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5  
6 UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

7 RAYMUNDO VALDEZ RODRIGUEZ,  
8  
9 Petitioner,

Case No. '26CV3227 TWR SBC

10 v.

11 Gregory J. ARCHAMBEAULT, Field  
Office Director of Enforcement and  
1 Removal Operations, San Diego Field  
Office, Immigration and Customs  
2 Enforcement; Markwayne MULLIN,  
1 Secretary, U.S. Department of Homeland  
3 Security; U.S. DEPARTMENT OF  
1 HOMELAND SECURITY; Todd Blanche,  
4 U.S. Attorney General; EXECUTIVE  
1 OFFICE FOR IMMIGRATION REVIEW;  
5 Christopher LAROSE Warden of Otay Mesa  
1 Detention Facility

**VERIFIED EMERGENCY  
PETITION FOR WRIT OF  
HABEAS CORPUS, ORDER TO  
SHOW CUASE WITHIN THREE  
DAYS AND COMPLAINT FOR  
DECLARATORY RELIEF**

6 Respondents.

1 INTRODUCTION

2 1. Petitioner Raymundo Valdez Rodriguez is in the physical custody of  
3 Respondents at the Otay Mesa Detention Facility. He now faces unlawful detention  
4 because the Department of Homeland Security (DHS) and the Executive Office of  
5 Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

6 2. Petitioner is charged with, inter alia, having entered the United States  
7 without inspection. 8 U.S.C. § 1182(a)(6)(A)(i), (a)(7)(A)(i)(I).

8 3. Based on this allegation in Petitioner’s removal proceeding, DHS denied  
9 Petitioner release from immigration custody, consistent with a new DHS policy issued on  
1 July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to  
0 consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the  
11 United States without inspection—to be an “applicant for admission” under 8 U.S.C. §  
1 1225(b)(2)(A) and therefore subject to mandatory detention. *See Matter of Yajure*  
2 *Hurtado*, 29 I&N Dec. 216 (BIA 2025).

1 4. Petitioner sought a bond redetermination hearing before Immigration Judge  
3 (IJ) Mark Sameit, but on May 21, 2026, the IJ denied bond. The IJ based this decision on  
1 the same legal analysis. Indeed, the DHS policy states it was issued “in coordination with  
4 the Department of Justice (DOJ).” The IJ concluded that notwithstanding Petitioner’s 5  
1 years of residing in the United States, he is nevertheless an “applicant for admission”  
5 thereby subject to mandatory detention under § 1225 (INA § 235).

1 5. Petitioner’s detention on this basis violates the plain language of the  
6 Immigration and Nationality Act. Section 1225 does not apply to individuals like

1 Petitioner who previously entered and are now residing in the United States. Instead, such  
2 individuals are subject to a different statute, § 1226(a) (INA § 236), that allows for  
3 release on conditional parole or bond. That statute applies to people who, like Petitioner,  
4 are charged as inadmissible for having entered the United States without inspection.

5 6. Respondents' new legal interpretation is plainly contrary to the statutory  
6 framework and contrary to decades of agency practice applying § 1226(a) to people like  
7 Petitioner.

8 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be  
9 released unless Respondents provide a bond hearing under § 1226(a) within fourteen  
10 days.

### 0 JURISDICTION

11 8. Petitioner is in the physical custody of Respondents. Petitioner is detained  
1 at the Otay Mesa Detention Facility in San Diego, California.

2 9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus),  
1 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States  
3 Constitution (the Suspension Clause).

1 10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory  
4 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

### 1 VENUE

5 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.  
1 484, 493- 500 (1973), venue lies in the United States District Court for the Southern  
6 District of California, the judicial district in which Petitioner currently is detained.

1 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)  
2 because Respondents are employees, officers, and agencies of the United States, and  
3 because a substantial part of the events or omissions giving rise to the claims occurred in  
4 the Southern District of California.

5 **REQUIREMENTS OF 28 U.S.C. § 2243**

6 13. The Court must grant the petition for writ of habeas corpus or order  
7 Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28  
8 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return  
9 “within three days unless for good cause additional time, not exceeding twenty days, is  
1 allowed.” *Id.*

0 14. Habeas corpus is “perhaps the most important writ known to the  
11 constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of  
1 illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis  
2 added). “The application for the writ usurps the attention and displaces the calendar of  
1 the judge or justice who entertains it and receives prompt action from him within the four  
3 corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation  
1 omitted).

4 **PARTIES**

1 15. Petitioner Raymundo Valdez Rodriguez is a citizen of Mexico who has  
5 been in immigration detention since approximately March 29, 2026. Exhibit B, C. After  
1 border patrol arrested Petitioner while he was randomly stopped driving on the interstate  
6 (Exhibit C) ICE did not set bond and Petitioner requested review of his custody by an IJ.

1 On May 21, 2026, Petitioner was denied bond by an IJ at the Otay Mesa Immigration  
2 Court because he was deemed an “applicant for admission.” Exhibit A. Petitioner has  
3 resided in the United States since May 1, 2021. Exhibit C.

4 16. Respondent Gregory J. Archambeault is the Director of the San Diego  
5 Field Office of ICE’s Enforcement and Removal Operations division. As such, Gregory J.  
6 Archambeault is Petitioner’s immediate custodian and is responsible for Petitioner’s  
7 detention and removal. He is named in his official capacity.

8 17. Respondent Markwayne Mullin is the Secretary of the Department of  
9 Homeland Security. He is responsible for the implementation and enforcement of the  
1 Immigration and Nationality Act (INA), and oversees ICE, which is responsible for  
0 Petitioner’s detention. Mr. Mullin has ultimate custodial authority over Petitioner and is  
11 sued in her official capacity.

1 18. Respondent Department of Homeland Security (DHS) is the federal agency  
2 responsible for implementing and enforcing the INA, including the detention and removal  
1 of noncitizens.

3 19. Respondent Todd Blanche is the Attorney General of the United States. He  
1 is responsible for the Department of Justice, of which the Executive Office for  
4 Immigration Review and the immigration court system it operates is a component agency.  
1 He is sued in her official capacity.

5 20. Respondent Executive Office for Immigration Review (EOIR) is the federal  
1 agency responsible for implementing and enforcing the INA in removal proceedings,  
6 including for custody redeterminations in bond hearings.

1 21. Respondent Christopher LaRose is employed by CoreCivic as Warden of  
2 the Otay Mesa Detention Facility, where Petitioner is detained. He has immediate  
3 physical custody of Petitioner. He is sued in his official capacity.

#### 4 LEGAL FRAMEWORK

5 22. The INA prescribes three basic forms of detention for the vast majority of  
6 noncitizens in removal proceedings.

7 23. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard  
8 removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a)  
9 detention are generally entitled to a bond hearing at the outset of their detention, *see* 8  
10 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with,  
or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

11 24. Second, the INA provides for mandatory detention of noncitizens subject to  
1 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking  
2 admission referred to under § 1225(b)(2).

1 25. Last, the INA also provides for detention of noncitizens who have been  
3 ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C.  
1 § 1231(a)–(b).

4 26. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

1 27. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part  
5 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996,  
1 Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583,  
6

1 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken  
2 Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

3 28. Following the enactment of the IIRIRA, EOIR drafted new regulations  
4 explaining that, in general, people who entered the country without inspection were not  
5 considered detained under § 1225 and that they were instead detained under § 1226(a).  
6 *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens;  
7 Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar.  
8 6, 1997).

9 29. Thus, in the decades that followed, most people who entered without  
1 inspection and were placed in standard removal proceedings received bond hearings,  
0 unless their criminal history rendered them ineligible. That practice was consistent with  
11 many more decades of prior practice, in which noncitizens who were not deemed  
1 “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8  
2 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting  
1 that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

3 30. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy  
1 that rejected well-established understanding of the statutory framework and reversed  
4 decades of practice.

1 31. The new policy, entitled “Interim Guidance Regarding Detention Authority  
5 for Applicants for Admission,”<sup>1</sup> claims that all persons who entered the United States

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

1 without inspection shall now be deemed “applicants for admission” under 8 U.S.C. §  
2 1225, and therefore are subject to mandatory detention provision under § 1225(b)(2)(A).  
3 The policy applies regardless of when a person is apprehended, and affects those who  
4 have resided in the United States for months, years, and even decades.

5 32. In a May 22, 2025, unpublished decision from the Board of Immigration  
6 Appeals (BIA), EOIR adopts this same position.<sup>2</sup> That decision holds that all noncitizens  
7 who entered the United States without admission or parole are considered applicants for  
8 admission and are ineligible for immigration judge bond hearings. *See also Matter of*  
9 *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

1 33. ICE and EOIR have persist in this position even though the majority of  
0 federal courts subsequently rejected the agency’s exact conclusion. *See Barco Mercado v.*  
11 *Francis*, No. 25-cv-6582, --- F. Supp. 3d ---, 2025 WL 3295903, at \*13 (S.D.N.Y. Nov.  
1 26, 2025) (listing 350 decisions rejecting government’s position); *Jacobo Ramirez v.*  
2 *Noem*, No. 2:25-CV-02136-RFB-MDC, 2026 WL 310090, at \*1 (D. Nev. Feb. 5, 2026)  
1 (noting “more than 300 federal judges in over 1,600 cases across the country have  
3 rejected the government's new detention policy, with over 100 new lawsuits filed daily,  
1 while 14 federal judges have found in favor of the government's position” (citation  
4 omitted)). For example, after IJs in the Tacoma, Washington Immigration Court stopped  
1 providing bond hearings for persons who entered the United States without inspection  
5 and who have since resided within the United States, the District Court for the Western

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6 <sup>2</sup> Available at <https://nwirp.org/our-work/impact-litigation/assets/vazquez/59-1%20ex%20A%20decision.pdf>.

1 District of Washington found that such a reading of the INA is likely unlawful and that §  
2 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to  
3 the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850  
4 (W.D. Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL  
5 1869299, at \*8 (D. Mass. July 7, 2025) (granting habeas petition based on same  
6 conclusion), *Maldonado Bautista v. Noem*, 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ----,  
7 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025)(*order vacated and stayed by Ninth Circuit*).

8 34. DHS’s and DOJ’s interpretation defies the INA. As the *Rodriguez Vazquez*  
9 court explained, the plain text of the statutory provisions demonstrates that § 1226(a), not  
1 § 1225(b), applies to people who have been in the country for years, like Petitioner.

0 35. Section 1226(a) applies by default to all persons “pending a decision on  
11 whether the [noncitizen] is to be removed from the United States.” These removal  
1 hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability of a[]  
2 [noncitizen].”

1 36. The text of § 1226 also explicitly applies to people charged as being  
3 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §  
1 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by default,  
4 such people are afforded a bond hearing under subsection (a) of section 1226. As the  
1 *Rodriguez Vazquez* court explained, “[w]hen Congress creates “specific exceptions” to a  
5 statute’s applicability, it “proves” that absent those exceptions, the statute generally  
1 applies. *Rodriguez Vazquez*, 2025 WL 1193850, at \*12 (citing *Shady Grove Orthopedic*  
6 *Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

1 37. Section 1226 therefore leaves no doubt that it applies to people who face  
2 charges of being inadmissible to the United States, including those who are present  
3 without admission or parole.

4 38. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or  
5 who recently entered the United States. The statute’s entire framework is premised on  
6 inspections at the border of people who are “seeking admission” to the United States. 8  
7 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory  
8 detention scheme applies “at the Nation’s borders and ports of entry, where the  
9 Government must determine whether a[] [noncitizen] seeking to enter the country is  
10 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

11 Section 1226 generally governs the detention of those “already in the United  
1 States.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Subsection (a) applies the  
2 default rule for such people, providing for discretionary detention “pending a decision on  
3 whether the [noncitizen] is to be removed from the United States.” These removal  
4 hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability of a[]  
5 [noncitizen].”

6 Subsection (c) confirms that subsection (a) governs Petitioner’s detention. As the  
7 Supreme Court has explained, “subsection (c) is simply a limit on the authority conferred  
8 by subsection (a).” *Nielsen v. Preap*, 586 U.S. 392, 409 (2019). It “carves out a statutory  
9 category of [noncitizens] who may *not* be released under § 1226(a)” in *Jennings*. 583  
10 U.S. at 289.

1 Critically, subsection (c)'s carve outs reference people charged as being  
2 inadmissible, including those who entered without admission or parole. *See* 8 U.S.C. §  
3 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default,  
4 people like Petitioner people are afforded a bond hearing under subsection (a). This is  
5 because "the statutory exceptions would be unnecessary" unless the statute "appl[ies]  
6 generally" to inadmissible persons. *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins.*  
7 *Co.*, 559 U.S. 393, 400 (2010); *see also id.* ("The fact that Congress has created specific  
8 exceptions to [the Rule] hardly proves that the Rule does not apply generally. In fact, it  
9 proves the opposite.").

1 By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who  
0 recently entered the United States. The statute's entire framework is premised on  
11 "inspection[s]" at the border by "examining immigration officer[s]" of people who are  
1 "seeking admission" to the United States. 8 U.S.C. § 1225(b), (2)(A). Indeed, the  
2 Supreme Court has explained that this mandatory detention scheme applies "at the  
1 Nation's borders and ports of entry, where the Government must determine whether a[]  
3 [noncitizen] seeking to enter the country is admissible." *Jennings*, 583 U.S. at 287.

1 39. Accordingly, the mandatory detention provision of § 1225(b)(2) does not  
4 apply to people like Petitioner, who have already entered and were residing in the United  
1 States at the time they were apprehended.

## 5 **FACTS**

1 40. Petitioner has resided in the United States since May 1, 2021 and lives in  
6 Van Nuys, Los Angeles County, California. Exhibits B, E.

1 41. On approximately March 29, 2026, Petitioner was arrested by border patrol  
2 while driving on the interstate. No cause is listed in the report as to why Petitioner was  
3 stopped. He cooperated with his arrest. Exhibit C. Petitioner is now detained at the Otay  
4 Mesa Detention Facility.

5 42. DHS placed Petitioner in removal proceedings at the Otay Mesa  
6 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter*  
7 *alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the  
8 United States without inspection. Exhibits B.

9 43. Petitioner is married to a DACA recipient and has other extended family in  
1 the United States. Exhibit E. Petitioner is neither a flight risk nor a danger to the  
0 community. He has no criminal history. Exhibits C. He has a baby, who is a U.S. citizen,  
11 born in 2026. Exhibit D.

1 44. Following Petitioner's arrest and transfer to Otay Mesa Detention Facility,  
2 ICE issued a custody determination to continue Petitioner's detention without an  
1 opportunity to post bond or be released on other conditions.

3 45. Petitioner subsequently requested a bond redetermination hearing before an  
1 IJ. He has no criminal history, he provided support letters, and financial documents  
4 indicating a surety's financial wherewithal. There is no evidence Petitioner is a flight risk  
1 or community danger.

5 46. On May 21, 2026, an Otay Mesa Immigration Court IJ issued a decision  
1 that the court could not grant bond because Petitioner was an applicant for admission  
6 under § 1225(b)(2)(A). Exhibit A.

1 47. As a result, Petitioner remains in detention. Without relief from this court,  
2 he faces the prospect of months, or even years, in immigration custody, separated from  
3 his newborn baby, other family, and community.

4 48. Any appeal to the BIA is futile. DHS's new policy was issued "in  
5 coordination with DOJ," which oversees the immigration courts. Further, as noted, the  
6 most recent unpublished BIA decision on this issue held that persons like Petitioner are  
7 subject to mandatory detention as applicants for admission. Finally, in the *Rodriguez*  
8 *Vazquez* litigation, where EOIR and the Attorney General are defendants, DOJ has  
9 affirmed its position that individuals like Petitioner are applicants for admission and  
1 subject to detention under § 1225(b)(2)(A). *See* Mot. to Dismiss, *Rodriguez Vazquez v.*  
0 *Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31.

11 **CLAIMS FOR RELIEF**

1 **COUNT I**

2 **Violation of the INA**

1 49. Petitioner incorporates by reference the allegations of fact set forth in the  
3 preceding paragraphs.

1 50. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply  
4 to all noncitizens residing in the United States who are subject to the grounds of  
1 inadmissibility. As relevant here, it does not apply to those who previously entered the  
5 country and have been residing in the United States prior to being apprehended and  
1 placed in removal proceedings by Respondents. Such noncitizens are detained under §  
6 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

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

3 **COUNT II**

4 **Violation of Due Process**

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

7 53. The government may not deprive a person of life, liberty, or property  
8 without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from  
9 government custody, detention, or other forms of physical restraint—lies at the heart of  
1 the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct.  
0 2491, 150 L.Ed.2d 653 (2001).

11 54. Petitioner has a fundamental interest in liberty and being free from official  
1 restraint.

2 55. The government’s detention of Petitioner without a meaningful bond  
1 redetermination hearing to determine whether he is a flight risk or danger to others  
3 violates his right to due process.

1 **PRAYER FOR RELIEF**

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

- 1 a. Assume jurisdiction over this matter;
- 5 b. Order that Petitioner shall not be transferred outside the Southern District  
1 of California.

- 1 c. Issue a writ of habeas corpus requiring that Respondents release Petitioner
- 2 or provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a)
- 3 within 14 days;
- 4 d. Award Petitioner attorney’s fees and costs under the Equal Access to Justice
- 5 Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis
- 6 justified under law; and
- 7 e. Grant any other and further relief that this Court deems just and proper.

8 DATED this 26th of May, 2026.

9 /s/ Nate Crowley  
 1 Nate Crowley,  
 0 *Pro Bono Attorneys for Petitioner*

11  
1 Index of Exhibits

- 2 A. IJ decision denying bond under INA 235
- 1 B. Notice to Appear in Immigration Court, alleging entry in May 2021.
- 3 C. Form I213 showing no criminal history
- 1 D. Birth certificate of Petitioner’s US citizen child
- 4 E. Support/surety letters

1 **VERIFICATION BY ATTORNEY ACTING ON PETITIONER’S BEHALF**  
2 **PURSUANT TO 28 U.S.C. §2242**

3 I am submitting this verification on behalf of Petitioner because I am  
4 his attorney. I have reviewed the documents from his immigration court file,  
5 as provided to me by his pro bono immigration counsel, and have visited  
6 him in person at Otay Mesa Detention Facility.

7 As Petitioner’s attorney, I hereby verify that the factual statements  
8 made in the attached Petition for Writ of Habeas Corpus are true and correct  
9 to the best of my knowledge.  
10

11 Dated: May 26, 2026

By: /s/ Nate Crowley

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