § 1226(a)
21 provides that “a noncitizen may only be arrested and detained pending a decision
22 on removal ‘[o]n a warrant issued by the Attorney General.’” *Id.* (quoting 8 U.S.C.
23 § 1226(a)). And “[w]hen the government does not comply with the plain language
24 of section 1226(a), a petitioner’s immediate release is justified.” *Id.* (quotations and
25 alterations omitted). Because Respondents did not dispute that they lacked the
26 necessary warrant to arrest the petitioner, the Court held that “Petitioner’s arrest
27 and detention are unauthorized” and immediate release was the “appropriate
28 remedy.” *Id.*

Other courts have similarly held that when ICE makes a warrantless arrest

contrary to the plain language of § 1226(a), the “arrest and detention are therefore unauthorized, and the appropriate remedy for detention that lacks a proper statutory basis under § 1226(a) is release.” *Eslid. B.G. v. Bondi*, No. 26-cv-5020-RAL, 2026 WL 734992, *6 (D.S.D. Mar. 16, 2026) (collecting cases); *see also JAACP v. Wofford*, No. 25-cv-1354-KES-SKO, 2025 WL 3013328, *8 (E.D. Cal. Oct. 27, 2025); *Diaz v. Albarran*, No. 25-cv-9837-JSC, 2025 WL 3214972 (N.D. Cal. Nov. 18, 2025); *R.D. v. Bondi*, No. 26-cv-1904-ECT-EMB, 2026 WL 788263, *2 (D. Minn. Mar. 20, 2026) (collecting cases ordering immediate release in the absence of a warrant).

Here, Mr. Torres Sanchez was arrested when he was the passenger in his brother’s car. Exh. A at ¶ 3. He has never been shown a warrant, and it appears he was arrested without one. *Id.* Because this arrest violated the plain language of § 1226(a), his “arrest and detention are unauthorized,” and immediate release is the “appropriate remedy.” *Cruz Pedraza*, 26-cv-2697-LL-MSB, ECF 12 at 4.

D. The Ninth Circuit’s stay in *Maldonado Bautista* does not prevent this Court from granting relief.

In *Maldonado Bautista v. DHS*, 25-cv-1873-SSS-BFM (C.D. Cal.), a district judge granted national, class-wide relief to plaintiffs challenging the BIA’s interpretation of §§ 1225 and 1226. *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987, at *32 (C.D. Cal. Dec. 18, 2025), *judgment entered sub nom. Maldonado Bautista v. Noem*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). The Ninth Circuit subsequently stayed the order, “insofar as the district court’s judgment extends beyond the Central District of California.” *Maldonado Bautista v. DHS*, No. 26-1044, Dkt. No. 5.1 (Mar 6, 2026). The Ninth Circuit left the judgement in place in the Central District. *Id.*

Because of the stay order, the government is no longer required to follow *Maldonado Bautista* in this district. But the stay order does not indicate any opinion on the stay order’s merits or prevent this Court from finding in Petitioner’s favor.

1 It means only that this Court must do an independent evaluation on the merits. For
2 the reasons given above, that independent evaluation demands relief here.

3 **III. This Court must hold an evidentiary hearing on any disputed facts.**

4 Resolution of a detention-based habeas petition may require an evidentiary
5 hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009). Mr. Torres
6 Sanchez hereby requests such a hearing on any material, disputed facts.

7 **IV. Prayer for relief**

8 For the foregoing reasons, Petitioner respectfully requests that this Court:
9

- 10 1. Order Respondents to immediately release Petitioner from custody,
11 subject to the conditions of his preexisting release;
 - 12 2. Order that, prior to any re-detention of Petitioner, Petitioner is entitled to
13 notice of the reasons for revocation of his release and a hearing before an
14 immigration judge to determine whether detention is warranted. The
15 government should bear the burden of establishing, by clear and
16 convincing evidence, that circumstances have changed since HHS and
17 ORR's initial determination of release such that Mr. Torres Sanchez now
18 poses a danger to the community or is a risk of flight at that hearing;
 - 19 3. Alternatively, order Petitioner's immediate release based on the absence
20 of a warrant as required by § 1226(a) and require Respondents to hold a
21 pre-deprivation bond hearing before a neutral arbiter pursuant to §
22 1226(a) at which Respondents shall demonstrate the issuance of a warrant
23 and at which Petitioner's eligibility for bond must be considered, *see, e.g.*,
24 *JACP*, 2025 WL 3013328 at *8; and
 - 25 4. Order any other relief that the Court deems just and proper.
- 26
27
28

Respectfully submitted,

Dated: June 8, 2026

s/ Hannah Basalone

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