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9 UNITED STATES DISTRICT COURT
10 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

11 _____
12 Jose Nunez Acevedo)

13 Petitioner)

14 v.)

15 Todd M. Lyons, Acting Director of)
16 Immigration and Customs Enforcement;)

17 Christopher J. LaRose, Warden of the)
18 Otay Mesa Detention Center;)

19 Markwayne Mullin, Secretary of the U.S.)
20 Department of Homeland Security;)

21 Todd Blanche,)
22 Attorney General of the United States;)

23 Christopher McGregor, Field Office)
24 Director for Enforcement and Removal)
25 Operations;)

26 U.S. Department of Homeland Security;)
27 In their official capacities,)


28 Respondents)

Case No. '26CV3109 RFL AHG

PETITION FOR WRIT OF
HABEAS CORPUS
UNDER 28 U.S.C. § 2241

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I. INTRODUCTION

1. Petitioner, Jose Nunez Acevedo,  is being detained unlawfully at the Otay Mesa Detention Center in the custody of U.S. Immigration Customs and Enforcement (“ICE”). Petitioner is a noncitizen and longtime resident of the United States who is harmed by Respondents’ new, draconian policy reinterpreting the immigration detention statutes to preclude Petitioner from eligibility for bond under the Immigration and Nationality Act (INA), 8 U.S.C. § 1226(a), and for bond hearings under 8 C.F.R. §§ 1003.19(a), 1235.1(d). Instead, pursuant to this new policy, Respondents now consider Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), without the opportunity for release on bond during the pendency of his lengthy removal proceedings.

2. Petitioner brings this habeas corpus action pursuant to 28 U.S.C. § 2241 to challenge his continued unlawful detention by Immigration and Customs Enforcement (ICE) in violation of the Immigration and Nationality Act (INA) and the Fifth Amendment to the U.S. Constitution.

3. Absent an Order from this Court, Petitioner will continue to be unlawfully held in detention by ICE.

4. Petitioner asks this Court to find that Petitioner is being unlawfully detained by ICE and order that Respondents provide Petitioner with an individualized bond hearing.

II. REQUIREMENTS OF 28 U.S.C. § 2243

5. 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 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.* (emphasis added).

1 **V. PARTIES**

2 13. Petitioner, Jose Nunez Acevedo, is a fifty-nine year old man who
3 is a native and citizen of Mexico who has resided in the United States for over
4 thirty years. Petitioner is a diabetic that is currently on Metformin. He was taken
5 into custody on November 13, 2025, when Petitioner appeared for an appointment
6 with ICE, even though he had appeared and complied with all of his ICE
7 appointments. (Please see Exhibit A, Form I-213, Record of
8 Deportable/Inadmissible Alien). Petitioner is eligible for residency through his US
9 Citizen son, and is in the process of applying for status. He is currently detained by
10 ICE at the Otay Mesa Detention Center.

11 14. Respondent, Christopher J. LaRose, is the legal custodian of
12 Petitioner. LaRose is an employee of CoreCivic which is the company that owns
13 and operates the Otay Mesa Detention Center. Christopher J. LaRose is the
14 Warden of the Adelanto Detention Center where Petitioner is being held in custody
15 and is sued in his official capacity.

16 15. Respondent Markwayne Mullin is the Secretary of Homeland
17 Security of the United States. He is responsible for the implementation and
18 enforcement of the INA, and oversees ICE, which is responsible for Petitioner's
19 detention. Respondent Mullin has ultimate custodial authority over Petitioner and
20 is sued in his official capacity.

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

25 17. Respondent Todd M. Lyons is the Acting Director of U.S.
26 Immigration and Customs Enforcement and is sued in his official capacity.

27 18. Respondent Christopher McGregor is the Acting Field Office
28 Director of Enforcement and Removal Operations for Immigration and Customs
Enforcement within the State of California, an agency of the Department of

1 Homeland Security, and is sued in his official capacity.
2

3 **VI. FACTS**

4 19. Petitioner is currently detained at the Otay Mesa Detention Center
5 in Otay Mesa, California. Petitioner entered the United States without inspection in
6 January of 1996 and has lived in the United States continuously since that time.
7 Petitioner has been detained since November 2025, as a mandatory detainee under
8 INA Section 235(b)(1)(B(iii)(IV). Petitioner was convicted of H&S Code 11377(a)
9 on August 12, 2010, which case was dismissed by the Court and expunged.
10 Petitioner was not apprehended upon arrival into the United States and is not
11 subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

12 20. DHS issued a Form I-862 Notice to Appear in immigration court,
13 alleging that Petitioner is “an alien present in the United States who has not been
14 admitted or paroled.” He is charged with being subject to removal from the United
15 States pursuant to INA 212(a)(6)(A)(i), as “an alien present in the United States
16 without being admitted or paroled, or who arrived at any time or place other than
17 as designated by the Attorney General.” *See* 8 U.S.C. § 1182(a)(6)(A)(i). (Please
18 see Notice to Appear, Exhibit B).

19 21. On April 17, 2026, Petitioner had a bond redetermination hearing
20 with an immigration judge at the Otay Mesa Immigration Court and the IJ denied
21 bond. (Please see IJ Bond Denial, Exhibit C). This bond hearing was conducted
22 under the provisions of 8 U.S.C. § 1226(a). According to the written Order of the
23 Immigration Judge dated April 17, 2026, the reason for bond denial was because
24 “The evidence indicates that the Respondent entered the country without
25 inspection and thus is an applicant for admission under INA section 235(a)(1) and
26 subject to mandatory detention under INA Section 235(b)(1)(B(iii)(IV). *Matter of*
27 *Yahure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The court notes that the
28 *Maldonado Bautista* orders were stayed by the 9th Circuit on 6 March 2025. *See*
Maldonado Bautista v. DHS, No 26-1044 (9th Cir., Mar. 6, 2026).

1
2 **VII. LEGAL FRAMEWORK**

3 22. Petitioner’s detention violates the plain language of the INA and
4 its implementing regulations. Respondents’ legal interpretation set forth in *Matter*
5 *of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), wherein a noncitizen present in
6 the United States without having been inspected and admitted, designating them as
7 applicants for admission, is plainly contrary to the statutory framework and its
8 implementing regulations.

9 23. The INA prescribes three basic forms of detention for the vast
10 majority of noncitizens in removal proceedings. The detention provisions at 8
11 U.S.C. § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration
12 Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208,
13 Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section
14 1226 was most recently amended in 2025 by the Laken Riley Act, Pub. L. No.119-
15 1, 139 Stat. 3 (2025).

16 24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in
17 standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in
18 Section 1226(a) detention are generally entitled to a bond hearing at the outset of
19 their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have
20 been arrested, charged with, or convicted of certain crimes are subject to
21 mandatory detention until their removal proceedings are concluded, *see* 8 U.S.C. §
22 1226(c). According to the Supreme Court, “§ 1226(c) applies to aliens already
23 present in the United States. Section 1226(a) creates a default rule for those
24 aliens...” *Jennings v. Rodriguez*, 138 S.Ct. 830 (2018). The Court states, “Section
25 1226(a) also permits the Attorney General to release those aliens on bond,
26 “[e]xcept as provided in subsection (c) of this section.””

27 25. Second, Section 1225 governs DHS’s inspection of noncitizens
28 who arrive at the borders and ports of entry of the United States. Section 1225
provides for mandatory detention of noncitizens subject to expedited removal

1 under 8 U.S.C. § 1225(b)(1) and for other recent arrivals “seeking admission”
2 referred to under § 1225(b)(2). 8 U.S.C. § 1225(b)(2)(A) applies to individuals
3 who are apprehended on arrival in the United States. It states that an “applicant for
4 admission” who is “seeking admission” shall be detained for a removal proceeding
5 under section 1229a. *Id.* It does not apply to individuals like Petitioner who are
6 arrested and detained by ICE after having entered and begun residing in the United
7 States many years earlier, who are not “seeking admission.”

8 26. Last, the INA also provides for detention of noncitizens who have
9 received a final order of removal from the United States, including individuals in
10 withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b). This section does not
11 apply to Petitioner in this case because he does not have a final order of removal.

12 27. Petitioner’s case concerns the detention provisions at § 1226(a)
13 and § 1225(b)(2).

14 28. For decades, Respondents have applied § 1226(a) to people like
15 Petitioner who entered the United States without inspection and have lived in the
16 United States for many years.

17 29. In the decades that followed the passage of IRRIRA in 1996,
18 people who had entered without inspection and were thereafter arrested within the
19 United States and placed in removal proceedings were considered for release on
20 bond and also received bond hearings before an Immigration Judge under Section
21 1226, unless their criminal history rendered them ineligible. This practice by
22 EOIR, INS, and then DHS, was the implementation of the law as it is written, for
23 decades.

24 30. However, on July 8, 2025, Defendants adopted an entirely new
25 interpretation of the statute, one not supported by the law. On that day,
26 Immigration and Customs Enforcement (a component agency of the Department of
27 Homeland Security) “in coordination with the Department of Justice (DOJ),”
28 announced a corresponding policy that rejected the well-established understanding
of the statutory and regulatory framework and reversed decades of practice. The

1 new policy, entitled “Interim Guidance Regarding Detention Authority for
2 Applicants for Admission,” authored by Defendant Todd Lyons, claims that all
3 persons who entered the United States without inspection shall now be deemed
4 subject to mandatory detention under § 1225(b)(2)(A). *Id.* The policy applies
5 regardless of when a person is apprehended, and affects those who have resided in
6 the United States for years, and even decades. This July 8, 2025, “Interim
7 Guidance” memo is an unlawful agency interpretation that conflicts with statute,
8 precedent, and due process.

9 31. On September 5, 2025, the Board of Immigration Appeals (a
10 component of the Department of Justice) decided *Matter of Yajure Hurtado*, 29
11 I&N Dec. 216 (BIA 2025), whereby the Board decided that it was the “plain
12 language” of 8 U.S.C. § 1225(b)(2)(A) that all persons who are present in the
13 United States without admission or parole are all “seeking admission” into the
14 United States and, therefore, not entitled to a bond hearing.

15 32. However, DHS’s and DOJ’s interpretation set forth in the “Interim
16 Guidance” memo and *Matter of Yajure Hurtado* is in direct contradiction with the
17 INA. Section 1226(a) applies by default to all persons “pending a decision on
18 whether the [noncitizen] is to be removed from the United States.” These removal
19 hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability of
20 a [noncitizen].”

21 33. The text of § 1226 also explicitly applies to people charged as
22 being inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
23 1226(c)(1)(E). As recently as early 2025, Congress added subparagraph (E) to
24 Section 1226(c)(1) by enacting the Laken Riley Act to exclude certain noncitizens
25 who entered without inspection from § 1226(a)’s default bond eligibility. Under
26 the Laken Riley Act, a noncitizen who entered the U.S. without inspection *and* has
27 been accused of theft-related crimes is not eligible for bond. By adding a provision
28 relating to a person who entered without inspection and has been accused of a
theft-related crime the Laken Riley Act actually assumes that a person who entered

1 without inspection *and has not been accused or convicted* of a theft-related crime
2 *is* eligible for bond, as a general rule. Section 1226(c)(1)(E)’s reference to persons
3 inadmissible under § 1182(6)(A), i.e., persons inadmissible for entering without
4 inspection, makes clear that, *by default*, such people are eligible for release on
5 bond under Section 1226(a), if that person has not been accused or convicted of a
6 theft-related crime. As the U.S. District Court for the Western District of
7 Washington court explained, “[w]hen Congress creates “specific exceptions” to a
8 statute’s applicability, it “proves” that absent those exceptions, the statute
9 generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady*
10 *Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).
11 Otherwise, Section 1226(c)(1)(E) would be surplusage. Section 1226 therefore
12 leaves no doubt that it applies to people who are present without admission or
13 parole.

14 34. By contrast, § 1225(b) applies to people arriving at U.S. ports of
15 entry or who very recently entered the United States. The statute’s entire
16 framework is premised on inspections at the border of people who are “*seeking*
17 *admission*” to the United States. 8 U.S.C. § 1225(b)(2)(A); *see also Diaz Martinez*,
18 2025 WL 2084238, at *8 (“[O]ur immigration laws have long made a distinction
19 between those [noncitizens] who have come to our shores seeking admission . . .
20 and those who are within the United States after an entry, irrespective of its
21 legality.” (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958))). Indeed,
22 the Supreme Court has explained that this mandatory detention scheme applies “at
23 the Nation’s borders and ports of entry, where the Government must determine
24 whether a [noncitizen] seeking to enter the country is admissible.” *Jennings v.*
25 *Rodriguez*, 583 U.S. 281, 287 (2018). Accordingly, the mandatory detention
26 provision of § 1225(b)(2) does not apply to people like Petitioner, who has already
27 entered and was residing in the United States at the time he was apprehended.

28 35. Since Respondents adopted their new policies, dozens of federal
courts have rejected their new interpretation of the INA’s detention authorities.

1 Court after court has adopted the same reading of the INA’s detention authorities
2 and rejected ICE and EOIR’s new interpretation. *See, e.g., Gomes v. Hyde*, No.
3 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v.*
4 *Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass.
5 July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025
6 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No.
7 CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025);
8 *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y.
9 Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL
10 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-
11 01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v.*
12 *Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v.*
13 *Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025);
14 *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal.
15 Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL
16 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM,
17 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-
18 3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025)
19 *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379
20 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-
21 MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*,
22 No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025);
23 *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept.
24 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
25 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025
26 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree”
27 that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No.
28 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

1 *2 (D.Neb. Aug. 14, 2025)(same).

2 36. Likewise, in *Cerritos Echevarria v. Bondi*, the District of
3 Arizona concluded that § 1225(b)(2)(A)’s mandatory detention provision applies
4 only to “applicants for admission” who are, in fact, seeking admission at the
5 border, and that long-resident noncitizens arrested in the interior—like Petitioner—
6 fall instead under § 1226(a)’s default detention framework and are entitled to bond
7 hearings. *Cerritos Echevarria v. Bondi*, No. CV-25-03252-PHX-DWL, 2025 WL
8 2821282, at *4-5 (D. Ariz. Oct. 3, 2025). In *Echeverria*, Judge Lanza noted that
9 “[g]iven that an immigrant submits an ‘application for admission’ at a distinct
10 point in time, stretching the phrase ‘at the time of application for admission’ to
11 refer to a period of years would push the statutory text beyond its breaking
12 point.” *Id.* At *6. Most recently, in the case of *Maldonado Bautista v. Santacruz*,
13 No. 5-25-cv-01873-SSS-BFM, U.S. District Court Judge Sykes granted Final
14 Judgment for Declaratory Relief, finding that this new policy of DHS violates the
15 INA and Due Process. On November 25, 2025, Judge Sykes issued an Order
16 Granting Plaintiff Petitioners’ Motion for Class Certification, whereby the Court
17 certified a nationwide “Bond Eligible Class” which includes “All noncitizens in the
18 United States without lawful status who (1) have entered or will enter the United
19 States without inspection; (2) were not or will not be apprehended upon arrival; and
20 (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), §
21 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an
22 initial custody determination.” On December 18, 2025, Judge Sykes granted Final
23 Judgment whereby the Court made two Declarations. First, the Court Declared
24 “that the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and
25 not subject to mandatory detention under § 1225(b)(2).” Second, the Court
26 Declared “that, pursuant to Defendant’s regulations, *see* 8 C.F.R. §§ 236.1, 1236.1,
27 and 1003.19, the Bond Eligible Class members are detained under 8 U.S.C. §
28 1226(a), are not subject to mandatory detention under 1225(b)(2), and are entitled
to consideration for release on bond by immigration officers and, if not released, a

1 custody redetermination hearing before an immigration judge.”

2 37. In the instant case, Petitioner is a member of the “Bond Eligible
3 Class.” According to Judge Sykes Order, Petitioner is detained under 8 U.S.C. §
4 1226(a) and not subject to mandatory detention under § 1225(b)(2). He is entitled
5 to a custody redetermination hearing before an immigration judge.

6 38. It is noted that Judge Sykes Order has been limited to the Central
7 District of California. However, all of the same reasoning and case law support the
8 finding that individuals such as Petitioner are entitled to a bond hearing.

9
10 **VIII. CLAIMS FOR RELIEF**

11 **COUNT I**

12 **Violation of 8 U.S.C. § 1226(a)**

13 **Unlawful Denial of Release on Bond**

14 38. Petitioner incorporates by reference the allegations of fact set forth
15 in the preceding paragraphs.

16 39. The mandatory detention provision of 8 U.S.C. §1225(b)(2) does
17 not apply to all noncitizens residing in the United States who previously entered
18 the country and have been residing in the United States prior to being apprehended
19 and placed in removal proceedings by Respondents. It does not apply to those who
20 previously entered the country and have been residing in the United States prior to
21 being apprehended and placed in removal proceedings by Respondents. Such
22 noncitizens are detained under §1226(a), unless they are subject to §1225(b)(1),
§1225(c), or §1231.

23 40. The application of §1225(b)(2) to Petitioner unlawfully mandates
24 his continued detention and violates the INA.

25
26 **COUNT II**

27 **Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19**

28 **Unlawful Denial of Release on Bond**

1 41. Petitioner incorporates by reference the allegations of fact set forth
2 in the preceding paragraphs.

3 42. In 1997, after Congress amended the INA through IIRIRA, EOIR
4 and the then-Immigration and Naturalization Service issued an interim rule to
5 interpret and apply IIRIRA. Specifically, under the heading of “Apprehension,
6 Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite
7 being applicants for admission, [noncitizens] who are present without having been
8 admitted or paroled (formerly referred to as [noncitizens] who entered without
9 inspection) *will be eligible for bond and bond redetermination.*” 62 Fed. Reg. at
10 10323 (emphasis added). The agencies thus made clear that individuals who had
11 entered without inspection were eligible for consideration for bond and bond
12 hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

13 43. Nonetheless, DHS and EOIR have adopted a policy and practice
14 of applying § 1225(b)(2) to Petitioner and other *Maldonado Bautista* Bond Eligible
15 Class members. The application of § 1225(b)(2) to Petitioner unlawfully mandates
16 her continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

17 **COUNT III**

18 **Violation of the Administrative Procedure Act**

19 **Contrary to Law and Arbitrary and Capricious Agency Policy**

20 44. Petitioner incorporates by reference the allegations of fact set forth
21 in the preceding paragraphs.

22 45. The APA provides that a “reviewing court shall...hold unlawful
23 and set aside agency action, findings, and conclusions found to be ... arbitrary and
24 capricious, an abuse of discretion, or otherwise not in accordance with law.” 5
25 U.S.C. § 706(2)(A). 46. The mandatory detention provision at 8 U.S.C. §
26 1225(b)(2) does not apply to all noncitizens residing in the United States who are
27 subject to the grounds of inadmissibility. As relevant here, it does not apply to
28 those who previously entered the country and have been residing in the United

1 States prior to being apprehended and placed in removal proceedings by
2 Respondents. Such noncitizens are detained under § 1226(a) and are eligible for
3 release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

4 47. Nonetheless, DHS and EOIR through the Adelanto Immigration
5 Court IJs have a policy and practice of applying § 1225(b)(2) to *Maldonado*
6 *Bautista* Bond Eligible Class Members such as Petitioner. This policy and practice
7 violates the APA.

8
9 **COUNT IV**

10 **Violation of Due Process Under the Fifth Amendment**

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

13 49. The government may not deprive a person of life, liberty, or
14 property without due process of law. U.S. Const. Amend. V. “Freedom from
15 imprisonment—from government custody, detention, or other forms of physical
16 restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v.*
17 *Davis*, 533 U.S. 678, 690 (2001).

18 50. Petitioner has a fundamental interest in liberty and being free from
19 official restraint.

20 51. The government’s detention of Petitioner without a bond
21 redetermination hearing to determine whether he is a flight risk or danger to others
22 violates his right to due process.

23 **IX. PRAYER FOR RELIEF**

24 WHEREFORE, Petitioner respectfully requests that this Court:

- 25 a. Assume jurisdiction over this matter;
26 b. Order that Petitioner shall not be transferred outside the Central
27 District of California while this petition is pending;
28 c. Issue an Order to Show Cause ordering Respondents to show cause

- 1 why this Petition should not be granted within 3 days;
2 d. Declare that Petitioner’s detention is unlawful;
3 e. Issue a Writ of Habeas Corpus requiring that Respondents must
4 provide Petitioner a bond redetermination hearing; or in the
5 alternative, if the court determines his detention was unlawful,
6 order his immediate release;
7 f. Award Petitioner attorney’s fees and costs under the Equal Access
8 to Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any
9 other basis justified under law; and
10 g. Grant any other and further relief that this Court deems just and
11 proper.
12

13 DATED this 18th day of May, 2026.

14 Respectfully submitted,
15 /s/ Lorena Marquez
16 LORENA MARQUEZ.
17 LAW OFFICE OF LORENA MARQUEZ
18 810 N Broadway
19 Santa Ana, CA 92701
20 Phone: (714) 667-0300
21 Email: abogada.lorena@yahoo.com
22 Attorney for Petitioner
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1 VERIFICATION PURSUANT TO 28 U.S.C. § 2242

2 I represent Petitioner, Jose Nunez Acevedo, and submit this
3 verification on his behalf. I hereby verify that the factual statements made in the
4 foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my
5 knowledge.

6
7 DATED this 18th day of May, 2026.

8 Respectfully submitted,
9 /s/ Lorena Marquez
10 LORENA MARQUEZ.
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