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

10 Jose Mainor Alexander Sanchez Cruz,

11 *Petitioner,*

12 v.

13
14 Markwayne Mullin, *Secretary of Homeland*
15 *Security*; Todd Lyons, *Acting Director, U.S.*
16 *Immigration and Customs Enforcement*;
17 Gregory J. Archambeault, *Field Office*
18 *Director, San Diego Field Office, Immigration*
19 *and Customs Enforcement*; Todd Blanche,
20 *Attorney General*; Rodney S. Scott,
21 *Commissioner, Customs and Border Patrol*;
Mariza Marin, *Port Director, San Ysidro Port,*
Customs and Border Patrol,

22 *Respondents.*

Case No.:

'26CV3226 JLS DDL

**PETITION FOR WRIT OF
HABEAS CORPUS
PURSUANT TO 28 U.S.C. §
2241**

23
24 **INTRODUCTION**

25
26 1. Petitioner Jose Mainor Alexander Sanchez Cruz () is
27 a native and citizen of Honduras. On or about October 23, 2021, after fleeing
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1 Honduras to seek protection in the United States on account of persecution by gangs
2 and police, he entered the United States and was detained by immigration officers.

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4 2. On October 31, 2021, Respondents issued an I-200 warrant for his
5 arrest under 8 U.S.C. § 1226(a), and issued an I-286 notice of custody determination
6 ordering his release on his own recognizance under § 1226(a). Respondents also
7 issued Petitioner a Notice to Appear (“NTA”), thereby placing him in standard
8 removal proceedings under section 240 of the Immigration and Nationality Act, not
9 as an arriving alien and not in expedited removal.
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12 3. Thereafter, Mr. Sanchez Cruz was unknowingly issued an *in absentia*
13 removal order. On July 2, 2025 Petitioner was then arrested by U.S. Immigrations
14 and Customs Enforcement (“ICE”) and deported to Honduras on July 21, 2025,
15 despite having a pending Motion to Reopen his proceedings and rescind the *in*
16 *absentia* removal order against him, which creates an automatic stay of removal as
17 a matter of law while the motion is pending. As a result of Petitioner’s Complaint
18 for Injunctive Relief before the Eastern District Court of Michigan, Respondents
19 facilitated his return to the United States. *See Sanchez Cruz v. Mullin*, No. 25-CV-
20 13347, 2026 WL 1298529 (E.D. Mich. May 12, 2026). Upon his arrival, he was
21 immediately detained by Respondents, without any opportunity to be heard.
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25 4. Petitioner was re-arrested by U.S. Immigration and Customs
26 Enforcement (“ICE”), under facts and circumstances that place him squarely within
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1 ICE's general detention authority 8 U.S.C. § 1226(a). Under that statute, Petitioner
2 is eligible to seek discretionary release on bond from an Immigration Judge ("IJ").
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4 However, due to a new policy announced by ICE in July 2025, and a September
5 2025 Board of Immigration Appeals ("BIA") decision that overturns decades of
6 settled law, Respondents contend that Petitioner is detained under 8 U.S.C. §
7 1225(b)(2). While § 1225(b) requires mandatory detention and does not allow
8 release on bond, it only applies to noncitizens apprehended at the border "seeking
9 admission."
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12 5. Petitioner therefore brings this action to enjoin Respondents from
13 subjecting him to mandatory detention under 8 U.S.C. § 1225(b)(2) and seeking an
14 order to release Petitioner from custody and that Respondents provide him a
15 discretionary bond hearing pursuant to § 1226(a) before an IJ within 7 days.
16

17 JURISDICTION AND VENUE

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19 6. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241;
20 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal
21 Question Jurisdiction. In addition, the individual Respondents are United States
22 officials. 28 U.S.C. § 1346(a)(2).
23

24 7. This Court also has federal question jurisdiction, through the
25 Administrative Procedure Act ("APA"), to "hold unlawful and set aside agency
26 action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in
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1 accordance with law.” 5 U.S.C. § 706(2)(A). APA review of a final agency action
2 may proceed, absent a special statutory review proceeding, by “any applicable form
3 of legal action, including actions for declaratory judgments or writs of prohibitory
4 or mandatory injunction or habeas corpus, in a court of competent jurisdiction.” 5
5 U.S.C. § 703.
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7
8 8. Venue lies in this District because Petitioner is currently detained by
9 Respondents within this judicial district; and each Respondent is an agency or
10 officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241;
11 28 U.S.C. § 1391(e)(1).
12

13 THE PARTIES

14 9. Petitioner Jose Mainor Alexander Sanchez Cruz  is
15 a native and citizen of Honduran. Upon information and belief, is currently detained
16 by Respondents within the territorial jurisdiction of this court.
17

18 10. Respondent Markwayne Mullin is the Secretary of the Department of
19 Homeland Security (“DHS”). He is the cabinet-level secretary responsible for all
20 immigration enforcement in the United States.
21

22 11. Respondent Todd Lyons is the Acting Director of ICE. He is the head
23 of the federal agency responsible for all immigration enforcement in the United
24 States.
25

26 12. Respondent Gregory J. Archambeault, the Field Office Director of the
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1 ICE San Diego Field Office, is responsible for overseeing ICE operations pertaining
2 to noncitizens within its territorial jurisdiction, such as Petitioner, including
3 detentions, enforcement, and removal operations. His regular place of business is
4 in San Diego, California. He is the immediate legal custodian of Petitioner for
5 purposes of a federal habeas petition.
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8 13. Respondent Todd Blanche is the Attorney General of the United
9 States. The Immigration Judges who decide removal cases and application for relief
10 from removal do so as his designees.
11

12 14. Respondent Rodney S. Scott is the Commissioner of Customs and
13 Border Patrol ("CBP"). CBP oversees all entries into the United States, and is
14 responsible for the administration and enforcement of the immigration laws
15 pursuant to Title 8 of the United States Code, including the apprehension,
16 processing, and ongoing detention of noncitizens at or near the United States border.
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19 15. Respondent Mariza Marin is Customs and Border Patrol's San Ysidro
20 Port Director. When Petitioner reentered the United States on May 26, 2026, he did
21 so through the San Ysidro port of entry. She is the immediate physical custodian of
22 Petitioner for purposes of a federal habeas petition. Upon information and belief,
23 Petitioner is currently detained at the San Ysidro Port of Entry.
24

25 16. All government Respondents are sued in their official capacities.
26

27 LEGAL BACKGROUND

1 **A. Immigration Detention Legal Framework**

2 17. When a noncitizen is alleged to have violated immigration laws, they
3
4 are generally placed into traditional removal proceedings, during which an
5 immigration judge will determine whether they are removable and then whether
6 they have a legal basis to remain in the United States. 8 U.S.C. § 1229a.

7
8 18. Detention is authorized for “certain aliens already in the country
9 pending the outcome of removal proceedings under § 1226(a) and 1126(c).” See
10 Jennings v. Rodriguez, 583 U.S. 281, 289 (2018). The statute provides that an
11 individual may be subject to either discretionary detention under 8 U.S.C. § 1226(a)
12 generally, or mandatory detention under 8 U.S.C. § 1226(c) if they have been
13 arrested or convicted of certain crimes. Discretionary detention under § 1226(a) has
14 been described as the “default” provision for immigration detention for those
15 subject to traditional removal proceedings. *Id.* at 288. Under § 1226(a), “[e]xcept
16 as provided in subsection (c) of this section,’ the Attorney General ‘may release’ an
17 alien detained under § 1226(a) ‘on ...bond’ or ‘conditional parole.’” *Id.*

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21 19. Alternatively, mandatory detention is authorized for “certain aliens
22 seeking admission into the country under §§ 1225(b)(1) and 1225(b)(2),” [emphasis
23 added]. Jennings, 583 U.S. at 289. Individuals inspected under § 1225(b) and
24 determined to be “applicants for admission” may be subject to mandatory detention
25 under two separate subsections. Applicants for admission include someone:
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1 “present in the United States who has not been admitted or who arrives
2 in the United States (whether or not at a designated port of arrival and
3 including an alien who is brought to the United States after having been
4 interdicted in international or United States waters) shall be deemed for
the purposes of this chapter to be an applicant for admission.”

5 8 U.S.C. § 1225(a)(1).

6 20. The first subset, under 8 U.S.C. § 1225(b)(1), may be subject to
7 expedited removal and mandatory detention if they are determined to be an
8 “arriving alien,” and if they have not been physically present in the United States
9 continuously for a two-year period immediately prior. Regulations define an
10 “arriving alien” as:
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13 “an applicant for admission coming or attempting to come into the
14 United States at a port-of-entry, or an alien seeking transit through the
15 United States at a port-of-entry, or an alien interdicted in international
16 or United States waters and brought into the United States by any
17 means, whether or not to a designated port-of-entry, and regardless of
the means of transport.”

18 8 C.F.R. § 1.2.

19 21. Otherwise, 8 U.S.C. § 1225(b)(2) provides for the detention of
20 “applicant for admission” specifically when “the examining immigration officer
21 determines that an alien seeking admission is not clearly and beyond a doubt entitled
22 to be admitted, the alien shall be detained for a proceeding under section 1229a of
23 this title,” i.e. for traditional removal proceedings [emphasis added].
24

25 22. An “arriving alien” or an applicant for admission “seeking admission”
26 may only be released from detention on parole (which is a form of release on
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1 recognizance), under 8 U.S.C. § 1182(d)(5). *Jennings*, 583 U.S. at 288. There is no
2 bond available to an arriving alien or applicant for admission seeking admission.
3
4 Id. There is no such thing as a “parole bond” – a release must be either parole under
5 § 1182(d)(5) or a bond (conditional parole) under § 1226(a). Id.

6 23. For a noncitizen subject to discretionary detention under 8 U.S.C. §
7 1226(a), ICE makes an initial custody determination to either set a bond or hold the
8 individual at no bond. The noncitizen may then seek a review of ICE’s initial
9 custody determination before the IJ (a “custody review hearing”), who has the
10 authority to modify ICE’s custody determination and set bond in a case in which
11 ICE has designated no bond, lower bond when ICE has set a cash bond amount, or
12 deny bond completely. 8 C.F.R. § 1003.19.
13

14
15 24. Custody review hearings are separate from hearings in the underlying
16 removal proceedings. 8 C.F.R. § 1003.19(d). If a noncitizen is granted bond by the
17 IJ, he must still appear in immigration court for the IJ to determine his removability
18 and hear any claim for relief from removal. At a custody review hearing, once
19 jurisdiction over bond is established, the IJ’s inquiry is limited to whether the
20 detainee is a danger to the community or a flight risk, and bond may only be granted
21 when an IJ has determined that the detainee meets his burden of proof that he is
22 neither. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).
23

24 25. For decades, it has been Respondents’ practice to afford § 1226(a)
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1 discretionary bond hearings and custody review hearings to those individuals who
2 have been encountered neither at a point of entry nor seeking admission to the
3 United States. *See Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025
4 WL 2337099, at *10 (D. Ariz. Aug. 11, 2025), report and recommendation adopted
5 sub nom. *Rocha Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR (CDB), 2025
6 WL 2349133 (D. Ariz. Aug. 13, 2025) (“Respondents’ proposed application of §
7 1226 is also belied by the Department of Homeland Security’s ‘longstanding
8 practice’ of treating noncitizens taken into custody while living in the United States,
9 including those detained and found inadmissible upon inspection and then released
10 into the United States with the government’s acquiescence, who have committed no
11 crime after release, as detained under § 1226(a).” citing *Loper Bright Enters. v.*
12 *Raimondo*, 603 U.S. 369, 386 (2024)).

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17 **B. BIA Decision in *Matter of Q. Li***

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19 26. On May 15, 2025, the BIA issued its decision in *Matter of Q. Li*, 29 I.
20 & N. Dec. 66 (BIA 2025), which held that an applicant for admission “who was
21 arrested without a warrant while arriving in the United States and thereafter placed
22 in removal proceedings, is detained under section 235(b)(2)(A), until the conclusion
23 of removal proceedings.” *Id.* at 71.

24
25 27. *Q. Li* was encountered upon entry into the United States, she was
26 arrested by immigration officers, and paroled into the U.S. under 8 U.S.C. §
27

1 1182(d)(5). *Id.* at 67. Part of the condition of her §1182(d)(5) parole was to report
2 regularly to ICE. *Id.* Following a subsequent alert as to an international arrest
3 warrant, she was taken back into custody, issued a Notice to Appear commencing
4 removal proceedings, and issued a new Notice of Custody Determination and
5 detained. *Id.* She requested a custody redetermination before an IJ and was denied
6 for lack of jurisdiction, because she was subject to mandatory detention under §
7 1225(b)(2). *Id.*

10 28. In particular, the BIA reasoned that the termination of parole restored
11 Q. Li to her prior custody status. *Id.* at 69. (“When parole granted by DHS is
12 terminated, “the alien shall forthwith return or be returned to the custody from which
13 he was paroled.” INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R.
14 § 212.5(e)(2)(i).”). Additionally, Q. Li had been arrested without a warrant, and had
15 never been subject to 8 U.S.C. § 1226(a) authority. *Id.* at 70. Ultimately, the BIA
16 agreed that she was subject to § 1225(b)(2) and ineligible for bond. *Id.* at 71.

19 29. While Respondents have attempted to apply Q. Li more broadly to
20 individuals encountered at the interior of the country – or in the absence of a parole
21 under § 1182(d)(5) – this argument has been consistently rejected. *Tido-Ngoumtsop*,
22 *v. Warden.*, No. 26CV2913-LL-VET, 2026 WL 1433964, at *2 (S.D. Cal. May 21,
23 2026); *Beltran v. Noem*, No. 25CV2650-LL-DEB, 2025 WL 3078837, at *4–7 (S.D.
24 Cal. Nov. 4, 2025); *Valerio v. Joyce*, No. CV 25-17225 (ZNQ), 2025 WL 3251445,
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1 at *3 (D.N.J. Nov. 21, 2025); *Diaz Rudecindo v. Florentino*, No. CV 25-16942 (ES),
2 2025 WL 3470299, at *2 (D.N.J. Dec. 3, 2025); *Leal-Hernandez v. Noem*, No. 1:25-
3 CV-02428-JRR, 2025 WL 2430025, at *9-11 (D. Md. Aug. 24, 2025); *Vasque*
4 *Romero v. Noem*, No. CV 3:25-524, 2026 WL 116379, at *1 (W.D. Pa. Jan. 15,
5 2026); and *Hasan v. Crawford*, 800 F. Supp. 3d 641, 657, n.11 (E.D. Va. 2025).
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7

8 **C. ICE memo reinterpreting 8 U.S.C. § 1225(b)(2)**

9 30. On July 8, 2025, Respondent ICE issued new interim guidance that
10 announced a breathtakingly broad interpretation of 8 U.S.C. § 1225(b)(2). See ICE
11 memorandum “Interim Guidance Regarding Detention Authority for Applications
12 for Admission.”¹ This memo concerns the detention of “applicants for admission” as
13 defined by § 1225(a)(1). “Effective immediately, it is the position of DHS that such
14 aliens are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)(2)] and may
15 not be released from ICE custody except by INA § 212(d)(5) [8 U.S.C. §
16 1182(d)(5)].” *Id.* DHS is explicit that this new policy is a marked deviation from
17 prior interpretation and treatment of affected noncitizens. *Id.* (“For custody purposes,
18 these aliens are now treated in the same manner that “arriving aliens” have
19 historically been treated.”)
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27 ¹ Available at [https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission)
28 applications-for-admission.

1 31. In addition to the announcement re-interpreting § 1225(b)(2), the memo
2 further clarifies that “[t]he only aliens eligible for a custody determination and release
3 on recognizance, bond or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)]
4 during removal proceedings are aliens admitted to the United States and chargeable
5 with deportability under INA § 237 [8 U.S.C. § 1227], with the exception of those
6 subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)].” *Id.*

9 32. Moreover, ICE maintains that “DHS does not take the position that prior
10 releases of applicants for admission pursuant to INA § 236(a) were releases on parole
11 under INA § 212(d)(5) based on this change in legal position.” *Id.* ICE fails to clarify
12 under what legal authority, then, those prior releases were effectuated. Rather, ICE
13 signals the resulting lack of “correct” paperwork is nonetheless permissible. *Id.*
14 (“Accordingly, ERO and HSI are not required to ‘correct’ the release paperwork by
15 issuing INA § 212(d)(5) parole paperwork.”)

18 33. Nationwide implementation of the ICE § 1225(b)(2) mass detention
19 policy ensued.

21 **D. Recent BIA decision *Matter of Yajure Hurtado***

22 34. On September 5, 2025, the BIA, which decides all appeals of IJ
23 decisions including custody redeterminations, upheld ICE’s re-interpretation of §
24 1225(b)(2). *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
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1 35. The BIA held that the respondent was an “applicant for admission”
2 within the scope of § 1225(b), and therefore subject to mandatory detention.
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4 36. The BIA characterized the issue before it as “one of statutory
5 construction: Does the INA require that all applicants for admission, even those like
6 the respondent who have entered without admission or inspection and have been
7 residing in the United States for years without lawful status, be subject to mandatory
8 detention for the duration of their immigration proceedings, and thus the Immigration
9 Judge lacks authority over a bond request filed by an alien in this category?”
10 [emphasis added]. *Id.* at 220.
11

12 37. The BIA reasoned that individuals “who surreptitiously cross into the
13 United States remain applicants for admission until and unless they are lawfully
14 inspected and admitted by an immigration officer.” *Id.* at 228.
15

16 38. The BIA acknowledged the decades of precedent preceding its decision
17 that authorized release of individuals present without having been inspected and
18 admitted or paroled under § 1226(a). *Id.* at 225, FN6 (“We acknowledge that for
19 years Immigration Judges have conducted bond hearings for aliens who entered the
20 United States without inspection. However, we do not recall either DHS or its
21 predecessor, the Immigration and Naturalization Service, previously raising the
22 current issue that is before us. In fact, the supplemental information for the 1997
23 Interim Rule titled ‘Inspection and Expedited Removal of Aliens; Detention and
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1 Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures,’ 62 Fed.
2 Reg. 10312, 10323 (Mar. 6, 1997), reflects that the Immigration and Naturalization
3 Service took the position at that time that ‘[d]espite being applicants for admission,
4 aliens who are present without having been admitted or paroled (formerly referred to
5 as aliens who entered without inspection) will be eligible for bond and bond
6 redetermination.’”).
7

9 39. Ultimately, the BIA upheld the decision that the IJ lacked jurisdiction
10 under 8 U.S.C. § 1225(b)(2) to consider the respondent for discretionary bond. *Id.* at
11 229.
12

13 40. The BIA decision is binding on all immigration judges nationwide.
14

15 41. Respondents’ new policy and interpretation of 8 U.S.C. § 1225(b)(2)
16 stand to sweep millions of noncitizens into mandatory detention, without any
17 consideration for release on bond (regardless of their ties to their community or lack
18 of dangerousness or flight risk). *Rosado*, 2025 WL 2337099, at *11 (“It has been
19 estimated that this novel interpretation would require the detention of millions of
20 immigrants currently residing in the United States.”)
21

22 FACTS

23
24 42. Petitioner Jose Mainor Alexander Sanchez Cruz is a citizen of
25 Honduras and of no other country. He fled Honduras in 2021 to escape escalating
26 persecution and violence at the hands of gang members. Fearing for his life and the
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1 safety of his family, Petitioner fled Honduras in search of protection in the United
2 States.

3
4 43. Petitioner entered the U.S. unlawfully through the U.S.-Mexican
5 border. He was encountered by border patrol agents on or around October 23, 2021.
6 See Ex. 1, Form I-862, Notice to Appear (“NTA”), dated October 27, 2021.

7
8 44. At that time, ICE issued an I-200 Warrant for his arrest under 8 U.S.C.
9 § 1226(a). See Ex. 2, Form I-200, Warrant for Arrest of Alien.

10
11 45. ICE elected to place Petitioner directly into traditional removal
12 proceedings under 8 U.S.C. § 1229a. See Ex. 1. Petitioner was not placed in
13 expedited removal proceedings under 8 U.S.C. § 1225(b)(1). He was not charged
14 as an arriving alien and was not referred for a credible-fear interview. *Id.* The NTA
15 charges Petitioner as removable under 8 U.S.C. § 1182(a)(6)(A)(i)—that is, as a
16 noncitizen “present in the United States who has not been admitted or paroled.” *Id.*
17 The box on the Form I-862 designating the respondent as an “arriving alien” is not
18 checked. *Id.*

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21 46. Consistent with that charging decision, on October 27, 2021, ICE
22 invoked its general § 1226(a) detention authority and released Petitioner on his own
23 recognizance. See Ex. 3, Form I-286, Notice of Custody Determination, dated
24 October 27, 2021; Ex. 4, Form I-220A, Order of Release on Recognizance, dated
25 October 27, 2021. Both forms expressly invoke the authority of “section 236 of the
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1 Immigration and Nationality Act and part 236 of title 8, Code of Federal
2 Regulations.” *Id.*

3
4 47. On March 8, 2022, Petitioner was sent a superseding NTA via U.S.
5 mail, formally placing him in removal proceedings before the Los Angeles
6 Immigration Court. *See* Ex. 5, Superseding NTA, dated March 8, 2022. His initial
7 master calendar hearing was initially scheduled for April 25, 2022. *Id.*
8 Unfortunately, Petitioner had been displaced from the address to which the NTA
9 had been mailed to after a family member abruptly sold the home, and therefore
10 Petitioner was never made aware of the court hearing.
11

12
13 48. Because Petitioner missed his court hearing, the Los Angeles
14 Immigration Court issued him an *in absentia* removal order on November 18, 2022.
15 *See* Ex. 6 (*in absentia* removal order).
16

17 49. Petitioner was unaware of the removal order issued against him. In an
18 effort to build a stable and secure life for himself and his family, Petitioner sought
19 employment opportunities in Detroit, Michigan.
20

21 50. On or about July 2, 2025, Petitioner was detained by ICE. *See Sanchez*
22 *Cruz v. Mullin*, No. 25-CV-13347, 2026 WL 1298529, at *1 (E.D. Mich. May 12,
23 2026).
24

25 51. On July 17, 2025, Plaintiff, through counsel, filed a Motion to Reopen
26 his proceedings and rescind the *in absentia* order of removal entered against him.
27

1 *Id.* Federal regulations provide that the filing of a Motion to Reopen creates an
2 automatic stay of removal as a matter of law while the motion is pending. 8 C.F.R.
3 § 1003.23(b)(1)(v), (b)(4)(ii).
4

5 52. On July 21, 2025, Petitioner was deported to Honduras despite the
6 entry of the automatic stay of removal.
7

8 53. On August 4, 2025, Plaintiff's Motion to Reopen was granted and he
9 is now scheduled for a hearing on June 18, 2026, at the Los Angeles Immigration
10 Court. *See* Ex. 7, Immigration Judge Order to Reopen. *See* EOIR Automated Case
11 Information, available at <https://acis.eoir.justice.gov/> (last visited May 25, 2026)):
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The screenshot displays the 'Automated Case Information' page for a case named SANCHEZ-CRUZ, JORGE-MATISON. The page is divided into four main sections: 'Next Hearing Information', 'Court Decision and Motion Information', 'BIA Case Information', and 'Court Contact Information'. The 'Next Hearing Information' section states that the upcoming MASTER hearing is internet-based on June 18, 2026, at 8:30 AM, presided by Judge Belde Verandez, Joyce, with a webex address provided. The 'Court Decision and Motion Information' section indicates that the case is pending. The 'BIA Case Information' section notes that no appeal was received for this case. The 'Court Contact Information' section provides contact details for the court, including the address (3345 Pacific Concourse Dr #100, Los Angeles, CA 90048) and phone number (310) 335-2100.

acis.eoir.justice.gov/en/yourcaseinformation

Murray Georio AD... Home | Salesforce Mail - Nikita Lave... Defensive Userna... LR Team Bar Num... Federal Court Filed... Jurisdiction.docx

Automated Case Information

Name: SANCHEZ-CRUZ, JORGE-MATISON | A-Number: 238-792-992 | Recdnt Date: 3/10/2022

Next Hearing Information

Your upcoming MASTER hearing is INTERNET-BASED on June 18, 2026 at 8:30 AM.

JUDGE
Belde Verandez, Joyce

WEBEX ADDRESS
<https://eoir.webex.com/jweb/LJ.Verandez>

Court Decision and Motion Information

This case is pending.

BIA Case Information

No appeal was received for this case.

Court Contact Information

If you require further information regarding your case, or wish to file additional documents, please contact the immigration court.

COURT ADDRESS
3345 PACIFIC CONCOURSE DR #100
LOS ANGELES, CA 90048

PHONE NUMBER
(310) 335-2100

54. On May 12, 2026, District Judge Mark A. Goldsmith granted
Petitioner's Motion for a Preliminary Injunction and ordered that Respondents

1 facilitate his return to the United States and “ensure that his case is handled as it
2 would have been had he not been improperly sent” elsewhere. *See Sanchez Cruz v.*
3 *Mullin*, No. 25-CV-13347, 2026 WL 1298529, at *6 (E.D. Mich. May 12, 2026);
4 (quoting *Noem v. Abrego Garcia*, — U.S. —, 145 S. Ct. 1017, 1018, 225
5 L.Ed.2d 655 (2025) (per curiam)).
6

7
8 55. On May 26, 2026, Petitioner followed Respondent’s instructions and
9 reported to the San Ysidro Pedestrian East port of entry along the U.S.-Mexico
10 border. Upon information and belief, after re-entering the U.S., Petitioner was
11 promptly transported to San Diego.
12

13 56. Upon information and belief, as of the time of filing of this petition,
14 Petitioner remains detained in southern California, under the jurisdiction of the San
15 Diego Field Office.
16

17 57. As a result of Petitioner’s unlawful deportation and detention,
18 Petitioner and his partner and children in the United States have been under extreme
19 emotional, psychological, and financial duress. Continued detention will exacerbate
20 these hardships.
21

22 58. All Respondents consider that Petitioner is detained pursuant to 8
23 U.S.C. § 1225(b)(2). *See Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025); *Matter of*
24 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Respondents maintain that
25 Petitioner is subject to mandatory detention, thereby precluding him from seeking
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1 a custody redetermination hearing. Exhaustion of remedies would therefore be
2 futile.

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4 **FIRST CLAIM FOR RELIEF:**
5 **No-Bond Detention in Violation of 8 U.S.C. § 1226(a)**

6 59. Petitioner re-alleges and incorporates by reference the preceding
7 paragraphs 1-58.

8
9 60. Since Petitioner is not an applicant for admission “seeking admission”
10 or “an arriving alien” subject to 8 U.S.C. §§ 1225(b)(1) or (b)(2), and has no
11 disqualifying criminal arrests or convictions subject to 8 U.S.C. § 1226(c), he is
12 entitled to a bond redetermination hearing by an immigration judge pursuant to 8
13 U.S.C. § 1226(a). While he was encountered at the time of his entry, he was
14 released from custody and became an individual present in the United States
15 without having been admitted.

16
17 61. Both Forms I-220A and I-286 are typically issued under 8 U.S.C. §
18 1226(a) authority. Absent a showing of parole under 8 U.S.C. § 1182(d)(5),
19 Petitioner’s release only could have occurred pursuant to 8 U.S.C. §
20 1226(a). Release on recognizance is considered a conditional parole. “Release on
21 recognizance is not a ‘humanitarian’ or ‘public benefit’ ‘parole into the United
22 States’ under section 1182(d)(5)(A) but rather a form of ‘conditional parole’ from
23 detention upon a charge of removability, authorized under section 1226.” *Hasan v.*
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1 *Crawford*, 800 F. Supp. 3d 641, 655 (E.D. Va. 2025) citing *Martinez v.*
2 *Hyde*, 792 F.Supp.3d 211, 215 (D. Mass. July 24, 2025) (internal quotations
3 omitted); *Lucas v. LaRose*, No. 3:25-CV-02973-GPC-JLB, 2025 WL 3485163, at
4 *7 (S.D. Cal. Dec. 4, 2025) (“Sections 1226(a) and 1225(b) cannot be applied to
5 Petitioner simultaneously, as one provides for discretionary release with procedural
6 protections while the other mandates detention without discretion.”); *See also*
7 *Quispe-Ardiles v. Noem*, No. 1:25-CV-01382-MSN-WEF, 2025 WL 2783800, at
8 *6 (E.D. Va. Sept. 30, 2025) (same).

11
12 62. Here, there are several duly executed records by ICE under 8 U.S.C. §
13 1226(a) authority, including an I-200 warrant for arrest I-286 notice of custody
14 determination, which ordered Petitioner’s release on conditional parole. *See* Exs. 2-
15 4. Indeed, when Petitioner entered the United States in 2021, the Government
16 placed him in normal removal proceedings under § 1229, not § 1225(b)(1), and
17 chose to release him on his own recognizance under § 1226(a), not hold him in
18 mandatory detention under § 1225(b)(2). *See* Exs. 1,3.

21 63. Despite previously treating Petitioner as falling under 8 U.S.C. §
22 1226(a), Respondents’ policy now attempts to categorize him as subject to
23 mandatory detention under § 1225(b)(2). Respondents’ novel interpretation does
24 not pass muster and has been rejected by the vast majority of Court’s around the
25 country. *See Barbosa da Cunha v. Freden*, No. 25-3141-PR, 2026 WL 1146044, at
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*4 (2d Cir. Apr. 28, 2026) (“Our holding is consistent with the decisions of over 370 district judges across the Nation who (as of mid-February 2026) have also rejected the government’s position. In other words, over ninety percent of district court judges have sided with Petitioner.”). As this Court correctly concluded in analogous circumstances, “[h]istory indicates that Petitioner has previously been subject to § 1226(a) and the government cannot now simply switch tracks and purport to subject Petitioner to mandatory detention under § 1225(b) after previously releasing him under § 1226(a).” *Lucas v. LaRose*, No. 3:25-CV-02973-GPC-JLB, 2025 WL 3485163, at *7 (S.D. Cal. Dec. 4, 2025); *see also Beltran v. Noem*, No. 25CV2650-LL-DEB, 2025 WL 3078837, at *4–7 (S.D. Cal. Nov. 4, 2025).

64. To the extent Respondents facilitated Petitioner’s return to the United States under 8 U.S.C. § 1182(d)(5)(A), Respondents cannot now argue that he is subject 8 U.S.C. §§ 1225(b)(1) or (b)(2) mandatory detention. A Federal Court has already determined the Petitioner was unlawfully deported; therefore, the government must “ensure that his case is handled as it would have been had he not been improperly sent” elsewhere. *Noem v. Abrego Garcia*, — U.S. —, 145 S. Ct. 1017, 1018, 225 L.Ed.2d 655 (2025) (per curiam)); *Sanchez Cruz*, 2026 WL 1298529, at *6.

1 65. Respondents' actions, as set forth herein, violate Petitioner's statutory
2 right to a bond redetermination hearing in front of an immigration judge.
3

4 **SECOND CLAIM FOR RELIEF:**
5 **Detention in Violation of Due Process**

6 66. Petitioner re-alleges and incorporates by reference the preceding
7 paragraphs 1-58.

8 67. The Fifth Amendment guarantees that no person shall be "deprived of
9 life, liberty, or property, without due process of law." U.S. Const. amend. V. That
10 guarantee extends to noncitizens in removal proceedings. *Demore v. Kim*, 538 U.S.
11 510, 523 (2003). Petitioner — a noncitizen who has lived in the United States for
12 nearly five years, developed substantial community ties, and complied with the
13 terms of his release for that entire period — is plainly a "person" within the meaning
14 of the Due Process Clause.
15

16 68. On October 27, 2021, ICE released Petitioner on his own recognizance
17 under 8 U.S.C. § 1226(a). *See* Ex. 4, Form I-220A, Order of Release on
18 Recognizance. That release reflected a considered determination by the agency that
19 Petitioner posed neither a danger to the community nor a flight risk. *See Saravia v.*
20 *Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017) ("Release reflects a
21 determination by the government that the noncitizen is not a danger to the
22 community or a flight risk."), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d
23 1137 (9th Cir. 2018).
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1 69. That prior release gave Petitioner a protected liberty interest in
2 remaining out of custody. *Tido-Ngoumtsop* 2026 WL 1433964, at *2 (“[H]aving
3 been previously released on an order of recognizance, Petitioner has a protected
4 liberty interest in remaining free from detention.”).

6 70. Because Petitioner has a protected liberty interest, the Due Process
7 Clause requires procedural protections before he can be deprived of it. *Mathews v.*
8 *Eldridge*, 424 U.S. 319, 334-35 (1976). All three Mathews factors point the same
9 direction.
10

11 71. First, Petitioner’s private interest is substantial. “[F]reedom from
12 imprisonment is at the ‘core of the liberty protected by the Due Process Clause.’”
13 *Hernandez v. Sessions*, 872 F.3d 976, 993 (9th Cir. 2017) (quoting *Foucha v.*
14 *Louisiana*, 504 U.S. 71, 80 (1992)). That interest is heightened where, as here, the
15 individual has already been released and has built a life in reliance on that release.
16 *See Tido-Ngoumtsop*, 2026 WL 1433964, at *3 (“[E]ven when ICE has the initial
17 discretion to detain or release a noncitizen pending removal proceedings, after that
18 individual is released from custody she has a protected liberty interest in remaining
19 out of custody.” (quoting *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal.
20 2025))).
21

22 72. Second, the risk of erroneous deprivation is high. Respondents
23 detained Petitioner without affording him any opportunity to be heard. “Once a
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1 noncitizen has been released, the law prohibits federal agents from rearresting him
2 merely because he is subject to removal proceedings.” *Saravia*, 280 F. Supp. 3d at
3 1176. “Rather, the federal agents must be able to present evidence of materially
4 changed circumstances—namely, evidence that the noncitizen is in fact dangerous
5 or has become a flight risk.” *Id.* Respondents have presented no such evidence. The
6 probable value of additional safeguards—notice, a statement of reasons, and a pre-
7 deprivation hearing—is correspondingly high. *See Tido-Ngoumtsop*, 2026 WL
8 1433964, at *3.

11
12 73. Third, the government’s interest in detaining Petitioner without any of
13 those safeguards is minimal. Respondents have articulated no legitimate interest in
14 revoking Petitioner’s release without a hearing. *See Pinchi*, 792 F. Supp. 3d at 1036
15 (“[T]he government has articulated no legitimate interest that would support
16 arresting [petitioner] without a pre-detention hearing.”). Nor would providing those
17 safeguards impose any meaningful administrative burden: “[i]n immigration court,
18 custody hearings are routine and impose a minimal cost.” *Id.* (quoting *Singh v.*
19 *Andrews*, 803 F. Supp. 3d 1035, 1048 (E.D. Cal. 2025)). Petitioner does not ask this
20 Court to enjoin his detention altogether; he asks only that Respondents justify his
21 re-detention at a pre-deprivation hearing.

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23 74. Accordingly, all three Mathews factors militate in favor of Petitioner.
24 Respondent’s re-detention—effected without notice, without reasoning, and
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1 without any opportunity to be heard—violated the Due Process Clause. His
2 detention is therefore unlawful, and the proper remedy is his immediate release
3 subject only to the conditions of his preexisting Order of Release on Recognizance.
4
5 *See Tido-Ngoumtsop*, 2026 WL 1433964, at *3; *Noori v. LaRose*, 807 F. Supp. 3d
6 1146, 1156 (S.D. Cal. 2025); *Sanchez v. LaRose*, No. 25-CV-2396-JES-MMP, 2025
7 WL 2770629, at *5 (S.D. Cal. Sept. 26, 2025); *Ortega v. Bonnar*, 415 F. Supp. 3d
8 963, 970 (N.D. Cal. 2019).

10 PRAYER FOR RELIEF

11
12 75. Petitioner respectfully requests that this Court assume jurisdiction
13 over this matter and enter an order:

- 14 a. Issuing an Order to Show Cause, ordering Respondents to justify the basis
15 of Petitioner's detention in fact and in law, forthwith;
16
17 b. Enjoining Respondents from holding Petitioner is subject to detention
18 under 8 U.S.C. § 1225(b)(2) and denying them a bond hearing on that basis;
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20 c. Enjoining Respondents from re-arresting Petitioner subject to § 1225(b)(2);
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22 d. Ordering Petitioner's immediate release from custody;
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24 e. Ordering, in the alternative, Petitioner's immediate release and that
25 Respondents conduct a bond hearing for Petitioner pursuant to 8 U.S.C. §
26 1226(a) within 7 days;
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- 1 f. Retaining jurisdiction over this matter to ensure Respondents' compliance
2 with the Court's orders;
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4 g. Granting the writ of habeas corpus and order Respondents to release
5 Petitioner forthwith, or upon payment of the bond as ordered by the
6 Immigration Judge; and
7
8 h. Granting any other relief that this Court deems just and proper.
9

10 Dated: May 26, 2026

/s/ Courtney E. Moran
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CERTIFICATE OF SERVICE

I, Courtney Moran, hereby certify that on this 26th day of May 2026, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

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Respectfully submitted,

Dated: May 26, 2026

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