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7 Attorneys for Petitioner,

8 **JORGE DE LA VEGA-LOPEZ**

9 **UNITED STATES DISTRICT COURT**

10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 **JORGE DE LA VEGA-LOPEZ**

12 Petitioner,

13 v.

14 MARKWAYNE MULLIN,
15 Secretary, United States Department of
16 Homeland Security; RODNEY S.
17 SCOTT, Commissioner, United States
18 Customs and Border Protection;
19 GREGORY J. ARCHAMBEAULT, in
20 his official capacity as Acting Field
21 Office Director for San Diego, U.S.
22 Immigration and Customs Enforcement;
23 DOUG GLEN, Special Agent in Charge
24 for San Diego, Homeland Security
25 Investigations, U.S. Immigration and
Customs Enforcement; JEREMY
CASEY, in his official capacity as
Warden of Imperial Regional Detention
Facility

Respondents.

Case No. '26CV3435 JAO BJW

**VERIFIED PETITION FOR WRIT
OF HABEAS CORPUS**

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INTRODUCTION

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4 1. JORGE DE LA VEGA-LOPEZ is presently detained at IMPERIAL
5 REGIONAL DETENTION FACILITY under Alien Registration Number [REDACTED]
6 [REDACTED] Petitioner resides in the state of Florida. Vega-Lopez is a engaged to United
7 States citizen and has no children. He first entered the United States on or about
8 1990. He has no criminal history. He was detained by ICE during a routine traffic
9 stop. This traffic stop led to no criminal arrest or charges. He was arrested by ICE
10 on April 26, 2026, and transferred across the country to his current detention
11 location.

12 Through this petition he seeks immediate release from his incarceration. His
13 continued imprisonment is unlawful because of the confluence of three separate
14 unlawful government practices: First, Respondents have held Mr. Vega-Lopez
15 virtually incommunicado. He was denied contact with the outside world for the
16 first five days of his incarceration, including from family and counsel, and since
17 then has permitted him only one fifteen-minute phone call with his attorney.

18 Second, although Respondents have ostensibly held Mr. Vega-Lopez under
19 color of the immigration laws, they have incarcerated him since on or about April
20 26, 2026.

21 Third, Mr. Vega-Lopez is unable to pursue a bond due to a claimed lack of
22 jurisdiction by the Immigration Court.

23 2. Petitioner Mr. Vega-Lopez has lived in the United States since 1990
24 and was arrested by ICE on April 26, 2026, and placed in custody first at an ICE
25 processing center in the state of Florida. He was then transferred across the country

1 and is now held at the Imperial Regional Detention Facility in Calexico, California.
2 The Immigration Judges have denied bond jurisdiction, holding that DHS
3 classified individuals like Mr. Vega-Lopez under 8 U.S.C. § 1225(b)(2)(A) as an
4 “arriving alien[s]” subject to mandatory detention. This application of §
5 1225(b)(2)(A) to individuals like Petitioner—who were long-term residents
6 already present in the United States—is a new policy resulting from recent DHS
7 guidance and the BIA’s precedential decision in *Matter of Jonathan Javier Yajure*
8 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Prior to *Yajure Hurtado*, individuals in
9 Petitioner’s position were eligible for bond hearings under § 1226(a). This
10 misclassification deprives him of a bond hearing in violation of three decades of
11 settled law, the Immigration and Nationality Act’s text and structure, and the Fifth
12 Amendment’s Due Process Clause. Multiple federal courts have already rejected
13 the government’s new policy as unlawful and ultra vires. *See Guerrero Orellana v.*
14 *Moniz*, No. 25-12664-PBS (D. Mass. Sept. 22, 2025) and *Mendoza Gutierrez v.*
15 *Baltasar*, No. 25-2720-RMR (D. Colo. Oct. 17, 2025). This Court should do the
16 same and restore Respondent’s right to a bond hearing under § 236(a).

17 Federal courts and the Supreme Court have long recognized that § 235(b)
18 governs “applicants for admission at the border or port of entry,” while § 236
19 applies to those “already present in the United States.” *Jennings v. Rodriguez*, 583
20 U.S. 281, 288 (2018).

21 The Massachusetts class petition in *Guerrero-Orellana* held that DHS’s new
22 practice of applying § 235(b) to interior arrests is “contrary to almost 30 years of
23 settled law and practice.” Similarly, *Mendoza Gutierrez* found that DHS lacks
24 statutory authority to classify such individuals as “arriving aliens” and ordered
25 release pending a bond hearing.

1 Mr. Vega-Lopez was arrested in the state of Florida, several miles from any
2 port of entry, and is plainly detained under § 236(a).

3 The BIA's decision in *Matter of Yajure Hurtado* (2025) abruptly overturned
4 decades of interpretation without reasoned analysis, violating the Administrative
5 Procedure Act and *Encino Motorcars v. Navarro*, 579 U.S. 211 (2016). Under
6 *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), courts owe no
7 Chevron deference to such agency redefinitions.

8 The 1997 interim rule explicitly stated that EWIs "will be eligible for bond
9 and bond redetermination." 62 Fed. Reg. 10,323 (Mar. 6, 1997). The BIA's attempt
10 to read this history out of existence is entitled to no weight.

11 2. Under these unique circumstances, the Constitution requires his
12 immediate release from further imprisonment.

13 3. Petitioner challenges his detention as unlawful because:

14 (a) The application of § 1225(b)(2)(A) to his is ultra vires, inconsistent with
15 statutory text and longstanding regulatory practice;

16 (b) His continued detention without bond violates the Immigration and
17 Nationality Act (INA) and the Fifth Amendment's Due Process Clause; and

18 (c) The new policy violates the Administrative Procedure Act because it was
19 adopted without notice-and-comment and in excess of statutory authority.

20 Petitioner respectfully requests an order:

21 (1) Declaring that § 1226(a), not § 1225(b)(2)(A), governs his detention; and

22 (2) Requiring that he receive a prompt individualized bond hearing before an
23 Immigration Judge where the Government bears the burden of proving flight risk
24 or danger by clear and convincing evidence.
25

JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. § 2241, § 1331, and § 1651, because Petitioner is “in custody in violation of the Constitution or laws or treaties of the United States.” Venue lies in the Southern District of California under 28 U.S.C. § 1391(e) because Petitioner is detained at Imperial and the responsible ICE officials reside in this district. This petition challenges only the legality of custody, not any final order of removal, and is therefore not barred by 8 U.S.C. § 1252(a)(5) or § 1252(b)(9). *See Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Nielsen v. Preap*, 586 U.S. 392 (2019); *Crespin De Paz v. Noem*, No. 2:25-cv-06649, slip op. at 5 (C.D. Cal. Oct. 10, 2025).

PARTIES

Petitioner Mr. Vega-Lopez is a noncitizen currently detained by the U.S. Department of Homeland Security (“DHS”) through U.S. Immigration and Customs Enforcement (“ICE”) at the Imperial ICE Processing Center in Imperial, California. Petitioner has resided in the United States for many years and is seeking release from custody pending resolution of his immigration proceedings.

Respondent MARKWAYNE MULLIN is the Secretary of the United States Department of Homeland Security (“DHS”). As Secretary, Respondent NOEM exercises ultimate authority over DHS and its component agencies, including U.S. Customs and Border Protection (“CBP”) and U.S. Immigration and Customs

1 Enforcement (“ICE”), and is responsible for the administration and enforcement of
2 the Immigration and Nationality Act (“INA”). He is sued in his official capacity.

3
4 Respondent RODNEY S. SCOTT is the Commissioner of U.S. Customs and
5 Border Protection (“CBP”), a component agency of DHS. In this capacity,
6 Respondent SCOTT is responsible for the policies, practices, and operations of
7 CBP, including the apprehension and initial processing of individuals alleged to be
8 inadmissible under the INA. He is sued in his official capacity.
9

10 Respondent GREGORY J. ARCHAMBEAULT, is the Field Office Director
11 for the San Diego Field Office of U.S. Immigration and Customs Enforcement
12 (“ICE”), a component agency of DHS. In this role, Respondent Archambault
13 exercises direct supervisory authority over ICE Enforcement and Removal
14 Operations (“ERO”) officers responsible for the detention, transfer, and release of
15 individuals within this District, including those held at the Imperial ICE Processing
16 Center. He is the immediate custodian of Petitioner and is sued in his official
17 capacity.
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20 Respondent Doug Glen is the Special Agent in Charge for the San Diego
21 office of Homeland Security Investigations (“HSI”), a component division of ICE
22 within DHS. In this capacity, Respondent Wang oversees investigations and
23 enforcement operations in the San Diego area that lead to the apprehension and
24 referral of individuals to ERO for detention. He is sued in his official capacity.
25

1 Respondent, JEREMY CASEY, in his official capacity as Warden of
2 Imperial Regional Detention Facility. In this capacity Respondent Casey oversees
3 the Imperial Regional Detention Facility where Petitioner is currently housed. He
4 is sued in his official capacity.
5

6 Each Respondent is an officer or employee or agent or subcontractor of the
7 United States acting under color of federal law and within the scope of their
8 respective official duties. Collectively, Respondents have legal custody over
9 Petitioner and are responsible for the policies, practices, acts, and omissions giving
10 rise to this Petition.
11

12 FACTUAL BACKGROUND

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14 Petitioner is presently detained at IMPERIAL REGIONAL DETENTION
15 FACILITY under Alien Registration Number  Petitioner resides in
16 the state of Florida. Vega-Lopez is a engaged to United States citizen and has no
17 children. He first entered the United States on or about 1990. He has no criminal
18 history. He was detained by ICE during a routine traffic stop. This traffic stop led
19 to no criminal arrest or charges. He was arrested by ICE on April 26, 2026, and
20 transferred across the country to his current detention location. DHS has issued a
21 Notice to Appear charging inadmissibility under § 212(a)(7)(A)(i)(I) ("present
22 without admission").
23
24
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1 The Imperial Immigration Court has ruled that the Court lacks bond
2 jurisdiction, citing *Matter of Yajure Hurtado* and the DHS memorandum extending
3 § 1225(b)(2)(A) to “arriving aliens” already present in the U.S. The Immigration
4 Court has further ruled that is lacks jurisdiction in light of *Matter of Maldonado*
5 *Bautista v. Santacruz*, Case No. 5:25-cv-01873-SSS-BFM. As a result, Petitioner
6 has remained in custody without any opportunity for a bond determination, despite
7 strong family and community ties and no danger to the community.
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9

10 **LEGAL CLAIMS**

11 **A. This Court Has Jurisdiction**

12 As held in *Crespin De Paz and Doe v. Garland*, 109 F.4th 1188 (9th Cir.
13 2024), a habeas petition seeking a bond hearing lies “within the core of habeas”
14 jurisdiction under § 2241. The claim is collateral to removal and not barred by §
15 1252(g) or § 1252(b)(9).
16

17 **B. Petitioner’s Detention Is Governed by § 1226(a), Not § 1225(b)(2)(A)**

18 The statutory structure and decades of agency practice distinguish § 1225(b)
19 (for “arriving” or “recently encountered” aliens at the border) from § 1226(a) (for
20 arrests inside the country).
21

22 Until 2025, DHS consistently treated long-term residents arrested inside the
23 U.S. as § 1226(a) detainees eligible for bond hearings. See 62 Fed. Reg. 10312,
24 10323 (Mar. 6, 1997) (“aliens present without admission ... will be eligible for
25

1 bond”). The new DHS policy, endorsed in *Yajure Hurtado*, reverses nearly 30
2 years of practice without statutory amendment or rulemaking.

3
4 Courts addressing this precise issue in 2025 have overwhelmingly rejected
5 DHS’s position. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash.
6 2025); *Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ky.); *Vazquez v. Feeley*, 2025
7 WL 2676082 (D. Nev.); *Crespin De Paz*, slip op. at 7–8. Each held that § 1226(a),
8 not § 1225(b), governs detention of long-term residents.

9
10 Because Petitioner’s arrest occurred well inside U.S. territory after many
11 years of residence, § 1225(b)(2)(A) cannot lawfully apply. His detention under that
12 provision is therefore *ultra vires*.

13 14 **C. Mandatory Detention Under § 1225(b)(2)(A) Violates Due Process**

15 Even if § 1225(b)(2)(A) were construed to apply, its application without
16 individualized review violates the Fifth Amendment’s Due Process Clause.

17 “Freedom from imprisonment—from government custody, detention, or
18 other forms of physical restraint—lies at the heart of the liberty the Due Process
19 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

20
21 The government’s categorical denial of bond hearings to long-term
22 residents, based solely on its re-characterization of them as “arriving aliens,” is
23 arbitrary and disproportionate to any legitimate immigration purpose.
24
25

D. The 2025 DHS Policy and Yajure Hurtado Decision Violate the APA

The DHS policy expanding § 1225(b)(2)(A) detention to individuals long present in the U.S. constitutes a substantive rule adopted without notice-and-comment. It exceeds the statutory authority granted by Congress and is arbitrary and capricious under 5 U.S.C. § 706(2). The BIA’s decision in *Matter of Yajure Hurtado* (2025) abruptly overturned decades of interpretation without reasoned analysis, violating the Administrative Procedure Act and *Encino Motorcars v. Navarro*, 579 U.S. 211 (2016). Under *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), courts owe no Chevron deference to such agency redefinitions.

The 1997 interim rule explicitly stated that EWIs “will be eligible for bond and bond redetermination.” 62 Fed. Reg. 10,323 (Mar. 6, 1997). The BIA’s attempt to read this history out of existence is entitled to no weight.

No other court or administrative tribunal can provide Petitioner any relief. Under ordinary circumstances, an individual detained under color of the immigration laws could seek redress for unreasonable delay in the government’s pursuit of removal proceedings by filing a motion to terminate before an Immigration Judge. *See, e.g., In re Qayyum*, 2004 WL 848576 (B.I.A. Feb. 25, 2004) (considering motion to terminate based on government delay and finding, on the facts of that case, no unreasonable delay).

1 Respondents have further demonstrated their fundamental inability to
2 provide even rudimentarily safe or humane conditions of confinement at the
3 Imperial ICE Processing Center. Conditions within the facility—overcrowding,
4 inadequate medical care, and the heightened risk of harm to detainees—have
5 rendered continued detention not merely unlawful but dangerous.
6

7 Under these circumstances, any remedy short of immediate judicial
8 intervention would be insufficient. Petitioner’s continued detention violates
9 statutory, constitutional, and humanitarian standards. Simply put, Mr. Vega-Lopez
10 cannot wait.
11

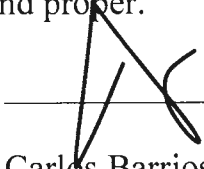
12 **PRAYER FOR RELIEF**
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14 WHEREFORE, Petitioner respectfully requests that this Court:

- 15 1. Issue a Writ of Habeas Corpus declaring Petitioner’s detention under 8
16 U.S.C. § 1225(b)(2)(A) unlawful;
17
18 2. Order Respondents to release Petitioner immediately in light of the
19 pending I-130; or
20
21 3. Order that Petitioner be provided a prompt individualized bond hearing
22 before a neutral Immigration Judge within 7 days, at which:
23 (a) The government bears the burden of proving flight risk or danger by
24 clear and convincing evidence; and
25 (b) The IJ must consider less restrictive alternatives to detention;

1 4. Award any further relief this Court deems just and proper.

2 Date: 6/6/2026

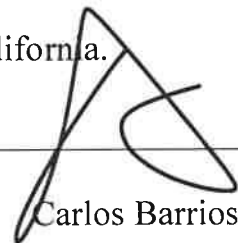
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Carlos Barrios

VERIFICATION BY PETITIONER PURSUANT TO 28 U.S.C. § 2242

I, CARLOS BARRIOS am submitting this verification on behalf of JORGE DE LA VEGA-LOPEZ, who is currently detained by the U.S. Department of Homeland Security at the Imperial Regional Detention center in Calexico, California. Petitioner is being held under conditions that severely restrict or prevent meaningful communication with the outside world. As a result, he is unable to review or sign this petition personally or to prepare and file it on his own behalf.

I have communicated with Petitioner to the extent possible and have obtained the factual information contained in this Petition from my direct knowledge, records, and reliable sources. I hereby verify that, to the best of my knowledge and belief, the factual statements contained in the attached Petition for Writ of Habeas Corpus are true and correct, and that I could testify to those facts if called upon to do so.

Executed this 6th day of June, 2026, at Los Angeles, California.



Carlos Barrios